

From: [John E. Bloomquist](#)
To: [Mohr, Jason](#)
Subject: [EXTERNAL] HJ 14 Study (WPIC)
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Jason- Please accept the following as my comments to HJ 14 for consideration by the WPIC. The following comments are suggested topics for WPIC to consider in the context of HJ 14. I would be happy to follow up on any of the suggested topics with more detail should you or any member wish additional input. I have practiced water law in Montana for over 30 years. My background includes work as a former Water Master at the Water Court and as a private practitioner representing parties in all aspects of the adjudication, DNRC water permitting and change applications, and district court matters involving ditch easement issues, administration of water and enforcement actions. I have also represented water users before the state legislature and Congress on matters involving Compacts with Indian Tribes and irrigation district contract issues with the US Bureau of Reclamation. I have served on the Water Rights Adjudication Advisory Group since its formation and have drafted and participated in numerous water related bills and legislation as a member of that group, and as a private practitioner and lobbyist. From my perspective Montana water law and in particular various aspects of the Water Use Act are at a critical cross road. While the 1973 Water Use Act and the 1979 legislation establishing the system of water courts were landmark legislative enactments for their time, the evolution of water law and policy in Montana since those enactments require the present Montana legislature to lay the framework for the future. This framework requires some comprehensive adjustments to Montana statutes. The following describes topics the legislature should address, and in particular topics the WPIC should provide leadership on:

1. Firmly Secure the Future of the Montana Water Court: The Water Court should be made a permanent fixture administering the law related to water rights and water distribution in Montana. Changes should be made to the Water Use Act which establish the role of the Water Court in implementing the following programs: A. completion of the present adjudication process. B. updating of the Water Court decrees for newly established water rights and changes to existing water rights. C. administration of Water Court decrees and updated decrees including jurisdiction over water commissioners and water distribution disputes. D. jurisdiction over irrigation district statutes involving creation and administration of irrigation district practices and policies. And, E. jurisdiction over water conveyance issues (i.e. ditch easement issues and related conveyance questions).
2. Clarification of the Role of the Montana DNRC: The role of DNRC should be reviewed. The DNRC provides a valuable technical role in water policy. However, the present statutory scheme should be revised to posture DNRC as an advisory/technical review agency as opposed to a decision making agency on water right related questions or disputes.
3. Water Right Data Base: Accurate and timely access to water right information in Montana is critical. The legislature needs to supply DNRC and the Water Court with adequate resources to design and maintain data bases which provide needed access to accurate and timely information on water rights.
4. Administration of Water Compacts: The future of water right Compacts with the several Indian Tribes and the United States will be in administering the provisions of the agreements. The legislature should review and supply to the Water Court and DNRC the necessary mechanisms to fulfill the terms of the agreements to assure the understandings of all affected

parties are realized in the future.

Montana has made great strides under the Water Use Act to date in documenting Montana's existing water rights, reaching agreements with Indian Tribes and the United States on tribal and federal reserved water rights, and on creating the framework for water administration and distribution. However, as time has evolved there are gaps in the statutory framework which in the future will result in confusion and inefficiency in the administration of water rights and distribution of this scarce and valuable resource. The role of WPIC in directly addressing issues which face Montana water policy now and in the near future is critical. Leadership by WPIC in these and other issues will be of great service to the State.

Thank you for the opportunity to comment on HJ 14. Should you or the committee feel the need for any assistance by me in clarifying or expanding on any of the issues raised herein I would be happy to assist. John E. Bloomquist, Helena, MT.

John E. Bloomquist

BLOOMQUIST LAW FIRM, P.C.
3355 Colton Drive, Suite A
Helena, MT 59602
(406) 502-1244

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