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RE: House Joint Resolution 14 (HJ14) Comments

Dear Water Policy Interim Committee,

I am writing in support of retaining the Water Court and its judges and masters for future decades beyond the completion of Montana's adjudication of pre-1973 "existing water rights". Water rights in Montana are uniquely complicated. Litigating and fairly resolving water right matters is heavily dependent upon not only the law, but also the hydrologic sciences, engineering, and historical research techniques that most District Court judges are not experienced with, and quite frankly are ill equipped to handle. However, the Montana Water Court has this expertise. The Water Court, with DNRC as its technical expert, has been a tremendous asset to Montana in adjudicating its pre-1973 "existing water rights", and has proven itself a highly competent specialized court uniquely qualified to administer Montana Water law matters.

Upon completion of Montana's adjudication, the need for this specialized court will not go away. Conversely, Montana's water right issues will only get more complicated and the need for a specialized court will only grow. As more and more stream basins become statutorily closed or effectively closed due to over-appropriation, Montana will become increasingly dependent on changing existing water rights for new uses, as opposed to creating new water rights. The Water Court is, and will be the most well-suited court for such specialized matters. To promote judicial economy while providing the most fair court for our citizens, jurisdiction of the Water Court could potentially be expanded in the future to include some or all of the following:

- Changes to pre-1973 "existing rights" (currently under DNRC jurisdiction),
- Changes to post-1973 permits (currently under DNRC jurisdiction),
- Continued jurisdiction for amendments to pre- 1973 "existing water rights",
- Hearings on new water right permits (currently under DNRC jurisdiction),
- Water distribution disputes (currently under MT District Court jurisdiction).

As a lawyer practicing exclusively in the area of Montana water law, I can attest to the advantages of having a specialized court for jurisdiction over these matters. In a similar manner as the Federal Bankruptcy Court is uniquely trained and qualified to hear complex bankruptcy matters, the Montana Water Court has unique expertise and technical background to preside over Montana's complicated water right matters.

I strongly encourage WPIC to support retaining the Water Court beyond the completion of Montana's adjudication of pre-1973 "existing water rights". Thank you for the opportunity to comment.

Sincerely,



Ross D. Miller, P.E., Esq.