

To: Chairman Zach Brown
Members of the Water Policy Interim Committee

From: Water Court

CC: Jason Mohr
Jan Langel
Kory Hofland

Date: November 18, 2019

Re: Water Court Geocode and Ownership Updates

The Water Court does not use geocodes for its adjudication work because they are not evidence of any of the elements of a water right that the Water Use Act requires the Court to adjudicate. However, because the DNRC relies on geocodes to help populate certain aspects of the water rights database, geocodes potentially affects several aspects of the Court's work:

1. **Accurate Notice.** The Court has a statutory and constitutional obligation to ensure affected persons receive personal notice when the Court issues temporary preliminary, preliminary, and supplemental decrees. Notice is based on the water right database that the DNRC maintains. If the database is not current and accurate at the time notice is given, parties entitled to notice do not receive notice. The risk of lack of notice increases when use of geocodes causes a time lag time between actual ownership changes and updates to the database. The risk of lack of notice is exacerbated if ownership is not updated as a result of nonpayment of fees to the DNRC.

2. **Database Maintenance.** The Legislature delegated to the DNRC sole responsibility to maintain and update the database. The Court does not oversee this work. Instead the Court relies on the DNRC to ensure database updates are timely and accurate.

3. **Final Decrees.** The Court must determine ownership and the accurate land description of points of diversion and places of use for each water right included in each final decree. This cannot occur if ownership information in the database is not current and accurate when a final decree is issued.

4. **Case Proceedings.** When claims are consolidated into cases, numerous parties become actively involved in proceedings. The Court must ensure that the parties to a case remain accurate as ownership changes occur during case proceedings. Case proceedings are affected and put at risk if the use of geocodes causes parties to be included or not included in cases due to inaccurate notices of ownership updates or by time delays.