



Date: May 12, 2022
To: Water Policy Interim Committee
From: DNRC Water Adjudication Bureau
Subject: DNRC Adjudication Status Report

The Water Adjudication Bureau assists the Montana Water Court in the adjudication of all claims to pre-July 1, 1973 water rights. The Bureau examines all claims and provides a summary report to the Water Court on each of the 85 basins in the state. The Bureau has reviewed claims under several protocols:

- 1982 – 2005: Verification
- 2005 – 2015: Supreme Court rules examination
- 2012 – current: Reexamination, which includes SB355 & HB110 (exempt claims)

Pursuant to legislation passed in 2005 (HB22), the Bureau completed the examination of 57,000 claims under the Supreme Court rules by the June 30, 2015 deadline. As of July 1, 2015, the Bureau was responsible for the reexamination of 90,000 claims in 44 basins, previously decreed under the verification process. The legislature set benchmarks for the Bureau in 2015 (SB57) and modified them in 2020 (SB13), requiring all reexamination to be completed by June 30, 2025. The Bureau is required to report progress quarterly to the Water Policy Interim Committee.

Reexamination Benchmarks

- ✓ First benchmark: 10,000 claims by 6-30-2017 (**First Benchmark met**)
- ✓ Second benchmark: 30,000 claims by 6-30-2019 (**Second Benchmark met**)
- ✓ Reexamination (with HB110 and SB355) 65,000 claims by 6-30-2022 (**Third Benchmark met**)
- ✓ Reexamination (with HB110 and SB355) 85,000 claims by 6-30-2023
- Reexamination (with HB110 and SB355) 95,000 claims by 6-30-2024
- Reexamination (with HB110 and SB355) All Timely Filed Claims by 6-30-2025
- As of 5/12/2022, DNRC has reexamined 88,521 claims, including 10,927 HB110 and 1,931 SB355 claims

Summary Reports and Decrees Issued

- Since 2015, DNRC has delivered 38 Summary Reports to the Water Court.
- Since 2016, the DNRC has assisted the Water Court in issuing 35 decrees.

Exempt Claim Filings under SB355 (filing period Oct 1, 2013 - May 7, 2017)

- The DNRC received 2,498 statements of claim for household uses from groundwater, livestock drinking from groundwater, and livestock drinking directly from surface water streams and lakes. As of 5/12/2022, the DNRC has examined 1,931 SB355 claims.

Exempt Claim Filings under HB110 (filing period May 7, 2017 – June 30, 2019)

- The DNRC received 25,466 statements of claim for household uses from groundwater, livestock drinking from groundwater, and livestock drinking directly from surface water streams and lakes. As of 5/12/2022 examined 10,927 HB110 claims.
- DNRC is currently in the process of examining, processing amendments, and making other

corrections in 9 different basins.

Assistance to District Courts for Enforcement of Water Court Decrees

- District Courts approve petitions to create Enforcement Projects that give authority to a Water Commissioner to oversee water distribution and resolve conflicts among water users on 70 water sources and their tributaries. The Water Court has directed DNRC to create Enforcement Projects for these 70 locations.
- An Enforcement Project identifies the location and priority date of all legal diversions of water. This includes identifying the flow rates allowed at each point of diversion and includes all rights for surface water and groundwater that have potential to affect availability of water on the source. Of these 70 Enforcement Projects, 33 are active and there is currently 1 new project for 2022 (Dry Creek Canal Company)..

Assistance to Water Court for Post Decree Assistance

- The Water Court may at any time direct the DNRC to provide information and assistance required to adjudicate claims of existing rights. This includes conducting field investigations, assistance with the enforcement of Water Court decrees, and assistance for issue remark resolution. This involves creation of maps, providing documentation, extensive research, all sent to the court in a memo from DNRC. In 2022, DNRC has provided 1,315 hours of post-decree assistance. This is an average of 329 hours of post-decree assistance per month.

Adjudication Status - May 2022

Basin Boundary & Decree Status (listed by Progression)

- Summary Report Issued**
 - DNRC's report to the Water Court of examination findings.
- Interlocutory Preliminary Decree Issued**
 - DNRC's report to the Water Court of examination findings on HB110, SB355, Late, or Split & implied claims not previously decreed.
- Reexamination Summary Report Issued**
 - DNRC's report to the Water Court of examination findings on STOCs, HB110, SB355, Late, or Split & implied claims not previously decreed.
- Temporary Preliminary Decree Issued**
 - Water Court decree prior to Preliminary Decree pursuant to §85-2-231, M.C.A.
- Preliminary Decree Issued**
 - Water Court decree prior to Final Decree pursuant to §85-2-231, M.C.A.
- Reexamination Preliminary Decree Issued**
 - Water Court decree prior to Final Decree pursuant to §85-2-270 & 85-2-271, M.C.A. including reexamined claims.
- Interlocutory Preliminary Decree Issued**
 - Water Court decree prior to Final Decree pursuant to §85-2-222, M.C.A. including HB110, SB355, Late, Implied, and Split claims.
- Final Decree**
 - Final Water Court determination of existing water rights with a basin pursuant to §85-2-234.

— Water Distribution Projects ⦿ Water Court ★ Regional Offices ▨ Reservations — Streams ■ Waterbody --- County

Water Resources Division - Adjudication Bureau
May 2022
NAD 1983 StatePlane Montana FIPS 2500
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Reexamination Benchmarks May 2022

