



ENVIRONMENTAL QUALITY COUNCIL

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April 19, 2010

EQC Members,

Attached are the adjudication reports from the Montana Water Court and the Department of Natural Resources and Conservation. Section 85-2-281, MCA requires the Water Court and the DNRC to report to the EQC on the progress of the adjudication process until 2020.

As part of the ongoing coordination between the EQC and the Water Policy Interim Committee, the EQC agreed at the start of this interim that the court and the agency provide written reports to both committees, as well as oral presentations to the WPIC.

The WPIC meets in Helena May 11 and 12. The agenda includes an update on the work of the Reserved Water Rights Compact commission and continued discussion of exempt wells and mitigation.

Please contact me if you have questions.

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WATER COURT
ADJUDICATION PROGRESS REPORT TO THE EQC PURSUANT TO § 85-2-281,
MCA

Submitted by C. Bruce Loble, Chief Water Judge
April 14, 2010

The Water Court’s primary focus is to work through its existing inventory of water right claims that have unresolved objections, issue remarks, motions to amend, and claims certified to the Water Court by the DNRC or District Courts. The Court’s goal is to draw down its current caseload to clear its docket for the large number of claims that are moving through the DNRC claim examination pipeline and which are scheduled to be incorporated into Water Court decrees within the next few years. Currently, the Water Court is primarily working on water right claims in the following basins:

Basin	Sources	Claims in Decree	Remaining Claims to Resolve
40A	Musselshell River above Roundup	5,812	153
40E	Missouri River between Musselshell River & Fort Peck Dam	3,010	206
40G	Sage Creek	943	225
40H	Big Sandy Creek	797	50
40O	Milk River Below Whitewater Creek	3,306	1,157
40M	Beaver Creek, Tributary of Milk River	2,942	Decree issued 3/20/2009 Objections Received - Counter-objection deadline is May 10, 2010
40R	Big Muddy Creek	2,029	Decree issued 1/28/2010 Objection Deadline is July 27, 2010
40S	Missouri River Below Ft. Peck Dam	2,966	335
41C	Ruby River	2,183	190
41D	Big Hole River	3,892	2,162
41G	Jefferson River	2,407	219
41I	Missouri River upstream of Holter Dam	5,168	224
41K	Sun River	2856	110
41O	Teton River	2,541	930

41QJ	Missouri River from Holter Dam to Sun River	2,584	699
42B	Tongue River above & including Hanging Woman Creek	1,345	515
42C	Tongue River below Hanging Woman Creek	4,708	1,185
42K	Yellowstone River between Tongue and Powder Rivers	1,479	166
42KJ	Yellowstone River between Bighorn and Tongue Rivers	4,767	603
43A	Shields River	3,395	135
43B	Yellowstone River above & including Bridger Creek	4,860	304
43E	Pyror Creek	630	Decree issued 2/25/2010 Objection Deadline is August 24, 2010
43O	Little Big Horn River	1,176	Decree issued 3/25/2010 Objection Deadline is September 21, 2010
43Q	Yellowstone River between Clarks Fork Yellowstone and Bighorn Rivers	2,473	175
76HF	Bitterroot River - Westside Subbasin	3,774	213
United States Forest Service - Montana Compact — Several Objections Still Pending - Discovery and Pre-hearing Deadlines have been Set			
United States Bureau of Land Management - Montana Compact — All Objections Withdrawn			

The Water Court has completed most of its review of the current Summary Reports (basically draft decrees) generated by the DNRC following completion of the DNRC basin water right claim examination duties. Now that the DNRC has completed most of its ownership update efforts in the Summary Report basins, the Water Court anticipates issuing decrees, perhaps as often as one a month, in the approximate order of the following basin list:

Basin Designation	Source	Approximate Number of Claims
41Q	Missouri River from Sun River to Marias River	4,127
40J	Milk River between Fresno Reservoir & Whitewater Creek	12,871
41B	Beaverhead River	2,222
41J	Smith River	2,719

76F	Blackfoot River	3,699
40B	Flatwillow Creek	3,677
41R	Arrow Creek	2,173
41T	Missouri River Between Marias River to and including Bullwacker Creek	3,050
Eight Basins	Approximate Number of Claims in Prospective Decrees	34,538

In response to the 2009 legislative mandate to generate “vacancy savings” and the Supreme Court Administrator’s suggestion, a few Water Court staff members have continued scaling back their hours to slightly less than full time to help the Judicial Branch meet its vacancy savings goals. A half time position that was kept vacant for several months to help generate vacancy savings was filled in March.

The chief water judge participated in three public meetings held in Havre, Glasgow, and Malta on March 30 and 31, 2010. The Havre and Glasgow meetings were water right conferences organized by the Montana Watercourse. The Malta event was a Water Court sponsored public meeting to explain the counter-objection process for the Beaver Creek (Basin 40M) Decree. Approximately 140 people attended all three meetings.

**DNRC REPORT TO EQC
HB22 ADJUDICATION PROGRESS
April, 2010**

Claims Examination Progress

- First benchmark 8,000 claims by 12-31-2006
 - Second benchmark 19,000 claims by 12-31-2008
 - **Third benchmark 31,000 claims by 12-31-2010**
 - Claims examined July 2005 thru April, 1 2010 **40,623**
 -
 - Claims examined by Purpose
 - o Irrigation 9367 23%
 - o Stock 22956 57%
 - o Domestic 4882 12%
 - o Other 3418 8%
- 40,623**

Claims remaining to be examined **16,477**

<u>Summary Reports to Water Court</u>	<u>Date Issued</u>
Union Creek (part of 76F)	May 19, 2005
Teton River (41O)	August 15, 2005
Big Hole River (41D)	October 31, 2006
Tongue River, below hanging Woman Creek (42C)	August 7, 2007
Blackfoot River (76F)	August 14,
2007	
Missouri River, from Holter Dam to Sun River (41QJ)	August 15, 2007
Tongue River, above Hanging Woman (42B)	December 5, 2007
Pryor Creek (43E)	August 18, 2008
Smith River (41J)	September 1, 2008
Beaver Creek (40M)	September 1, 2008
Flatwillow Creek (40B)	September 11, 2008
Milk River (40J)	December 5, 2008
Little Big Horn River (43O)	February 6, 2009
Big Muddy Creek (40R)	April 6, 2009
Missouri River, Sun River to Marias River (41Q)	June 16, 2009
Beaverhead River (41B)	August 14, 2009
Arrow Creek (41R)	October 23, 2009
Missouri River, from Marias River to Bullwacker Creek (41T)	November 17, 2009

<u>Decrees Issued by Water Court</u>	<u>Date Issued</u>	<u>Number of Claims</u>
Teton River (41O)	12/29/2005	2,500
Union Creek (part of 76F)	3/10/2006	42
Big Hole River (41D)	4/6/2007	3,892

Missouri River (41QJ)	2/6/2008	2,584
Tongue River (42C)	2/28/2008	4,710
Tongue River (42B)	2/28/2008	1,345
Forest Service Compact	5/19/2008	262
BLM-Montana Compact	3/6/2009	2
Beaver Creek (40M)	3/20/2009	2,942
Big Muddy Creek (40R)	1/28/2010	2,029
Pryor Creek (43E)	2/25/2010	629
Little Big Horn River (43O)	3/17/2010	1,176

Above decrees scanned and available at:

http://www.dnrc.mt.gov/wrd/water_rts/adjudication/default.asp

BASINS BY COMPLETION DATE - DNRC WORK PLAN 2009				
BASIN COUNT	BASIN NAME	WORK STATUS	Estimated Completion Date	
1	Flathead R below Flathead Lake (76L)	Examination in progress	12	2009
2	Big Horn R below Greybull R (43P)	Examination in progress	3	2010
3	Rosebud Creek (42A)	Examination in progress	6	2010
4	Shoshone River (43N)	To be Examined	9	2010
5	Milk River above Fresno (40F)	Summary prep pending	3	2011
6	Flathead River (76LJ)	Examination in progress	9	2011
7	Cut Bank River (41L)	Summary prep pending	6	2012
8	St. Mary River (40T)	Summary prep pending	7	2012
9	Yellowstone R below Powder R (42M)	Examination in progress	8	2012
10	Red Rock River (41A)	Examination in progress	2	2013
11	Peoples Creek (40I)	Summary prep pending	6	2013
12	Two Medicine River (41M)	Summary prep pending	8	2013
13	Marias River (41P)	Examination in progress	10	2013
14	Missouri R between Bullwacker & Musselshell (40EJ)	Examination in progress	3	2015
15	Bitterroot R, E side (76HA)	Examination in progress	6	2015
16	Frenchman Creek Re-Examination (40L)	Examination in progress	3	2010

District Court Enforcement Actions

2005 season completed water court assistance for 23 streams
2006 season completed water court assistance for 23 streams
2007 season completed water court assistance for 26 streams
2008 season completed water court assistance for 32 streams
2009 season completed water court assistance for 36 streams
2010 season completed water court assistance for 38 streams
Automated indexes are now in use

Post Decree Assistance (July thru Mar 2010)

<u>Case type</u>	<u>case count</u>	<u>work hours</u>
Certified case	1	202.5
85-2-248	262	2366
Case	38	805
General assist		1202.5
Total hours		4,576.00

Expenses

YTD FY 2010:	Operating Costs	\$ 186,210.74
	Personnel Services	\$ 1,412,515.81
	Total	\$ 1,598,726.55
	Budget	\$ 2,375,917.00

Billing System

108,000 bills mailed Dec 27, 2005
Estimated revenue generated \$6.2 million
Revenue received \$5.216 million

Appeals

5,059 Appeals received
4774 appeals resolved to date (1128 denied, 3646 resolved with fee correction)
285 appeals remain

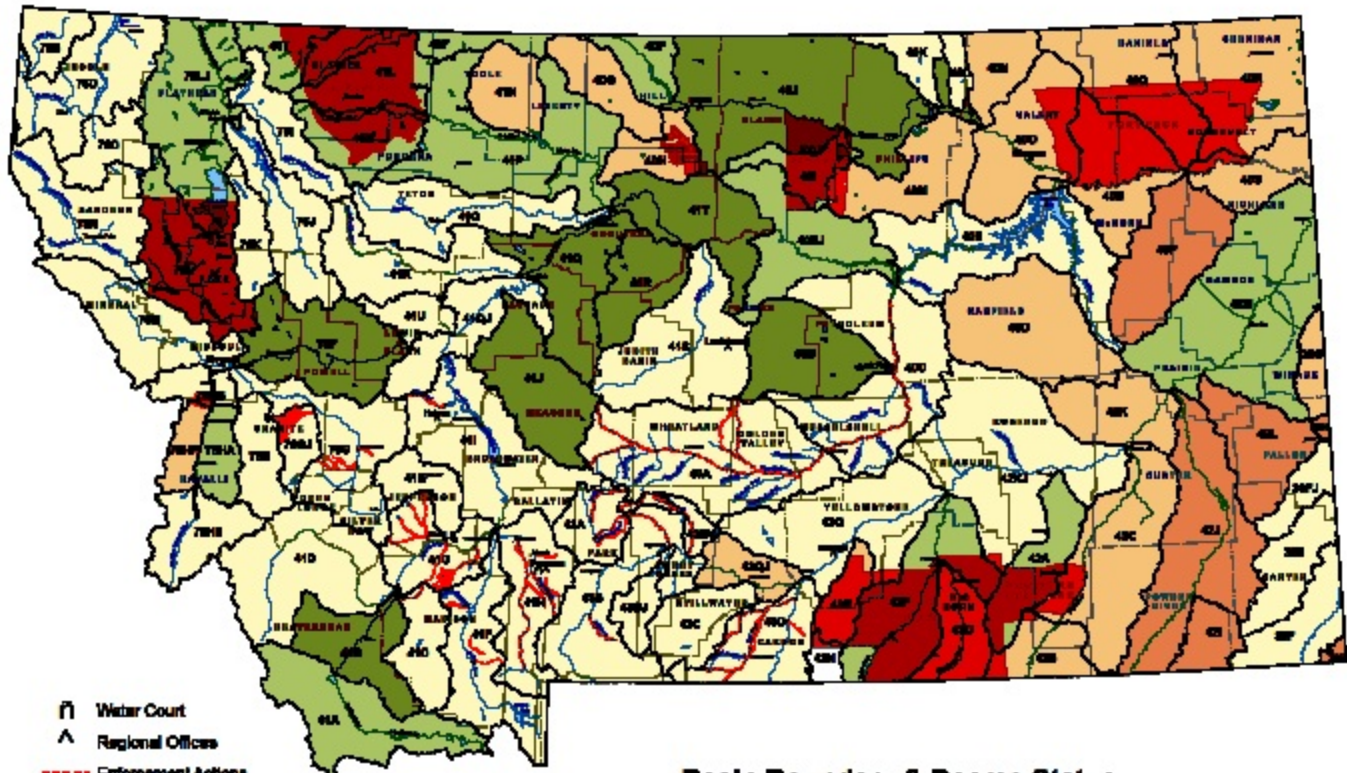
HB39 Automate Ownership updates (effective July 1, 2008)

- Contract is finalized and Tyler Inc is developing the program for DOR to pass thru new property owner names to DNRC for updating water right records.
- Geocodes were loaded into DNRC database in June 2008.
- State-wide ownership update export to DNRC was received 12-4-2009.
- Re-Examination of basin 40L includes 402 claims not counted towards claim examination progress

-DNRC is scrubbing data and validating geocodes for input, estimated completion date June 2010.

Basin Location and Adjudication Status

3/26/10



- Water Court
- Regional Offices
- Enforcement Actions
- COUNTIES
- RESERVATIONS

Basin Boundary & Decree Status

- Currently Examining
- Summary Report Issued
- Not Yet Examined
- Temporary Decree
- Preliminary Decree
- Final Decree


 Water Resources Division
 March 2010
 Montana State Plane NAD 83

CI2255 0105hsxa.