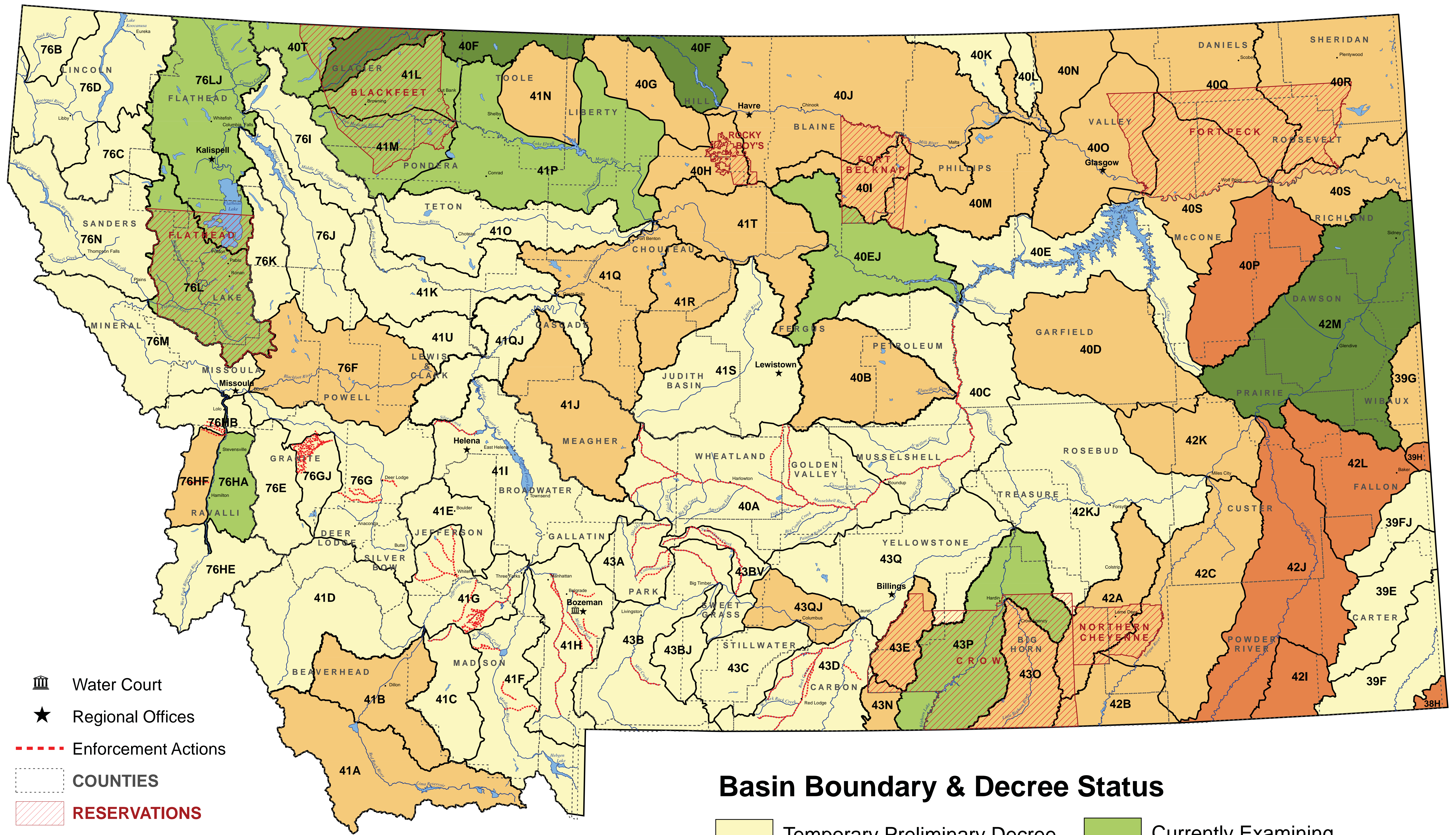




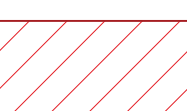


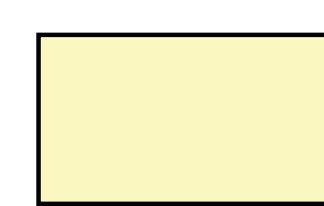




Basin Location and Adjudication Status

7/17/2013



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

Basin Boundary & Decree Status

- | | | | |
|---|------------------------------|---|-----------------------|
|  | Temporary Preliminary Decree |  | Currently Examining |
|  | Preliminary Decree |  | Summary Report Issued |
|  | Final Decree | | |

**DNRC REPORT TO EQC
HB22 ADJUDICATION PROGRESS
September, 2013**

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
- Fourth Benchmark 44,000 claims by 12-31-2012

- Claims examined July 2005 thru June, 30 2013 **54,776**
- Claims examined by Purpose
 - o Irrigation 12,125 22%
 - o Stock 30,479 56%
 - o Domestic 7,084 13%
 - o Other 5,088 9%

54,776

Claims remaining to be examined 2,224

Summary Reports to Water Court**Date Issued**

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 Bullwhacker Creek (41T)	November 17, 2009
Milk River above Fresno (40F) *	April 15, 2011
Rosebud Creek (42A)	December 13, 2012
Red Rock River (41A)	January 10, 2013
Peoples Creek (40I)	February 5, 2013
Shoshone River (43N)	February 12, 2013
Yellowstone River below Powder River (42M)*	July 17, 2013

(* basins not yet decreed)

Decrees Issued by Water Court	Date Issued	Number of Claims
Teton River (41O)	12/29/2005	2,541
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
Missouri River from Sun River to Marias River (41Q)	5/27/2010	4,127
Milk River between Fresno Res & Whitewater (40J)	6/24/2010	12,897
Smith River (41J)	12/16/2010	2,719
Blackfoot River (76F)	2/10/2011	3,717
Flatwillow Creek (40B)	5/5/2011	3,677
Arrow Creek (41R)	6/23/2011	2,179
National Bison Range Compact	9/30/2011	97
Missouri River, from Marias River to Bullwhacker Creek (41T)	4/19/2012	3,073
Crow Tribe of Indians Montana Compact	1/28/2013	NA
Beaverhead River (41B)	5/9/2013	2,238
Red Rock River (41A)	5/9/2013	2,861
Rosebud Creek (42A)	5/23/2013	1,220
Shoshone River (43N)	6/13/2013	165
Peoples Creek (40I)	6/20/2013	686

Above decrees scanned and available at:

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

BASINS BY COMPLETION DATE - DNRC WORK PLAN FY 2013				
BASIN COUNT	BASIN NAME	WORK STATUS	Estimated Completion Date	
1	Flathead R below Flathead Lake (76L)	Summary Report pending	1	2015
2	Big Horn R below Greybull R (43P)	Summary Report pending	5	2014
3	Flathead River (76LJ)	Examination in progress	9	2014
4	Cut Bank River (41L)	Summary Report pending	6	2014
5	St. Mary River (40T)	Summary Report pending	11	2013
6	Two Medicine River (41M)	Summary Report pending	2	2014
7	Marias River (41P)	Examination in progress	10	2013
8	Missouri R between Bullwhacker & Musselshell (40EJ)	Summary Report pending	9	2013
9	Bitterroot R, E side (76HA)	Examination in progress	10	2014
10	Frenchman Creek Re-Examination (40L)	Summary Report pending	7	2014

Assistance for District Court Enforcement of Water Court Decrees

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
 2011 season completed water court assistance for 38 streams
 2012 season completed water court assistance for 40 streams
2013 season completed water court assistance for 42 streams

Post Decree Assistance (July- FY2014)

<u>Case type</u>	<u>case count</u>	<u>work hours</u>
Certified case		
	2	303
85-2-248 case		10
<u>General assist</u>		<u>62.5</u>
Total hours		375.5

Post Decree assistance primarily involves working with claimants and the Water Court to help resolve issue remarks on water rights. This assistance is generated through the on motion process (85-2-248) and objections by water users resulting in a case. Assistance includes meeting with claimants, conducting field investigations, mapping, and providing recommendations and technical reports pertaining to individual cases. In addition, assistance is requested by the Water Court to help with certified cases before and after the initial decree phase. Unique requests to help the Water Court resolve specific cases such as large basin mapping projects, and other technical requests fall within the general assistance category.

HB39 Automate Ownership updates (effective July 1, 2008)

- Department staff continue to validate water right geocodes for property transfers that occurred from November 2010 thru January 2012.
- In 2010, 3,821 ownerships were updated involving 9,460 water rights
- In 2011, 6,245 ownerships were updated involving 15,765 water rights.
- In 2012 8,729 ownerships were updated involving 20,496 water rights.
- In 2013 8,208 ownerships were updated involving 19,305 water rights.
- So far this fiscal year, 718 ownerships have been updated involving 1,525 water rights.**

WATER COURT AND ADJUDICATION STATUS UPDATE

SEPTEMBER 2013

I. Backlog of Cases.

The backlog of cases has been reduced sharply since creation of the Associate Water Judge position in 2012. The majority of remaining cases involve basin-wide objections by federal agencies. See figure 1 attached to this report.

II. Status of Compacts.

There are nine water right compacts that have been through the entire approval process, including review by the Water Court. Two compacts are currently before the Court and eight additional compacts may be sent to the Court in the future (see attached).

III. Staffing at the Water Court.

The Water Court has ten water masters, a court administrator and six clerks of court, law clerks and clerical staff. We currently have 6.75 positions unfilled, including four water master positions and an Associate Water Judge. Advertising for four positions has already occurred and interviews have occurred or are presently scheduled.

IV. Work Plan for Court

Court staff has undertaken a comprehensive review of procedures, staffing, and practices at the Court to identify opportunities to achieve more productivity and efficiency. The result is a new work plan which will be steadily implemented over the next 12 months. As tasks on the plan are completed, additional items for improvement will be added.

V. Timetable for Completion of The Adjudication

House Bill 22 was passed in 2005. It established milestones and objectives for the adjudication. Among those were completion of claims examination by 2015 and issuance of all interim decrees by 2020 (resolution of objections and issue remarks from those decrees will not be complete by 2020). The DNRC and Water Court are on a path to achieve both of those milestones.

The more difficult question is when the adjudication will be complete. Completion means all final decrees have been issued and are enforceable. The present estimate for completion is 2028. That forecast is based on assumptions that may or may

not be accurate. Those assumptions include lower objections rates on second decrees, no litigation in the Water Court over federal or Indian reserved rights, no changes to the current legislative framework, no McCarran amendment challenges, resolution of other federal challenges to the process without changing the Court's workload, no changes to the number of issue remarks placed on claims, and adequate funding for both the Water Court and the DNRC.

Accordingly, completion of the adjudication in 2028 is an estimate only. Completion of that goal is subject to variables beyond the control of the Water Court and the DNRC.

VI. SB 355 and Exempt From Filing Rights

History

Montana's adjudication of water rights began in 1973. In its original configuration, the adjudication process required claimants to prove the validity of their rights. The process also included all stock water and domestic claims in the State. Initial progress adjudicating water rights was slow. In 1978, the DNRC made a number of recommendations to expedite the adjudication. Among these were recommendations to institute a statewide mandatory claim filing deadline, grant prima facie status to all claims, and to postpone adjudication of certain stock water and domestic claims.

At the time these recommendations were made, it was estimated that 500,000 water rights existed in Montana, and that approximately half of these water rights were stock water and domestic claims. The DNRC theorized that postponing adjudication of these claims would expedite the process by enabling claimants and judges to focus on larger water rights first.

Variations of these recommendations were adopted by the Legislature in 1979. Among the new statutes adopted was MCA 85-2-222 which exempted certain water rights from the statewide mandatory claim filing process. The rights exempted were "existing rights for livestock and individual as opposed to municipal domestic uses based upon instream flow or groundwater sources." These water rights became known as exempt from filing rights.

There has been significant progress made since these changes to the adjudication process. As the adjudication matured, decrees issued by the Water Court began to be enforced throughout the State. The Water Court also began reviewing compacts for

federal and Indian reserved water rights. At the same time, the Court began receiving requests from water users asking for recognition of their exempt from filing rights.

New Legislation

In 2011, the Montana Legislature asked the Water Court and the Adjudication Advisory Committee to make recommendations regarding potential legislation for inclusion of exempt from filing water rights in the adjudication process.

The product of this request was SB 355 which was enacted in 2013.

SB 355 allows for filing of previously exempt stock water and domestic claims. It contains the following significant provisions:

- The claimant must file a claim form with the DNRC and pay a filing fee.
- The claimant must also file a petition with the Water Court.
- The claimant must provide and pay for notice required by MCA 85 – 2 – 233(6).
- New stock water and domestic claims filed under SB 355 have the same prima facie status as other claims.
- Failure to file does not result in forfeiture of an existing water right.
- Failure to file results in subordination of the existing right to all other water rights except similar unfiled claims.

The legislation takes effect October 1, 2013.

Claims must be filed 90 days prior to issuance of a final decree. Although the Water Court intends to issue notice of upcoming final decrees, the Court also recommends filing previously exempt stock water and domestic claims as soon as possible. After the claims are filed and notice has been provided, the Water Court will need to resolve any objections prior to issuance of the final decree

Public Outreach

The Water Court has taken a number of steps to make the public aware of SB 355 and its implementation.

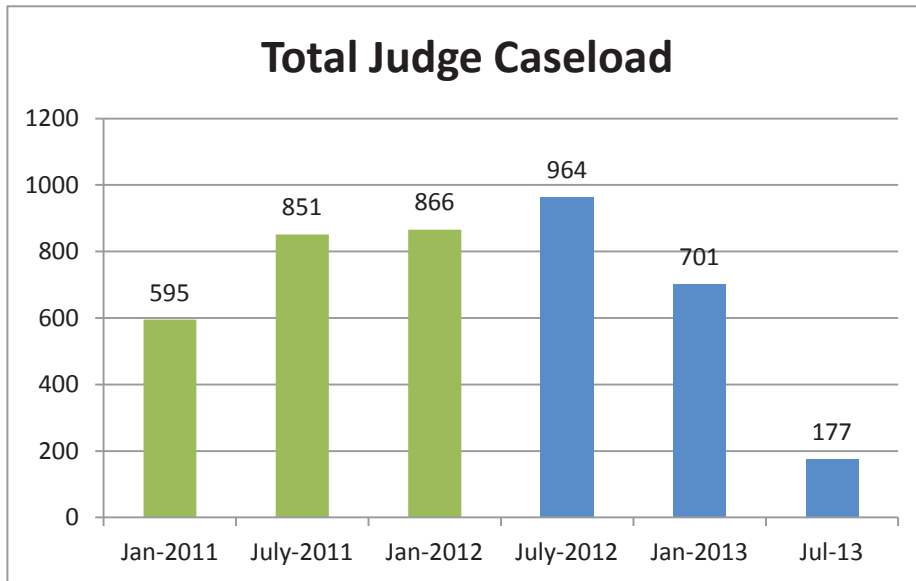
Information will be available on DNRC and Water Court websites. This information will include claim forms, draft petitions and FAQ's.

The Water Court has already made public presentations to realtor groups, the stock growers, farm bureau federation and water user groups within basins. This public outreach will continue up to the effective date and beyond.

Figure 1

Judge Caseload

	Jan-2011	July-2011	Jan-2012	July-2012	Jan-2013	Jul-13
CWJ	595	851	866	801	580	59
AWJ				163	121	118
Total	595	851	866	964	701	177



- Single Judge at Water Court
- Addition of Associate Water Judge

* Numbers indicate claim counts. Multiple claims can be in a given case.

* Backlog should be complete by end of 2013.

Figure 2

Compact Status

Case	Description	Status
wc-92-01	Fort Peck Compact	Completed
wc-93-01	Northern Cheyenne Compact	Completed
wc-94-01	National Park Service Compact	Completed
wc-2000-01	Rocky Boy's Compact	Completed
wc-2000-02	US F&WS Red Rock Lakes Compact	Completed
wc-2000-03	US F&WS Benton Lake Compact	Completed
wc-2002-04	US F&WS Black Coulee Compact	Completed
wc-2007-03	USFS Compact	Completed
wc-2008-10	BLM_Montana Compact	Completed
wc-2011-01	US Fish and Wildlife Service, National Bison Range Compact	Open at Court
wc-2012-06	Crow Compact	Open at Court
	Blackfeet Tribe of the Blackfeet Reservation	Pending
	Confederated Salish and Kootenai Tribes of the Flathead Reservation	Pending
	Gros Ventre and Assiniboine Tribes of the Fort Belknap Reservation	Pending
	Turtle Mountain Chippewa	Pending
	US Bureau of Land Management, Upper Missouri River Breaks National Monument	Pending
	US Department of Agriculture - USDA Agricultural Research Service Livestock & Range Laboratory, Sheep Experiment Station	Pending
	US Fish and Wildlife Service Bowdoin National Wildlife Refuge	Pending
	US Fish and Wildlife Service Charles M. Russell National Wildlife Refuge	Pending