



WPIC DNRC Quarterly Adjudication Update § 85-2-281, MCA

Todd Netto
Water Resource Division
Adjudication, Enforcement, & Distribution Bureau Chief

1

DNRC Adjudication Update

DNRC's supporting role for the Water Court

- **Examination & Reexamination Complete** - § 85-2-271, MCA
 - Examination was complete in June of 2025.
 - Summary Reports were delivered to the Water Court in September of 2025.
- **Summary Review Process** - § 85-2-243 MCA
 - Water Court Driven Process
 - DNRC provides ongoing support upon request.
- **Decree & Post-Decree Assistance** - §§ 85-2-243 & 85-2-248, MCA
 - Water Court Driven Process
 - DNRC provides ongoing support through the eight DNRC Water Resources Regional Offices

2

DNRC's role in Adjudication is changing

What now?

- The DNRC & Water Court both Estimated about 10-years of work before the Adjudication ends with the last Final Decree.
- The DNRC's role in providing Technical Support will remain until the last day.
- That said, the DNRC's role in providing Technical Support change over that time.

Why has the state invested so much time and effort in the Adjudication of our Water Rights?

3

Effectively Manage Montana's Water Resources

As DNRC's role as Adjudication changes:

1. Implementation of HB441 (2025)

- Align Provisional Water Rights With Final Decrees & Clarifying Post-decree Verification Of Permits And Changes In Appropriation Rights

2. Technical Support on Distribution Projects

- Formal application of the Prior Appropriation Doctrine (First-in-Use, First-in-Right).
- No violation of the Water Use Act.

3. Water Right Enforcement

- Constituent Complaint Driven Process (DNRC's October 21, 2025, WPIC Presentation)
- Violations to the Water Use Act.

4

Implementation of HB441 (2025)

Permit & Change Verification

- “An act revising water laws to align provisional water rights with final decrees; clarifying processes for post-decree petitions to reduce, modify, or revoke permits; clarifying post-decree verification of permits and changes in appropriation rights; and amending sections 85-2-313, 85-2-315, and 85-2-402, MCA.”



5

What is Distribution?

- Distribution is a District Court Led Process
- Distribution is a formal application of the Prior Appropriation Doctrine (First-in-Use, First-in-Right).
- Distribution is often conflated “Enforcement”.
 - When discussing the physical allocation of legally appropriated water that is distributed by a commissioner in conjunction with a District Court Order: “Distribution” is the word that is consistent with Statute.
 - Violations to the Water Use Act are found often through a constituent complaint driven process. “Enforcement” is the word that is consistent with Statute.

6

DNRC's Role in Distribution

- Water Commissioner And Mediator Education
 - § 85-5-111, MCA
- Water Right Tabulations Generation & Maintenance
 - §§ 3-7-212, 85-2-113, & 85-2-406, MCA
- Providing ongoing Support & Education on both Water Rights & Water Measurement Techniques to Water Commissioners, Water Users, & the Judicial Branch - "Water Quantity Experts."

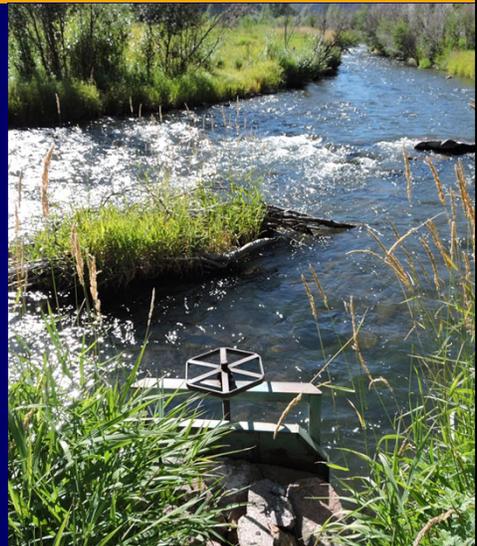
7

Water Commissioner Trainings & Manual

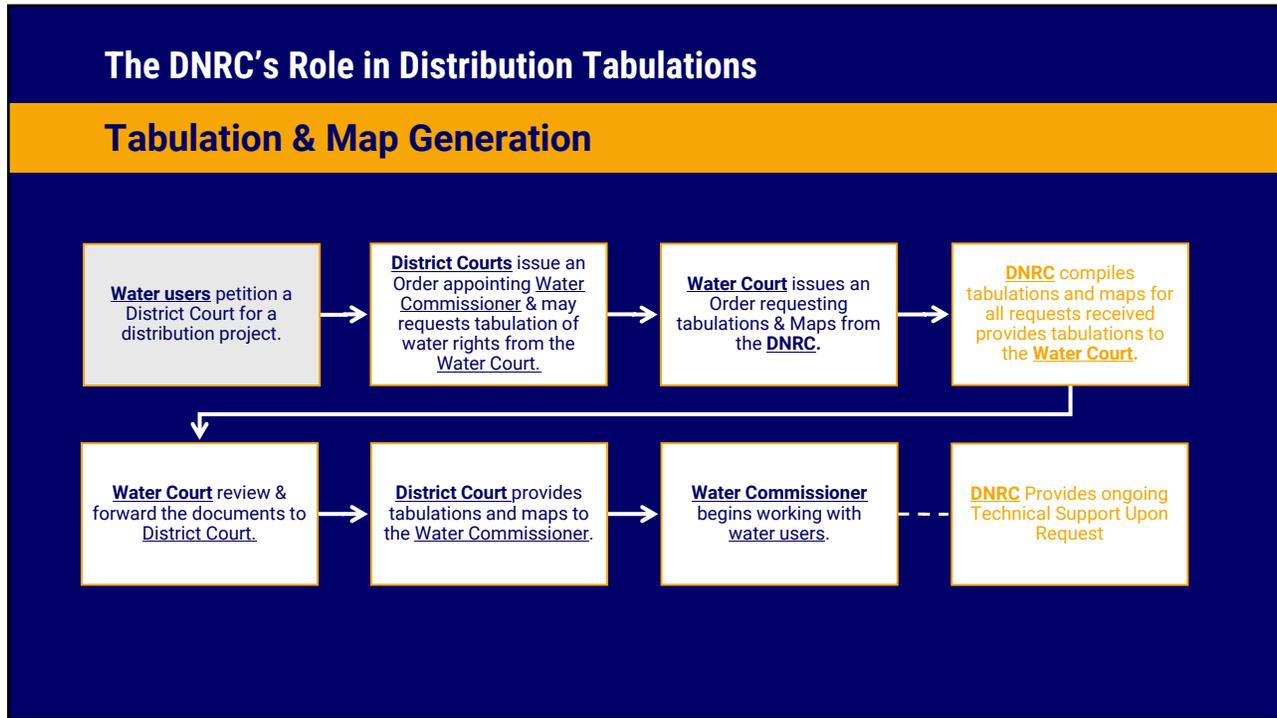
85-5-111, MCA Water Commissioner And Mediator Education

The department of natural resources and conservation, in cooperation with the Montana supreme court, the Montana water courts, the district courts of Montana, the Montana university system, and other appropriate state and federal agencies, shall develop an educational program for water commissioners and mediators that includes:

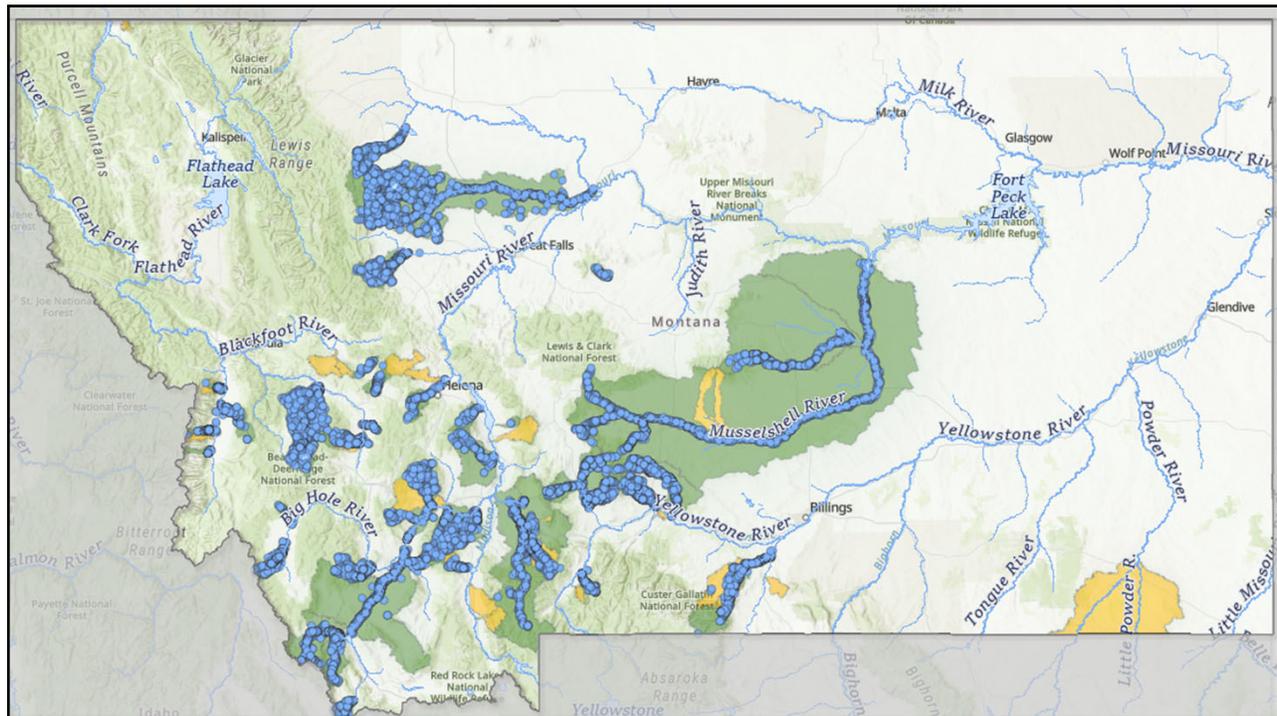
- (a) an **annual seminar** on commissioner and mediator duties, mediation techniques, and water measuring techniques;
- (b) preparation and, as necessary, revision of a water commissioner and mediator **manual**; and
- (c) an **outreach program** that identifies persons who might serve as water commissioners or mediators.



8



9



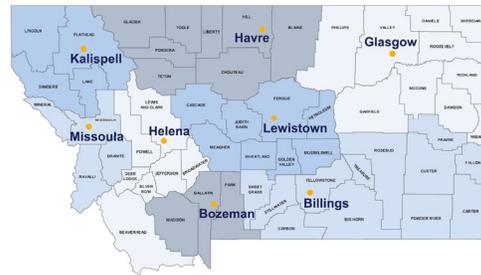
10

Water Right Enforcement

Topic of my October 21, 2025, WPIC Presentation

- The DNRC accepts written “Complaints”.
- When Violations to the Water Use Act are found through the constituent complaint driven process:
 1. Investigate
 2. Educate
 3. Seek Compliance
 4. Enforcement

WATER RESOURCES REGIONAL OFFICES



11

Future Forward

- Supply and demand challenges in Montana are increasing every year.
- The DNRC’s role in the Adjudication process is changing.
- The DNRC has begun transitioning existing adjudication staff towards verification, distribution, and enforcement.
- Now is the perfect time to clarify roles and responsibilities, statutory authority, and have a future forward policy discussion around the meaningful management and protections of Montana's water resources.
- DNRC and Water Court work on Adjudication continues, however funding needs to be renewed in the 2027 session. § 85-2-280, MCA



12

Thank you.

Anna Pakenham Stevenson

Water Resources Division Administrator

Anna.PakenhamStevenson@mt.gov

406-444-6605

Todd Netto

AED Bureau Chief

tnetto@mt.gov

406-444-6614

