

MONTANA WATER COURT



STATE OF MONTANA

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WATER COURT ADJUDICATION PROGRESS

Submitted by C. Bruce Loble, Chief Water Judge

August 20, 2009

The Report prepared by the Department of Natural Resources and Conservation identifies the Summary Reports which the DNRC has delivered to the Water Court and the Decrees issued by the Water Court, so that information will not be repeated here.

The Water Court is reviewing several Summary Reports and expects to begin issuing additional decrees once the Department of Revenue water right ownership update process is fully functional. While waiting for the Department of Revenue, the Water Court is working with the DNRC claim examination staff, the United States water adjudication staff, private attorneys, and some water users to gather additional information to complete the examination of (1) Indian and possible Indian successor claims near reservations, (2) claims for private stock water rights on federal lands, and (3) claims asserting the historical marshaling of water rights on irrigated lands. Additionally, the Water Court is working with interested parties to identify flow rate and volume guidelines to apply to instream claims, other than Department of Fish, Wildlife, & Parks Murphy Rights. Once the procedures to examine these issues are resolved and implemented, the prospective decrees represented by the pending Summary Reports will be ready to be issued.

Montana's water rights adjudication effort is undergoing a performance audit by the Montana Legislative Audit Division. As part of that process, the Water Court's senior staff met with the legislative audit team on August 10, 2009 for an entrance conference. The audit team indicated that a draft report may be completed by January 2010 and that a final report is expected to be presented to the Legislative Audit Committee in early 2010. Presumably, the audit team would be available to appear before the EQC and Water Policy Committee.

In response to the 2009 legislative mandate to generate "vacancy savings," the Water Court has not filled a half time FTE position and in response to the suggestion of the Office of the Supreme Court Administrator, a few Water Court staff members have scaled back their hours to slightly less than full time.

The Water Court's primary focus is to work through its existing inventory of water right claims that have unresolved objections and other issues. The Court's goal is to draw down its current caseload to clear the decks 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 in the next few years.

Currently, the Water Court is primarily working on water right claims in the following basins:

Basin	Source	Claims in Decree	Remaining Claims to Resolve
40H	Big Sandy Creek	797	104
40O	Milk River Below Whitewater Creek	3306	1369
40Q	Poplar River	2080	52
40S	Missouri River Below Ft. Peck Dam	2966	483
41D	Big Hole River	3892	2268
41O	Teton River	2524	1278
41QJ	Missouri River from Holter Dam to Sun River	2445	844
42B	Tongue River above and including Hanging Woman Creek	1345	569
42C	Tongue River below Hanging Woman Creek	4689	1186
42KJ	Yellowstone River between Bighorn and Tongue Rivers	4767	915
43Q	Yellowstone River between Clarks Fork Yellowstone and Bighorn Rivers	2473	242
76HF	Westside Subbasin - Bitterroot River	3774	229