

**DNRC REPORT TO EQC
HB22 ADJUDICATION PROGRESS
May, 2014**

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 March 31, 2014 **57,000**
- Claims examined by Purpose
 - o Irrigation 13,136 23%
 - o Stock 31,337 55%
 - o Domestic 7,327 13%
 - o Other 5,200 9%
 - 57,000**

Claims remaining to be examined **0**

The Department has met every benchmark set for it by the legislature in 2005 with the completion of initial examination of the 57,000 claims. Staff are currently working on issuing summary reports in the remaining 5 basins with 2 additional basins dependent on what happens with the CSKT compact and water rights.

<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 Bullwhacker Creek (41T)	November 17, 2009
Milk River above Fresno Reservoir (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
Missouri R between Bullwhacker & Musselshell (40EJ)*	September 25, 2013
St. Mary River (40T)*	January 31, 2014

(* 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
Milk River above Fresno Reservoir (40F)	12/12/2013	2,339
Yellowstone River below Powder River (42M)	1/24/2014	5,290

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 2014				
BASIN COUNT	BASIN NAME	WORK STATUS	Estimated Completion Date	
1	Flathead R below Flathead Lake (76L)	Summary Report pending	Dependant on CSKT	
2	Big Horn R below Greybull R (43P)	Summary Report pending	11	2014
3	Flathead River (76LJ)	Summary Report pending	6	2015
4	Cut Bank River (41L)	Summary Report pending	Dependant on CSKT	
5	Two Medicine River (41M)	Summary Report pending	11	2014
6	Marias River (41P)	Summary report Pending	8	2014
7	Bitterroot R, E side (76HA)	Summary Report pending	1	2015

Assistance for District Court Enforcement of Water Court Decrees

2005 season completed water court assistance for 23 projects
 2006 season completed water court assistance for 23 projects
 2007 season completed water court assistance for 26 projects
 2008 season completed water court assistance for 32 projects
 2009 season completed water court assistance for 36 projects
 2010 season completed water court assistance for 38 projects
 2011 season completed water court assistance for 38 projects
 2012 season completed water court assistance for 40 projects
 2013 season completed water court assistance for 42 projects
2014 season completed water court assistance for 42 projects

Post Decree Assistance (July- FY2014)

case type	case count	work hours
Certified case		0
Case with Objector	37	1,166
85-2-248 case	122	2,715
General assist		780
Total hours		4,662

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.

Ownership updates

-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 6,269 ownerships have been updated involving 15,219 water rights.

SB355 Fillings (effective Oct 1, 2013)

The department has received 134 statement of claims to date. 21 of these have the purpose of domestic and 113 have the purpose of stock. Examination is occurring on basins nearing initial decree and basins with notice deadlines.

Re-examination order on verified and early examined basins

The department has not started working on the 43 basins with approximately 90,000 claims affected by this order. The work involved primarily addresses water distribution issues and is not a full examination of the claims. Work in these basins is anticipated to be complete by July 1st of 2021 if additional funding is received to maintain current staffing levels at DNRC and the Water Court.

Other additional adjudication work could include:

- Examination and decrees of non-compacted tribal water rights;
- Possible re-examination of all water rights for post-73 abandonment.

WATER COURT REPORT TO WPIC AND EQC APRIL, 2014

Status of Interim Decrees

The Water Court issued six Preliminary/Interim Decrees in 2013. These decrees have open objection periods and are currently receiving objections. The table below shows deadlines for objections and the number of objections received as of April 23, 2014.

Basin	Date Preliminary Issued	Original Objection Deadline	Extended Deadline	Extended Deadline	No. of Objections As of 4/23/2014
41A	5/9/2013	11/5/2013	2/3/2014	5/5/2014	103
42A	5/23/2013	11/19/2013	2/14/2014	5/14/2014	1
43N	6/13/2013	12/10/2013	3/10/2014	6/14/2014	5
40I	6/20/2013	12/17/2013	3/17/2014	6/16/2014	17
41B	5/9/2013	11/5/2013	2/3/2014	5/5/2014	146
40F	12/12/2013	6/10/2014			18

Decrees Issued in 2014: The Water Court has issued two decrees so far in 2014.

Basin	Date Preliminary Issued	Original Objection Deadline	Extended Deadline	Extended Deadline	No. of Objections As of 4/23/2014
42M	1/24/2014	7/23/2014			24
40EJ	4/25/2014	10/22/2014			

Initial Decrees remaining to be Issued

There are eight initial decrees remaining to be issued. With present funding and workloads, and assuming continued timely preparation of summary reports by the DNRC, these decrees should be issued before the benchmark deadline of 2020. The Water Court anticipates 50 percent of claims will receive DNRC issue remarks or objections. This percentage is based on historic averages and represents the number of claims forecast for inclusion in court proceedings. Basins without initial decrees are:

- 40T – St. Mary River
- 41L – Cut Bank River
- 41M – Two Medicine River
- 41P – Marias River
- 43P – Bighorn River below Greybull River
- 76HA – Bitterroot River, East side
- 76L – Flathead River below Flathead Lake
- 76LJ – Flathead River including Flathead Lake

Compacts

WC 2013-04 – Bowdoin National Wildlife Refuge Compact. On April 2, 2014, Judge McElyea issued the Preliminary Decree for the Bowdoin Compact. The deadline for objections is October 14, 2014.

Summary Reports

The Water Court is reviewing the Summary Report in Basin 40T (St. Mary River). The Court plans to issue the decree for basin 40T in May 2014.

Enforcement Actions for 2014

With the irrigation season about to begin, the Water Court has begun sending water rights tabulations to District Courts. As of April 23, tabulations for nine projects have been mailed.

The Water Court is continuing to work with District Court judges to provide them with complete and enforceable tabulations of enforcement projects. Based on feedback from judges and water commissioners, the Water Court added a remarks section to the tabulations. This section provides the judges and commissioners with information remarks appearing on water right claim abstracts that affect distribution of water.

Exempt from filing (SB 355)

The last legislature passed SB 355. This law allows individuals to file on exempt claims. The process at the Court and DNRC became operational on October 1, 2013. As of April 23, 2014, 134 petitions have been received.

Progress of Adjudication

The Water Court continues to work on initiatives to increase productivity, quality, and responsiveness, and to track our progress in the adjudication. The following chart shows average number of claims closed per month.

