

**DNRC REPORT TO EQC
HB22 ADJUDICATION PROGRESS
September, 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 June 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 two 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

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
Bowdoin National Wildlife Refuge Compact	4/2/2014	7
Missouri River between Bullwhacker & Musselshell River (40EJ)	4/25/2014	2,676
St. Mary River (40T)	6/25/2014	267

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 2015				
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	3	2015
3	Flathead River (76LJ)	Summary Report pending	Dependant on CSKT	
4	Cut Bank River (41L)	Summary Report pending	6	2015
5	Two Medicine River (41M)	Summary Report pending	10	2014
6	Marias River (41P)	Summary report Pending	9	2014
7	Bitterroot R, E side (76HA)	Summary Report pending	4	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

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 2014 7,618 ownerships were updated involving 18,360 water rights.
-So far this fiscal year 651 ownerships have been updated involving 1,393 water Rights

Post Decree Assistance (July- FY2015)

<u>case type</u>	<u>case count</u>	<u>work hours</u>
Certified case		0
Case with Objector	3	93
85-2-248 case	17	588
<u>General assist</u>		144
Total hours		825

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.

SB355 Fillings (effective Oct 1, 2013)

The department has received 205 statement of claims to date. Of these, 30 have the purpose of domestic and 175 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

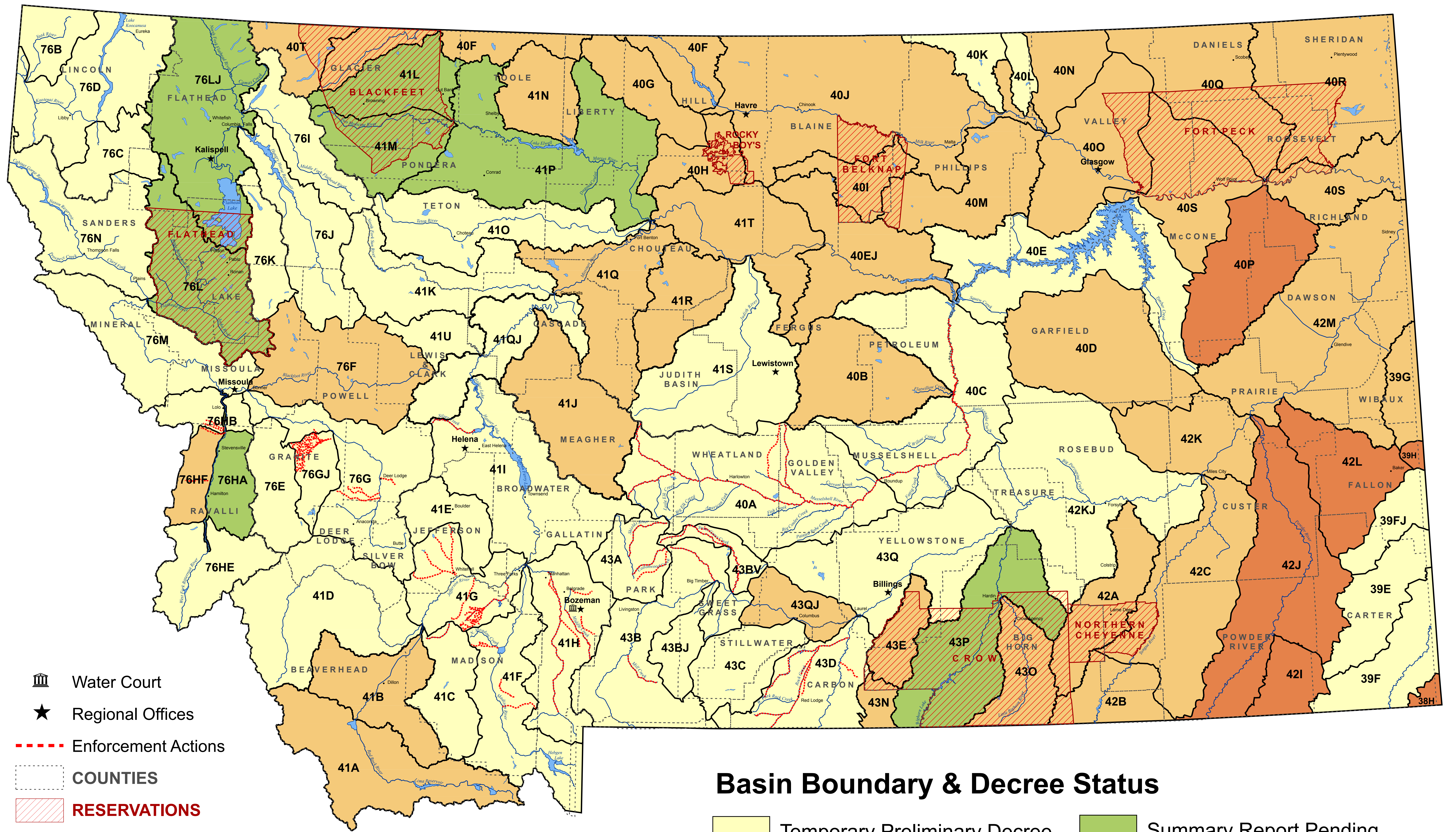
The department has started initial work in basin 76GJ (Flint Creek), which is one of the 43 basins with approximately 90,000 claims affected by this order. The work involved primarily addresses water distribution issues and is not a full examination of the claims. Work in these basins is anticipated 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:

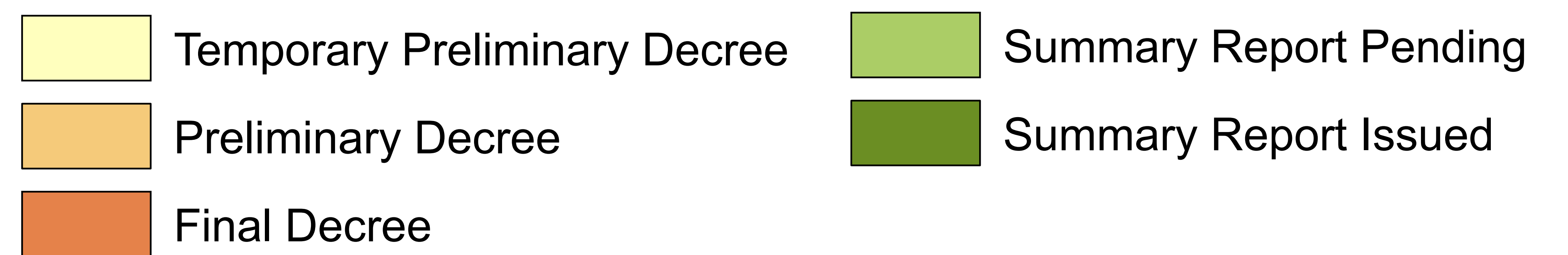
- Examination and decrees of non-compacted tribal water rights;
- Possible examination of water rights for post-73 abandonment;
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Basin Location and Adjudication Status

June 26, 2014



Basin Boundary & Decree Status



Water Court

Regional Offices

Enforcement Actions

COUNTIES

RESERVATIONS

WATER COURT REPORT TO WPIC AND EQC September, 2014

Status of Interim Decrees

The Water Court issued 6 Preliminary/Interim decrees in 2013. These decrees are all in an objection or counterobjection period. The table below shows deadlines for the decrees and number of objections or counterobjections received on these decrees as of August 13, 2014.

Basin	Date Prelim Issued	Original Obj Deadline	Extended Deadline	Extended Deadline	Counterobj Deadline	No of Obj & Counterobjections As of 8/13/2014
41A	5/9/2013	11/5/2013	2/3/2014	5/5/2014	8/16/2014 Extended to 10/31/2014	1282
42A	5/23/2013	11/19/2013	2/14/2014	5/14/2014	9/15/2014	511
43N	6/13/2013	12/10/2013	3/10/2014	6/10/2014	9/15/2014	32
40I	6/20/2013	12/17/2013	3/17/2014	6/16/2014	10/6/2014	542
41B	5/9/2013	11/5/2013	2/3/2014	5/5/2014	8/16/2014 Extended to 10/31/2014	863
40F	12/12/2013	6/10/2014	9/8/2014			35

Decrees Issued in 2014: The Water Court has issued 3 degree so far in 2014.

Basin	Date Preliminary Issued	Original Objection Deadline	Extended Deadline	Extended Deadline	No of Objections As of 8/13/2014
42M	1/24/2014	7/23/2014	10/21/2014		27
40EJ	4/25/2014	10/22/2014			2
40T	6/19/2014	12/22/2014			

Initial Decrees remaining to be issued:

There are 7 initial decrees remaining to be issued. Assuming timely production of summary reports and the absence of other issues these 7 decrees should be issued before the end of 2017. We anticipate 50 percent of claims in the new decrees will receive objection or issue remarks. This percentage is based on historical averages and represents the number of claims that must be addressed in court proceedings. Basins without initial decrees are:

- 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

Summary Reports

The Water Court is not currently reviewing any Summary Reports. As we receive additional reports from DNRC we will assign staff.

Enforcement Actions for 2014

The Water Court has sent 40 final enforcement tabulations to the district courts with enforcement actions in their jurisdictions. The Water Court is beginning discussions with other areas in the state regarding petitions for enforcement in spring of 2015.

Exempt from filing (SB 355)

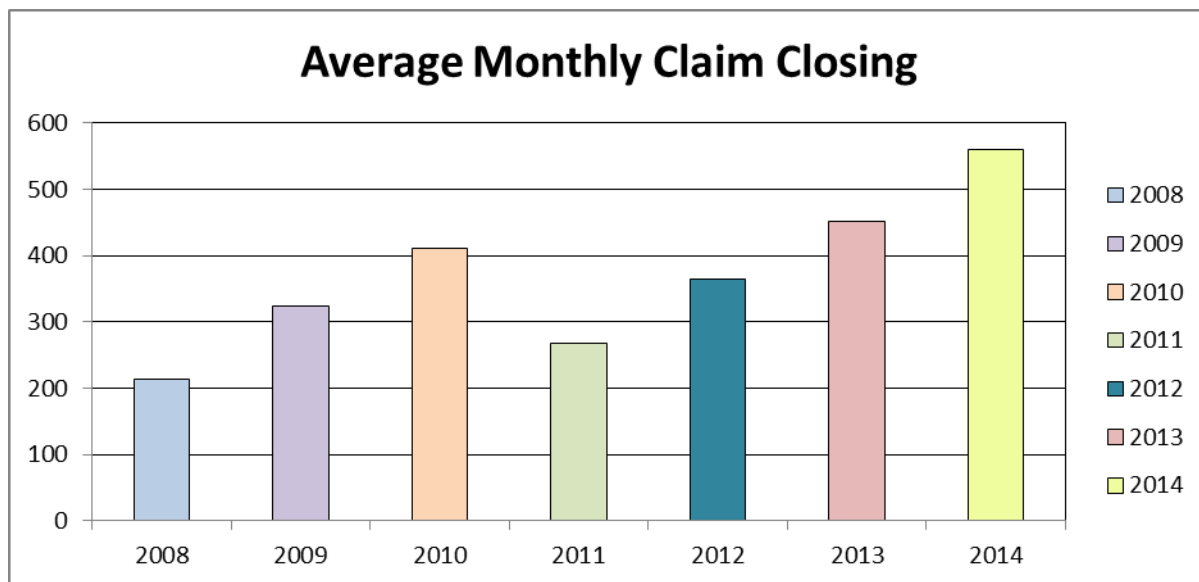
SB 355 was passed during the last legislative session. The resulting law allows individuals to file on exempt claims. The process at the court and DNRC became operational on October 1, 2013. The court continues to receive a number of petitions for this process. Many of the resulting rights are being incorporated into objection lists that will be published later this year.

Staffing Changes

The Water Court employed two temporary legal interns this summer, these individuals provided a great deal of service to the court, but have now returned to law school. Since last report, a half-time Water Master has resigned. The court currently has one vacant deputy clerk position for which we are recruiting.

Progress of Adjudication

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



Decree Issuance Update

Decrees Issued And Still In An Objection Period

Decrees Issued in 2013

Basin	Date Prelim Issued	Original Obj Deadline	Extended Deadline	Extended Deadline	Counterobj Deadline	No of Obj & Counterobjections As of 8/13/2014
41A	5/9/2013	11/5/2013	2/3/2014	5/5/2014	8/16/2014 Extended to 10/31/2014	1282
42A	5/23/2013	11/19/2013	2/14/2014	5/14/2014	9/15/2014	511
43N	6/13/2013	12/10/2013	3/10/2014	6/10/2014	9/15/2014	32
40I	6/20/2013	12/17/2013	3/17/2014	6/16/2014	10/6/2014	452
41B	5/9/2013	11/5/2013	2/3/2014	5/5/2014	8/16/2014 Extended to 10/31/2014	863
40F	12/12/2013	6/10/2014	9/8/2014			35

Decrees Issued in 2014

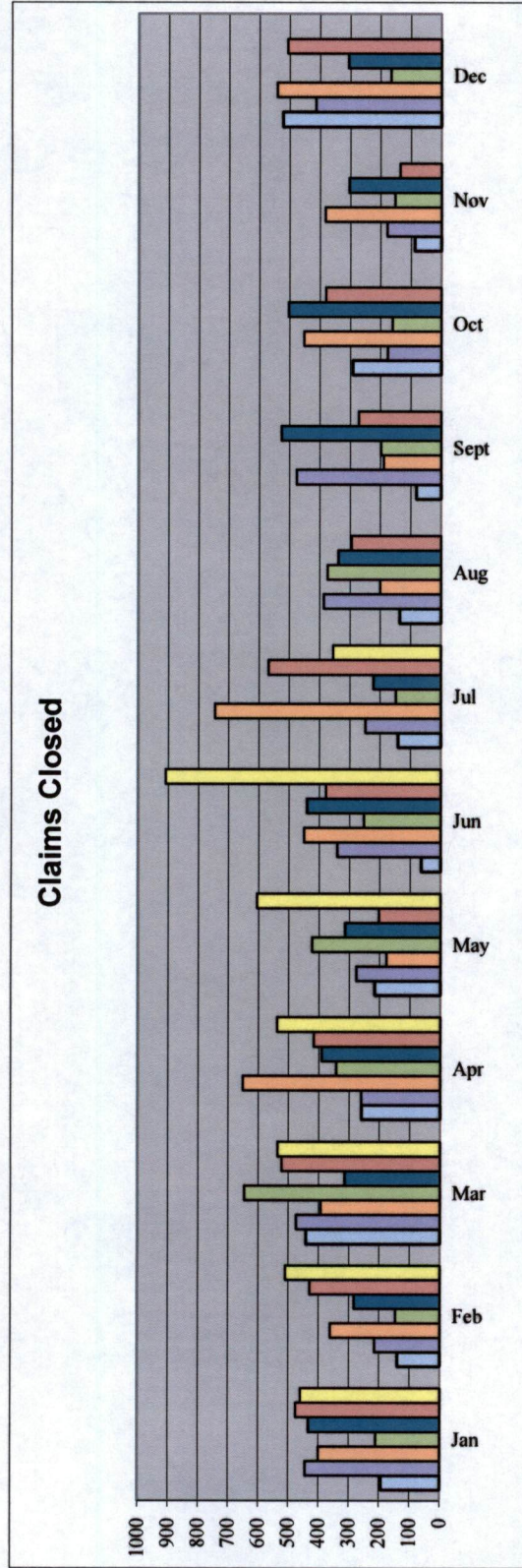
Basin	Date Preliminary Issued	Original Objection Deadline	Extended Deadline	Extended Deadline	No of Objections As of 8/13/2014
42M	1/24/2014	7/23/2014	10/21/2014		62
40EJ	4/25/2014	10/22/2014			24
40T	6/19/2014	12/22/2014			

First Decrees Remaining to be Issued: Seven first decrees still need to be issued.

Type of Decree	Status
41L	Pending receipt of summary report from DNRC.
41M	Pending receipt of summary report from DNRC.
41P	Pending receipt of summary report from DNRC.
43P	Pending receipt of summary report from DNRC.
76L	Pending receipt of summary report from DNRC.
76LJ	Pending receipt of summary report from DNRC.
76HA	Pending receipt of summary report from DNRC.

Claim Closing by Month Comparison 2008-2014

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Average
2008	193	140	442	259	216	64	141	136	81	292	88	523	214
2009	444	215	474	260	277	341	249	387	476	176	178	414	324
2010	400	362	393	651	177	450	745	200	189	452	382	542	411
2011	211	146	646	343	423	253	148	374	198	161	152	166	268
2012	433	283	315	391	315	441	222	339	527	503	304	306	365
2013	475	429	523	417	202	378	569	295	272	380	136	507	452
2014	459	510	536	539	605	908	355						559



Updated: 8/15/2014

Percent of Claims Resolved Elapsed Time from Notice of Intent to Appear

Basin	Number of Claims on Objection List	NOIA Deadline	% Complete 6 Months	% Complete 12 Months	% Complete 2 Years	% Complete 5 Years	% Complete 8/1/2014
41D	2233	2/3/2009	-1.8%	0.5%	19.3%	86.16%	94.0%
41QJ	857	4/28/2009	3.4%	25.8%	58.3%	88.68%	88.9%
42C	916	8/25/2009	-29.5%	-29.1%	-5.9%		50.3%
42B	566	8/25/2009	8.3%	33.6%	53.9%		73.3%
40M	1464	8/9/2010	20.3%	25.7%	43.3%		68.9%
40R	728	6/3/2011	5.5%	26.9%	73.9%		86.1%
43E	488	9/26/2011	-15.0%	-13.3%	5.3%		14.3%
43O	1135	10/3/2011	-20.0%	-19.7%	0.4%		10.0%
41Q	1071	11/1/2011	27.9%	59.7%	74.5%		79.6%
40J	4789	4/10/2011	-0.5%	1.1%	15.3%		43.7%
41J	1062	6/11/2012	14.3%	19.8%	28.6%		29.9%
76F	1346	6/30/2012	-0.3%	11.2%	52.5%		54.3%
40B	1419	6/16/2012	12.9%	21.2%	32.6%		34.5%
41R	848	3/12/2012	19.2%	23.5%	69.9%		81.7%
41T	1471	9/17/2013	51.8%				76.8%

Elapsed Time is calculated from date that the NOIA period closed to the month indicated in last column.

Percentage Complete is calculated based on number of claims on the objection list compared to the number of claims open. When % complete is negative, this indicates that filings outside the decree issuance process have been received by the court and need attention. These additional proceedings include but are not limited to motions to amend, splits, and claims called in on-motion of the court.

Greyed out cells indicate that the elapsed time has not been reached.

<u>Compact Name</u>	<u>Case #</u>	<u>Status</u>
Blackfeet Tribe Compact	WC-1991-1	OPEN
Fort Peck-Montana Compact	WC-1992-1	CLOSED
Northern Cheyenne Compact	WC1993-1	CLOSED
National Park Service-MT Compact	WC1994-1	CLOSED
Rocky Boys Compact	WC-2000-01	CLOSED
Red Rock Lakes Compact	WC-2000-02	CLOSED
USFWS Black Coulee and Benton Lake Compact	WC-2000-03 WC-2002-04	CLOSED
USDA Forest Service	WC-2007-03	OPEN
USA-BLM-MT Compact	WC-2008-10	CLOSED
National Bison Range Compact	WC-2011-01	CLOSED
Crow Tribe Compact	WC-2012-06	OPEN
Bowdoin National Wildlife Refuge Compact	WC-2013-04	OPEN
USDA Fort Keogh Research Station	WC2014-07 - Issued 8/21/2014	OPEN
USDA Sheep Experiment Station	WC2014-06 - Issued 8/21/2014	OPEN
Charles M. Russell National Wildlife Refuge	Not yet at Water Court	
Upper Missouri River Breaks National Monument	Not yet at Water Court	
Fort Belknap Indian Reservation	Not yet at Water Court	
Confederated Salish and Kootenai Tribes of the Flathead Reservation	TBD - Compact Commission	
Turtle Mountain Chippewa	TBD - Compact Commission	

Filename: Compact Status