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HB39 OWNERSHIP UPDATE STATUS SHEET

Background

HB39 (2007) revised the water right ownership update process requiring the DNRC and DOR to coordinate water right ownership records based on property transfers. The impetus for the bill was the 30% return mail (outdated ownership records) encountered in the billing process associated with HB22 (2005). The effective date of HB39 was July 1, 2008. Rep. McNutt's goal in requesting the legislation was to automate the process as much as possible.

Current Status

The Water Rights Bureau reports the average number of ownership updates for the eight (8) years prior to the passage of HB39 was 4,621 ownership updates per year (excluding 2006). Since, HB39 the DNRC has been receiving an average of 6,039 ownership updates per year (a 31% increase). It's important to note ownership updates may be initiated through the sale of property or the result of researching return mail associated with the issuance of a Water Court Decree. The Montana Water Court has issued 25 decrees and 7 Compacts since the passage of HB39.

Implementation of the HB39 Ownership Update Process

It was hoped the ownership update process between DOR's ORION system and DNRC's Water Rights Information System would allow some ownership updates to occur automatically. This is not the present state.

The DNRC and DOR have both modified their systems to accommodate two data elements to link DOR parcel records (geocode) and DNRC water right records (water right id). The effort to populate these data elements in each system is not complete. *Opinion: In the DNRC database the geocode is attached to the water*

right record and not to the place of use. It is questionable whether an automatic process will ever be successful except in those instances where there is a single place of use and a single geocode.

The timeliness of updates is another area of concern. The flowchart on the following page illustrates the current flow for the most common and simple transfer, i.e., all associated water rights transfer with the property.

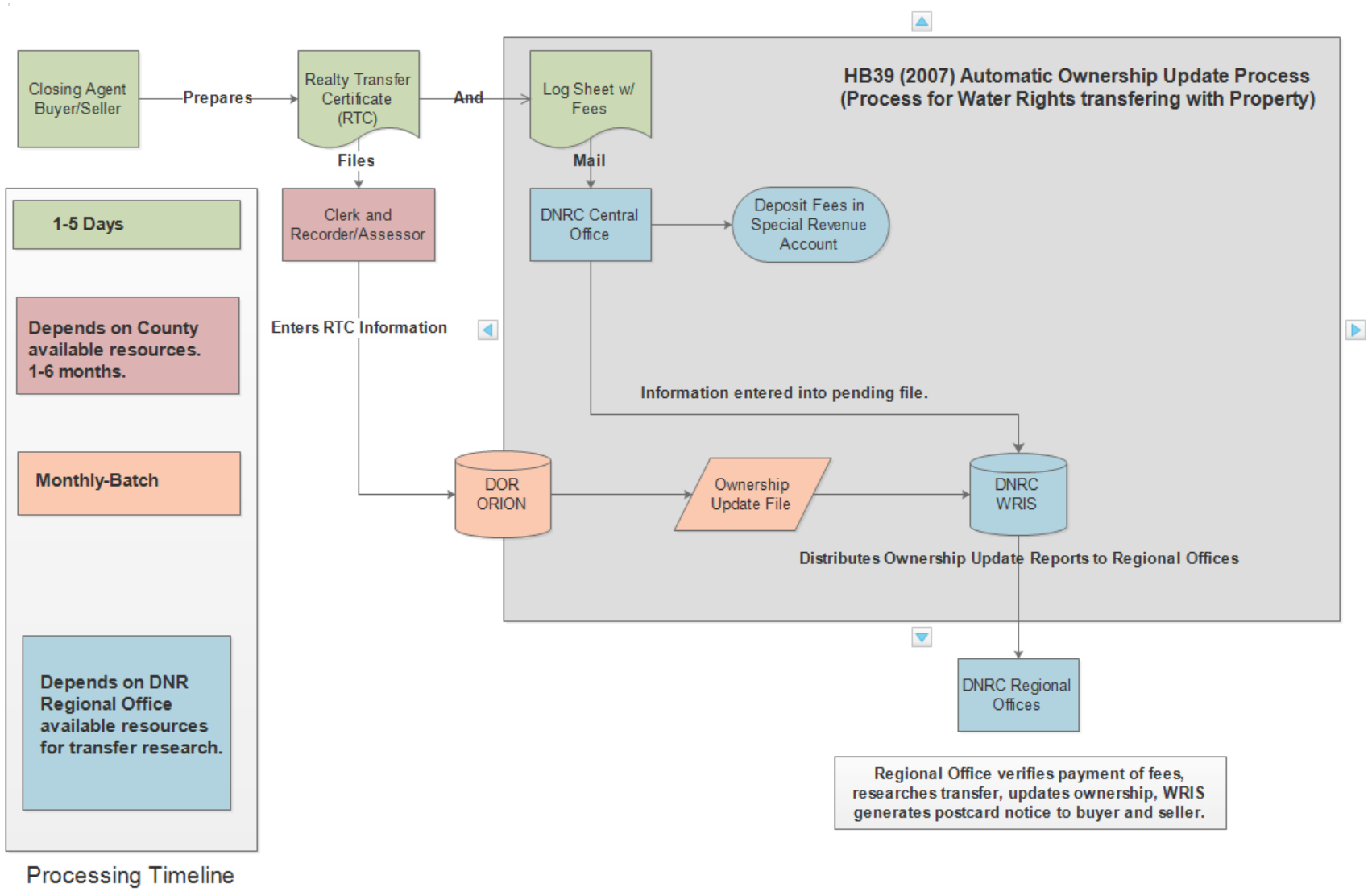
Where do we go from here?

Now that the system has been in place for a number of years we can evaluate the success and challenges. The fees currently collected by DNRC to manage the ownership update are captured in a state special revenue fund. I would suggest that there are a number of elements that can be evaluated and potentially improved upon:

(1) Is there a way to make county downloads more consistent? How much would this cost? Would the counties being willing/able to comply?
(2) Is it possible to attach the geocode to the place of use? How much time, effort, money would this take? What would be the return on investment over time?
(3) Would it be more cost/time efficient to identify one employee that does all ground-truthing on geocodes rather than being completed by the regional offices on a time availability basis?
(4) How are the funds in the state special revenue account being used now? Would this revenue source be adequate for making changes and/or updates to the existing system?

Regards,

Krista Lee Evans
Blake Creek Project Management


HB39 (2007) Automatic Ownership Update Process
(Process for Water Rights transfering with Property)
Closing Agent Buyer/Seller
Prepares
Realty Transfer Certificate (RTC)
And
Log Sheet w/ Fees
Files
Mail
Clerk and Recorder/Assessor
DNRC Central Office
Deposit Fees in Special Revenue Account
Enters RTC Information
Information entered into pending file.
DOR ORION
Ownership Update File
DNRC WRIS
Distributes Ownership Update Reports to Regional Offices
DNRC Regional Offices
Regional Office verifies payment of fees, researches transfer, updates ownership, WRIS generates postcard notice to buyer and seller.
1-5 Days
Depends on County available resources. 1-6 months.
Monthly-Batch
Depends on DNR Regional Office available resources for transfer research.
Processing Timeline