

2015 Montana Water Supply Initiative
Upper Missouri River Basin

WATER ADMINISTRATION



MONTANA WATER FACTS

Stream and river miles - 176,750

Montana contains 3 headwaters watersheds

St. Mary's River (Hudson Bay)

Columbia River (Pacific Ocean)

Missouri River (Gulf of Mexico)

Irrigation water accounts for
97.6% of water withdrawals

Domestic use : 44% Ground Water 56% Surface Water

MONTANA WATER RIGHTS ADMINISTRATION

- 1972 Constitution declared “all waters of the state are the property of the state for the use of its people”
- A water right is the right to use the water beneficially
- Appropriation Doctrine - First in time is first in right
- Use it or lose it
- A legal water right:
 - Is a property right
 - Is protected by the constitution
 - Has value - can be bought and sold
 - Can be severed from the land
 - Cannot be taken away without due process



MONTANA WATER USE ACT - JULY 1, 1973

- Adjudication - process to account for water rights appropriated before July 1, 1973
- Set up a system for new appropriations of water and making changes on existing water rights
- DNRC became the record keeper of water rights
- Allowed for a Water Reservation process



ADJUDICATION

- Water court established 1979 – Bozeman
- Exclusive jurisdiction over “existing” water rights
(Rights put to use prior to July 1, 1973)
- Process helps to establish Montana’s water use
against claims by downstream states
- Process establishes priority on sources
- DNRC examines claims in accordance with Montana
Supreme Court Rules
- Issue remarks are often the basis of objections
(Court resolves all issue remarks)
- Decrees will be issued in all 85 river basins in Montana
- Objections filed
- Water master resolves issues
- Water Judge adopts, modifies, or rejects master’s report



NEW WATER USES

- Beneficial Water Use Permit

Any surface water

Ground water
greater than 10
acre-feet

- Certificate

Ground water 10
acre-feet or less

- Change of Use

Point of diversion

Place of Use

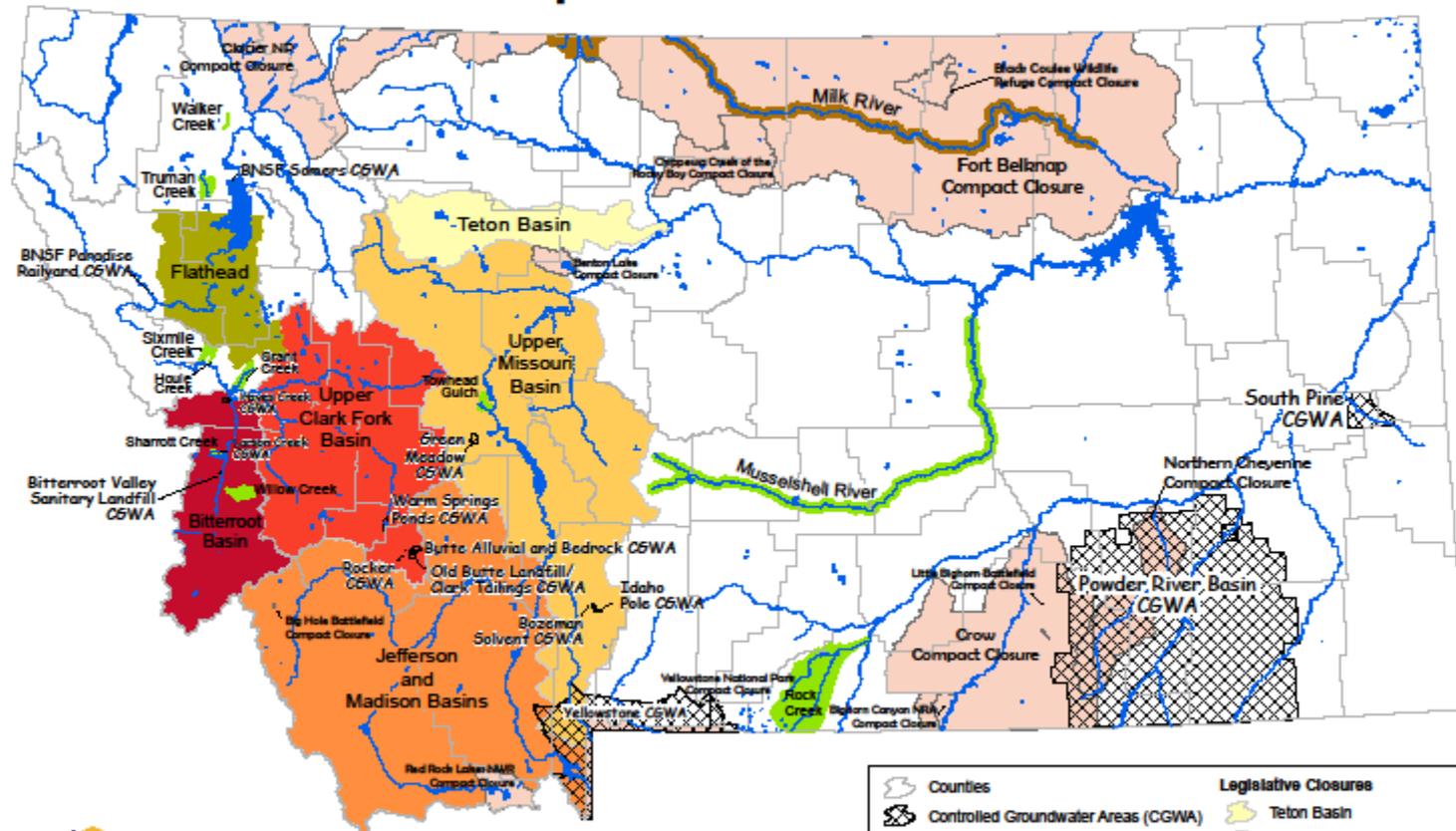
Purpose

Place of Storage

*Change cannot
exceed historic
beneficial use*



Montana Basin Closures and Controlled Groundwater Areas September 2010



Legend	
	Counties
	Controlled Groundwater Areas (CGWA)
	Department Ordered Milk River Closures
	Compact Closures
	Montana Supreme Court Order Closure
	Administrative Rule Closures
	Teton Basin
	Upper Missouri Basin
	Jefferson and Madison Basins
	Upper Clark Fork Basin
	Bitterroot Basin



Map created by MT DNRC WRD on 09/13/10.

CONTROLLED GROUNDWATER AREAS

Designated to prevent new appropriations or limit certain types of appropriations due to water availability or water quality problems for the protection of existing water rights.



BASIN CLOSURES

Montana has closed some basins to certain types of new appropriations

- Legislative Closures
- Administrative Rule Closures
- Compact Closures



WATER RESERVATIONS

Preserve water for future use
by certain government
entities



- Municipalities
- Conservation Districts
- Department of Fish, Wildlife & Parks

FEDERAL AND INDIAN RESERVED WATER RIGHTS



Montana Reserved Water Rights Compact Commission

- Authority to negotiate settlements with federal agencies and Indian tribes claiming reserved water rights within the state of Montana
- Compacts ratified by the Montana Legislature, Tribal Councils and often the U.S. Congress



DISCUSSING WATER RIGHTS—A MONTANA PASTIME

ENFORCEMENT

- If Basin has a Water Court Decree
 - Petition District Court (15% of water rights or District Court discretion)
 - Appointment of Water Commissioner – Have authority to enter upon any ditch, canal or other source and to visit, inspect, and adjust headgates
 - Commissioner monitors diversions to ensure compliance
 - Commissioner records issues reports to District Court
- Petition District Court for water mediator
- Pre July 1, 1973 offender without a Water Court Decree in place
 - Petition District Court to certify the matter to the Water Court
- Contact DNRC Water Resources Office
 - Jurisdiction: post July 1, 1973 water rights; wasting water; using water unlawfully; preventing water from going to a senior water user; or otherwise violating the Montana Water Use Act

Questions?

Contact Your Regional Office Anytime

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Bozeman
586-3136

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538-7459

