



# COMPREHENSIVE WATER REVIEW

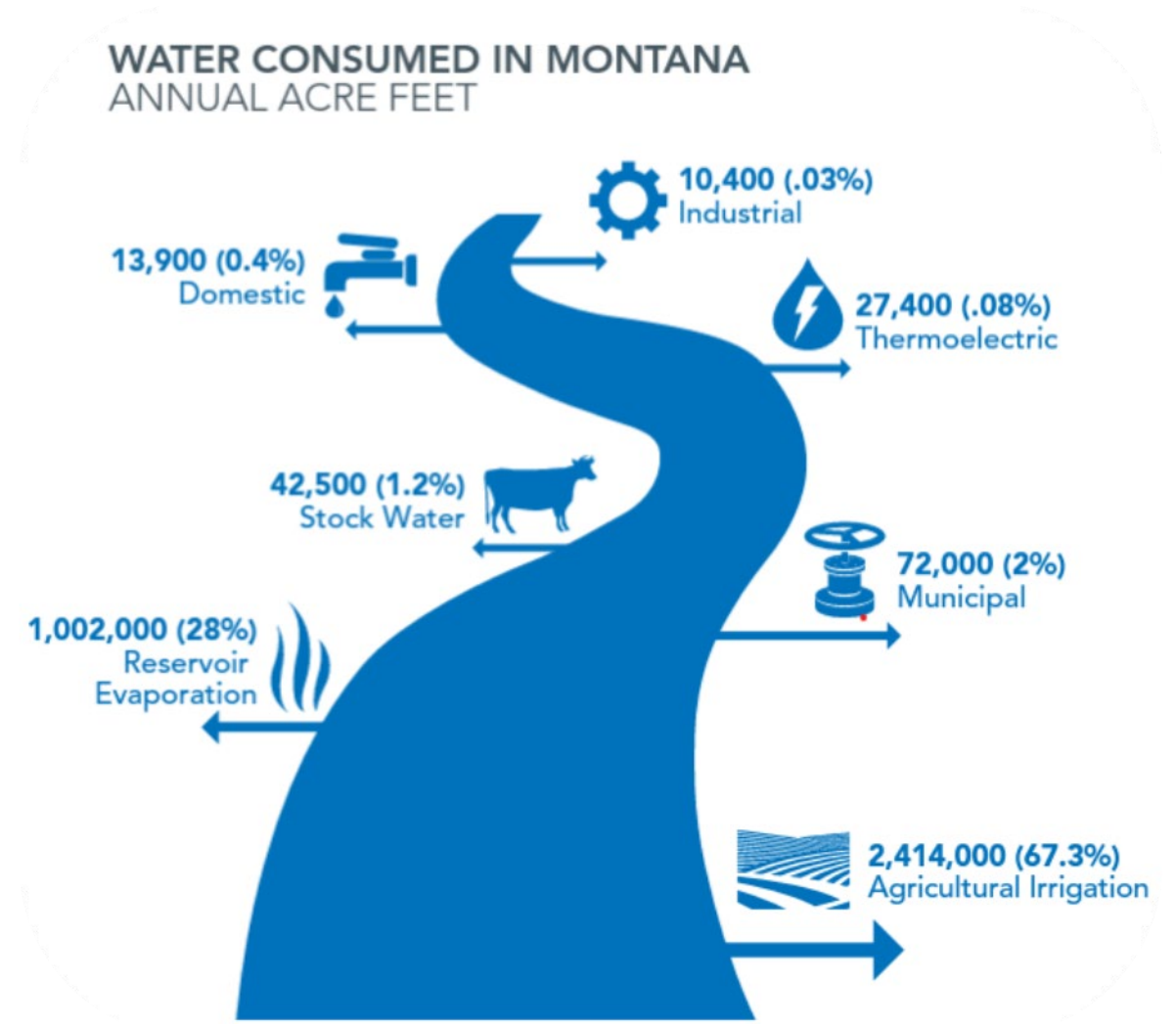


## 1. Efficient Administration of Water Rights



# STAKEHOLDER WORKING GROUP

- Vicki Baker (irrigation)
- Jocelyn Cahill (irrigation)
- Krista Lee Evans (irrigation)
- Spencer Woith (domestic, new development)
- Mark Taylor (domestic, new development)
- Kelly Lynch (municipal)
- Brian Heaston (municipal)
- Nicole Rolf (stock water)
- Raylee Honeycutt (stock water)
- Jan Thomson-Rouse (hydropower)
- Alan Olson (industrial)
- Arnold Bighorn (tribal)
- Andrew Gorder (conservation)
- Clayton Elliott (recreation)
- Abby Brown (attorney, multiple)
- Ryan McLane (attorney multiple)
- Julie Merritt (consultant multiple)

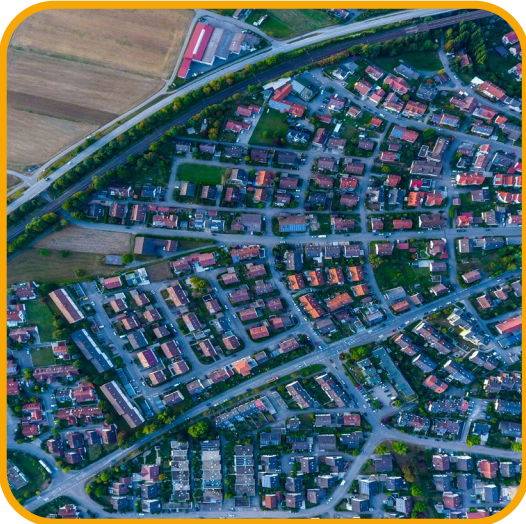


# TOPICS OF THE COMPREHENSIVE WATER REVIEW



## **Final Decree Transition**

How do we transition from statewide water adjudication to long-term administration of water rights?



## **Water Planning, Growth, and Exempt Wells**

How do we meet our new water demands while protecting existing water rights?

## **FINAL DECREE TRANSITION**

**Bill 1: Efficient Administration of Water Rights**

**Bill 2: Alignment of Provisional Water Rights with Final Decrees**

## **PLANNING, GROWTH, AND EXEMPT WELLS**

### **Storage:**

**Funding 1: Montana Water Development Fund**

### **Mitigation & Change Process:**

**Bill 3: Waiver of Adverse Effect**

**Bill 4: Exception to the Change Process**

### **Public Water and Sewer:**

**Funding 2: Incentivizing Connection to Public Water and Sewer**

### **Exempt Wells:**

**Bill 5: Water Rights and Subdivision Coordination**

**Bill 6: Exempt Wells**





# FINAL DECREE TRANSITION

How do we transition from statewide water adjudication to long-term administration of water rights, and why is now the right time to provide clarity on this transition?



# ADJUDICATION AND NEW APPROPRIATION



July 1, 1973

## Adjudication

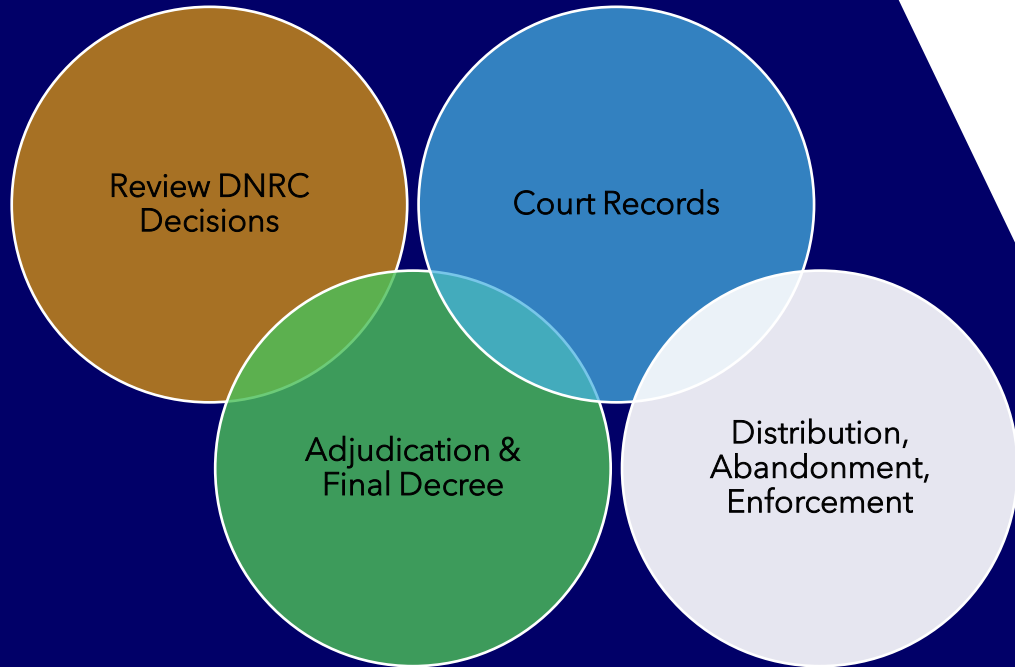
- The Montana Water Court adjudicates existing rights by basin and issues final decrees, recognizing and confirming water rights developed **prior to July 1, 1973**.
- **DNRC provides technical assistance to the Water Court.**
- Process has been far more expensive and time consuming than contemplated, but all summary reports scheduled to be delivered to Water Court by June 30, 2025.

## New Appropriations

- New water rights, **since July 1, 1973**, and changes to all existing water rights are administered by the DNRC through a permitting process.



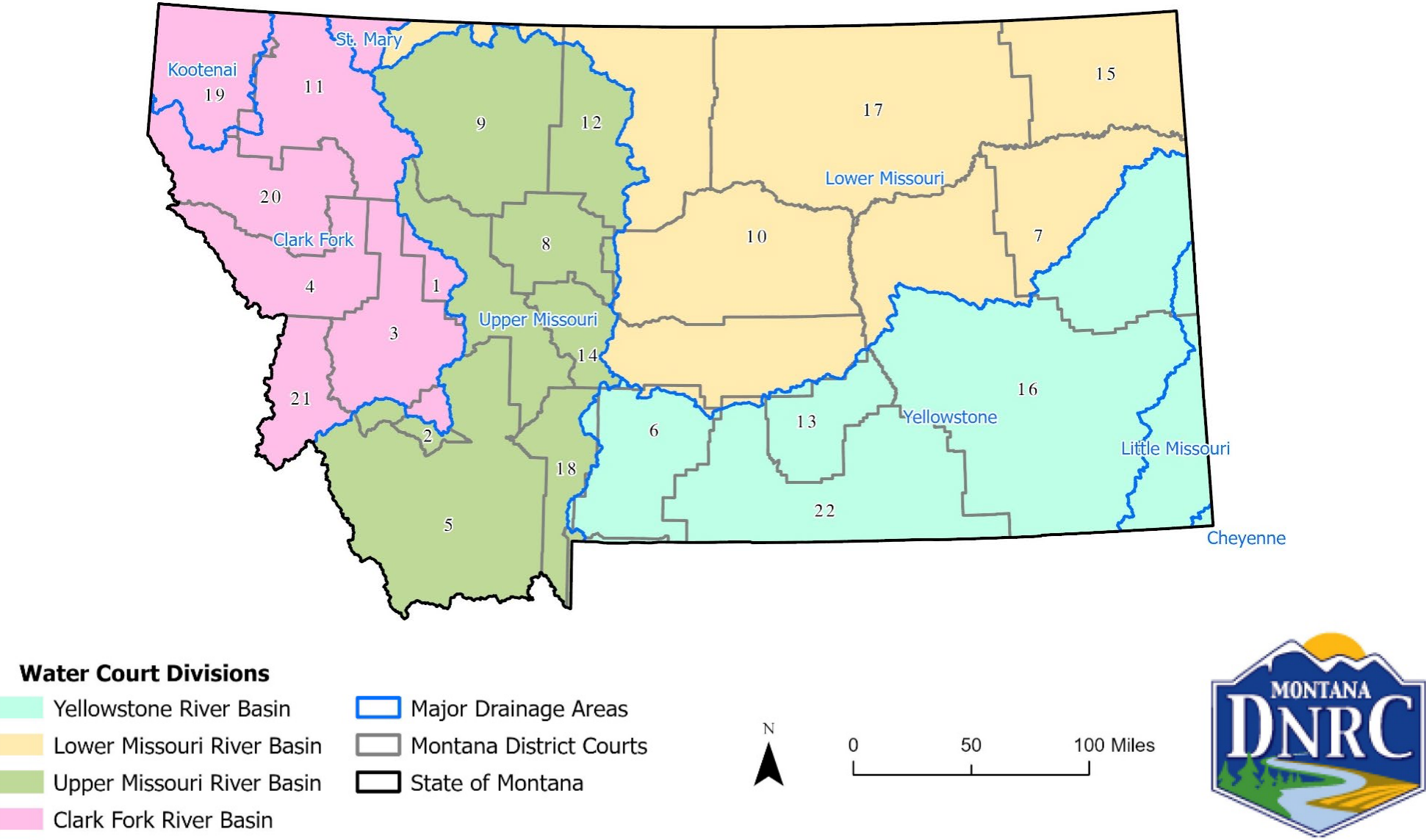
# DEFINING THE COURT THAT HEARS WATER ISSUES



1. One court to address all water issues.
2. Clear roles and responsibility for water administration post final decree.
3. Timely, accountable, and efficient judicial water decisions.
4. Address multi-jurisdictional water conflicts.
5. Ensure local knowledge and control.



# MAINTAIN EXISTING DIVISION COURTS FOR WATER ISSUES







# **BILL 1: EFFICIENT ADMINISTRATION OF WATER RIGHTS - OVERVIEW**

- **What is the Water Division Court and where is my case heard (3-7-100's)?**
- **Who are water judges and how are they chosen (3-7-200's)?**
- **What is the role of water masters (3-7-300's)?**
- **How can I substitute a water division judge, including for local district court judge (3-7-400's)?**
- **What is the jurisdiction of the Water Division Court (3-7-500's)?**
- **What about water commissioners and distribution (Title 3 and 85)?**



# **BILL 1: EFFICIENT ADMINISTRATION OF WATER RIGHTS**

- **WATER DIVISION COURT (3-7-101):**
  - Utilizes the existing four water divisions in statute to compromise the court (Clark Fork, Upper Missouri, Lower Missouri, and Yellowstone) that are listed in 3-7-102.
  - "Each water division shall be presided over by a water division judge. A water division judge may preside over one or more water divisions."
- **OFFICE OF THE WATER DIVISION COURT - ADMINISTRATOR**
  - There is a single office of the water division court that maintains all records of the water division court. (NEW SECTION 11).
  - The chief judge of the water division court shall appoint an administrator whose role is to maintain the office, all records, accept all filings, and conduct other clerical duties. (NEW SECTION 11).
  - The Montana supreme court shall provide in its budget for the operations of the water division court (3-7-204).
- **LOCAL VENUE FOR MATTERS**
  - Cases are heard within the water division or county the controversy occurs (NEW SECTION 10).



# BILL 1: EFFICIENT ADMINISTRATION OF WATER RIGHTS

- **JUDGES AND APPOINTMENT PROCESS:**
  - Chief Justice of the Supreme Court provides a list of not less than two nor more than four (**3 nominees**) within 90 days of expiration of term (3-1-901; 3-7-201).
  - Chief Justice of the Supreme Court provides for **30-day public comment** (3-7-201).
  - **Governor appointment** from list within 30 days of receipt of list of nominees, including all public comment, from Chief Justice of the Supreme Court (3-1-905).
  - **Senate confirmation** at next regular session (3-1-906).
  - At least **two judges** appointed to the Water Division Court, up to one judge in each Water Division, a water division judge may preside over one or more divisions (3-7-101; 3-7-201).
  - The Chief Justice of the Supreme Court shall appoint one sitting water division judge to serve as the **chief water judge of the water division court**. Primarily serves an administrative function (3-7-221).





# BILL 1: EFFICIENT ADMINISTRATION OF WATER RIGHTS

- **WATER MASTERS:**

- Water masters remain with the water division court; however, they are limited to adjudication activity only (3-7-301).

- **SUBSTITUTION AND JURISDICTION:**

- Judicial Water Adjudication, Administration, Enforcement of Decrees – start at Division Court (NEW SECTION 17; 3-7-501).
- Distribution and Commissioners – start at Division Court (3-7-501).
- On Administration, Enforcement, Distribution, and Commissioner matters, substitution to the District Court is allowed through motion to substitute (NEW SECTION 22).
- Regular substitution of water division judges doing non-adjudication activity is allowed (3-1-804).
- Exclusive jurisdiction on matters (3-7-501).

- **LOCAL VENUE FOR MATTERS**

- Case is heard within the water division or county the controversy occurs (NEW SECTION 10).



# BILL 1: EFFICIENT ADMINISTRATION OF WATER RIGHTS

- **WATER COMMISSIONERS AND DISTRIBUTION:**
  - For consistency and the one stop shop for all water matters this bill changes the appointment and supervision of water commissioners (3-7-501) and the supervision of water distribution (85-2-406).
  - Again, with a motion under (NEW SECTION 22) **you can substitute your local district court judge for the water division judge** for the appointment and supervision of a water commissioner and management of distribution.
  - The day in and day out activities of a water commissioner remain unchanged.
- **OTHER CHANGES TO TITLE 85:**
  - Primarily changing the definition of water judge to mean "water division judge" as described in Title 3, Chapter 7, Part 2.

# **ADDITIONAL INFORMATION:**

**[dnrc.mt.gov/water-resources](https://dnrc.mt.gov/water-resources)**

**December 19, 2024, 12 p.m.-1 p.m.**

- **Water Rights and Platting Act Coordination Bill**
- **Exempt Well Controlled Groundwater Areas**

