

**IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
BIG MUDDY CREEK (BASIN 40R)**

**NOTICE OF ENTRY OF PRELIMINARY DECREE AND
NOTICE OF AVAILABILITY**

AS A WATER USER YOU NEED TO READ THIS ENTIRE NOTICE.

You are hereby notified that the Montana Water Court has entered its Preliminary Decree for the Big Muddy Creek (Basin 40R). The entire water rights Decree is now available for your review.

If you, or your predecessors, filed a claim for an existing water right with a priority date before July 1, 1973, an abstract of your claim is enclosed with this Notice. The abstract reflects your existing water right claim as it appears in this Decree.

If you, or your predecessors, only applied for or received a permit or certificate from the Montana Department of Natural Resources and Conservation (DNRC) to appropriate water with a priority date after June 30, 1973 (for example: a well drilled in 1975 for domestic or stock purposes), you will not receive an abstract of water right with this Notice.

WHAT IS A PRELIMINARY DECREE?

This Preliminary Decree is a compilation of 2029 existing water right claims filed in the Big Muddy Creek drainage in Basin 40R. This Decree includes all sources of water located within the Big Muddy Creek drainage, including, but not limited to Big Muddy Creek, Eagle Creek, Wolf Creek and all tributaries. See the general Findings and Facts and Conclusions of Law in the Index volume of the Decree for further explanation of the preparation of this Decree.

SHOULD YOU FILE AN OBJECTION?

Only you can answer this question. You should first examine the abstract of your water rights. Is each abstract correct? If you don't agree with your pre-July 1973 water right claim as it is printed on the enclosed abstract, you may file an objection. Your examination must not stop there, though. You must understand three important facts: (1) your water right may be subject to other water rights on your source or on other sources in the Basin; (2) your water right may be subject to water rights in adjoining Basins; and (3) your water right may be subject to Indian and Federal reserved water rights. If you believe other water right claims in this Decree do not reflect their historical beneficial use, you may file an objection and the Water Court will hear your objection.

You can determine the rank of the priority date of your water right in comparison with other water rights in your Basin by using the Index available with the Decree. The Source Name Index lists all water rights under the name of each source of supply (for example, all water rights listed on Eagle Creek). Under each source name, the water rights are listed from the earliest priority date to the latest priority date. The Priority Date Index lists all water rights within the Basin beginning with the earliest date and continuing to the latest. You can buy a copy of the Decree or just the Index, or you can look at a copy at any of the offices listed below on this Notice or on the Internet. You should review ALL the elements of other water right claims which may affect you.

REVIEW ALL WATER RIGHT ABSTRACTS CAREFULLY

Look carefully at all the water right abstracts in the Decree, including your own abstract. Elements of your water right claim may have been changed since the claim was originally filed. If there is a change, that change has occurred as a result of information obtained during the examination of your claim by the Montana DNRC or by claimant amendment. If an abstract reflects any change, that change may be challenged by filing an objection with the Water Court. If there are issue remarks on the abstract of your claim which are not addressed and resolved by objection, those remarks will be addressed and resolved by the Water Court pursuant to Section 85-2-248, Montana Code Annotated. Your claim may also be called in and reviewed by the Water Court on its own motion pursuant to Rule 8, Water Right Adjudication Rules.

This Decree, as modified after objections and hearings, will be enforceable in accordance with Sections 3-7-212 and 85-2-406, Montana Code Annotated. If a claim receives no objection or is not reviewed by the Water Court pursuant to Section 85-2-248, Montana Code Annotated or Rule 8, Water Right Adjudication Rules, it may remain unchanged, will be enforceable, and may be entered in the Final Decree.

HOW TO FILE AN OBJECTION AND REQUEST A HEARING

An objection must be filed on the forms provided by the Montana Water Court. Water Court forms can be found at the offices or Internet address listed below.

ALL OBJECTIONS MUST BE FILED AND RECEIVED AT THE WATER COURT ON OR BEFORE JULY 27, 2010. OBJECTIONS RECEIVED AFTER THIS DATE WILL BE CLASSIFIED AS LATE. Objections may be mailed to the Montana Water Court, PO Box 1389, Bozeman, MT 59771-1389, but they still must be received by JULY 27, 2010.

CAN YOU GET AN EXTENSION?

An extension for filing objections may be granted by the Water Judge. Requests must be received by the Montana Water Court on or before JULY 27, 2010. Use the form furnished by the Montana Water Court. If an extension is granted, it will apply to everyone. Any extension may be seen at the offices listed below and will be advertised once in the *Daniels County Leader, Culbertson Searchlight and Sheridan County News*.

NOTICE OF AVAILABILITY

THE DECREE (INCLUDING THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECREE INDEX,) IS AVAILABLE FOR REVIEW, AND WATER COURT OBJECTION AND EXTENSION FORMS CAN BE OBTAINED AT THE FOLLOWING OFFICES:

1. Montana Water Court, **601 Haggerty Lane, Bozeman, Montana.**
2. Montana DNRC, Water Rights Adjudication, **910 Helena Ave, Helena, Montana.**
3. Montana DNRC, Water Resources Regional Office(s):
222 Sixth Street South, Glasgow, Montana.
4. Clerk of District Court(s):
Daniels County Courthouse, Scobey, Montana.
Sheridan County Courthouse, Plentywood, Montana.
5. Additional location(s):
Culbertson Public Library, Culbertson, Montana.

You may obtain a copy of the PRELIMINARY DECREE from the Montana DNRC, Water Rights Bureau, P.O. Box 201601, Helena, MT, 59620-1601. The cost of this Decree, including the Index, Findings and Conclusions is \$208.00. The Index by itself is \$42.00. Electronic copies of this Decree, including the Index on CD are \$20.00.

Internet access to Basin 40R water right Decree information is available. Point your browser to the internet at the address of www.dnrc.mt.gov/wrd/water_rts/adjudication. Scroll down through the various basins to Basin 40R and click on BIG MUDDY CREEK. Then scroll down and click on the 40R Decree information that interests you.

AFTER OBJECTIONS ARE FILED

After the time for filing objections has passed, the Montana Water Court will prepare an Objection List, notify you by mail that hearings have been requested, and set a date for all interested parties to notify the Montana Water Court of their intent to participate in any of those hearings.

RIGHT TO APPEAL

If you do not participate in Water Court proceedings, your right to appeal an adverse decision is limited. Section 85-2-235, MCA, provides that (1) a person whose existing rights and priorities are finally determined may appeal that determination only if: (a) the person requested a hearing and appeared and entered objections in the Temporary Preliminary Decree, (b) the person's rights or priorities as determined in the decree were affected as the result of an objection filed by another person, (c) the person requested a hearing and appeared before the Water Court to finally resolve an issue remark; or (d) the person is a claimant appealing an adverse decision when the Water Court issued the decision as the result of an evidentiary hearing or as the result of calling the claim in on the Court's own motion. (2) If the Attorney General participated as an intervenor as provided in 85-2-248, the Attorney General may appeal a decision. (3) An interlocutory ruling by a water judge upon a question of law may be appealed by a party affected by the decision and who participated in the matter in which the ruling was issued.

Basin Meeting with the Water Court

An informal public meeting will be held by C Bruce Loble, Chief Water Judge, via telephone conference call, Dial 1-866-479-6576, at prompt enter code: 46309676#.

Tuesday evening, MARCH 16, 2010 at 7:00 pm.

An informal public meeting will be held by C Bruce Loble, Chief Water Judge, via telephone conference call, Dial 1-866-479-6576, at prompt enter code: 46309676#.

Tuesday evening, MAY 11, 2010 at 7:00 pm.

Is Your Mailing Address Correct?

If the address label on the envelope in which this Notice was enclosed is incorrect, please notify the Montana DNRC by returning the enclosed Address Correction Form.

Any Questions? Call the DNRC Glasgow office at 406-228-2561 or call the Water Court's toll free number at 800-624-3270 (In Montana). Our regular office number is 406-586-4364 and it is not toll free.

DATED this 28th day of January 2010.

/s/ C. Bruce Loble

Chief Water Judge

Montana Water Court

P. O. Box 1389

Bozeman, MT 59771-1389

Remember: Objections must be filed in the Water Court by JULY 27, 2010.