

## ADMINISTRATION OF WATER COURT DECREES

An overview of the process for distribution and administration of water under Montana Water Court decrees

This is a brief overview of the water distribution and administration of decrees issued by the Montana Water Court. Water is also administered under historical decrees issued by District Courts before the inception of the Montana Water Court throughout Montana and are not included in this overview. These historical decrees did not necessarily include all water users or types of rights on a stream.

The Montana Water Court issues temporary preliminary, preliminary, and final decrees of existing water rights by hydrologic basin, based upon over 200,000 statements of claim filed by water users statewide. A statement of claim is a filing of water use prior to June 30, 1973.

Montana Water Court decrees can be administered in basins, or portions of basins, with temporary preliminary and preliminary decrees after objections and hearings. To date none of the water distribution projects encompass all rights in an entire decreed basin, but are requested on specific streams or portions of streams within several basins throughout the state. At this point the projects are usually limited to surface water rights.

Requests to administer water under Water Court decrees are made by water users or the District Court. A water user petition requires signatures of 15% of the owners of water rights affected by the source to be administered.

*By statute, MCA 85-5-101. Appointment of water commissioners. (1) The commissioners have authority to admeasure and distribute to the parties owning water rights in the source affected by the decree the waters to which they are entitled, according to their rights as fixed by the decree and by any certificates, permits, and changes in appropriation right issued under chapter 2 of this title. When petitioners make proper showing that they are not able to obtain the application of the owners of at least 15% of the water rights affected and they are unable to obtain the water to which they are entitled, the judge of the district court having jurisdiction may appoint a water commissioner.*

The Montana Water Court evaluates status of hearings and objections within the requested source or sources, and coordinates with the District Court, water commissioners, and water users to determine the project scope and requirements. If objections and hearings are resolved within the decree process, the Water Court requests the assistance of the DNRC to create water distribution lists and maps for the District Court.

The DNRC reviews the claims on the requested source or sources and identifies and numbers the claimed points of diversion. The DNRC also makes note of any discrepancies and complex water delivery such as storage water and water exchanges. The DNRC prepares three

reports for the Montana Water Court and the District Court. The reports are water rights listed by priority, diversion number, and ownership. These reports are for surface water rights which not only include the pre-1973 statement of claim water right types but also the post 1973 water right changes, exempt rights, permits, and reservations. The DNRC also provides detailed maps of the diversions on a local and drainage scale. The Water Court and/or District Courts often hold public meetings in conjunction with these projects, and when asked, the DNRC also attends public meetings to explain the diversion numbering system and the process involved in generating the indexes. If errors are identified they are corrected by the DNRC or the Water Court depending on the nature and scope of the problem (*see WATER RIGHT ADJUDICATION RULES AMENDED BY THE MONTANA SUPREME COURT December 5, 2006 at [http://courts.mt.gov/content/water/rules/water\\_right\\_adjudication\\_rules.pdf](http://courts.mt.gov/content/water/rules/water_right_adjudication_rules.pdf)*).

To date the DNRC has prepared **60** water distribution projects at the request of the Montana Water Court. The number of projects administered by the District Courts varies from year to year; therefore all **60** projects are not under enforcement every year. DNRC and the Water Court maintain and update all enforcement projects every year.

Within the distribution areas, **9,054** active water rights are included in enforcement projects. These rights represent **15,609** points of diversion with assigned enforcement numbers. During the 2020 season, **8,161** water rights are included in active enforcement projects, which represent **14,470** points of diversion. These include water rights from both the New Appropriations Program (post 1973 rights) and the Adjudication Program (pre-1973 rights). In the winter of 2006/2007 all enforcement projects were converted into the Water Rights Central Data Base, a significant improvement for future efficiency.

The local District Court has jurisdiction over distribution of the water. The DNRC and the Montana Water Court only provide information and correct errors found in water rights on the tabulations in the enforcement areas, and provide any other assistance requested by the District Courts. The District Court appoints a water commissioner or commissioners to deliver available water. Only the water commissioner has the authority to admeasure and distribute water to parties owning water rights in the source or sources. Unless specifically identified, the duty of the water commissioner is to deliver available water within a source or sources to a point of diversion based on priority date.

## List of ALL Enforcement Actions 2021

<b>Basin</b>	<b>Enf Name</b>	<b>Water Source</b>	<b>Active/Inactive in 2021</b>
40A/40C	E001	Musselshell River	Active
41H	E002	West Gallatin River	Active
41H	E003	Hyalite Creek	Active
43B	E005	Big Timber Creek	Active
43BV	E006	Sweet Grass Creek	Active
43A	E007	Shields River	Active
43A	E008	Cottonwood Creek	Active
43A	E009	Rock Creek	Active
76HB	E013	Carlton Creek	Active
41C	E014	Wisconsin Creek	Active
41F	E015	South Meadow Creek	Active
43D	E016	Rock Creek & Tributaries	Active
76HB	E019	One Horse Creek	Active
41G	E020	Willow Creek & Tributaries	Active
41G	E021	Pipestone & Little Pipestone Cr. & Tributaries	Active
41H	E022	Baker Creek	Active
41G	E023	Whitetail Deer Creek	Active
41F	E025	Bear Creek	Active
76G	E027	Dempsey Creek	Active
76G	E028	Racetrack Creek	Active
76G	E029	Cottonwood Creek	Active
76GJ	E030	Lower Willow Creek & Tributaries	Active
41H	E031	Sourdough Creek	Active
41G	E032	South Boulder River	Active
76H	E034	Sweeney Creek	Active
41H	E035	Middle Cottonwood Creek	Active
76H	E037	Fred Burr Creek	Active
76GJ	E043	Flint Creek	Active
76F	E044	Cottonwood Creek & Tributaries	Active
41H	E045	South Cottonwood Creek	Active
76H	E046	Mill Creek & Tributaries	Active
41I	E047	Deep Creek & Tributaries	Active
76D	E049	Indian Creek & Tributaries	Active

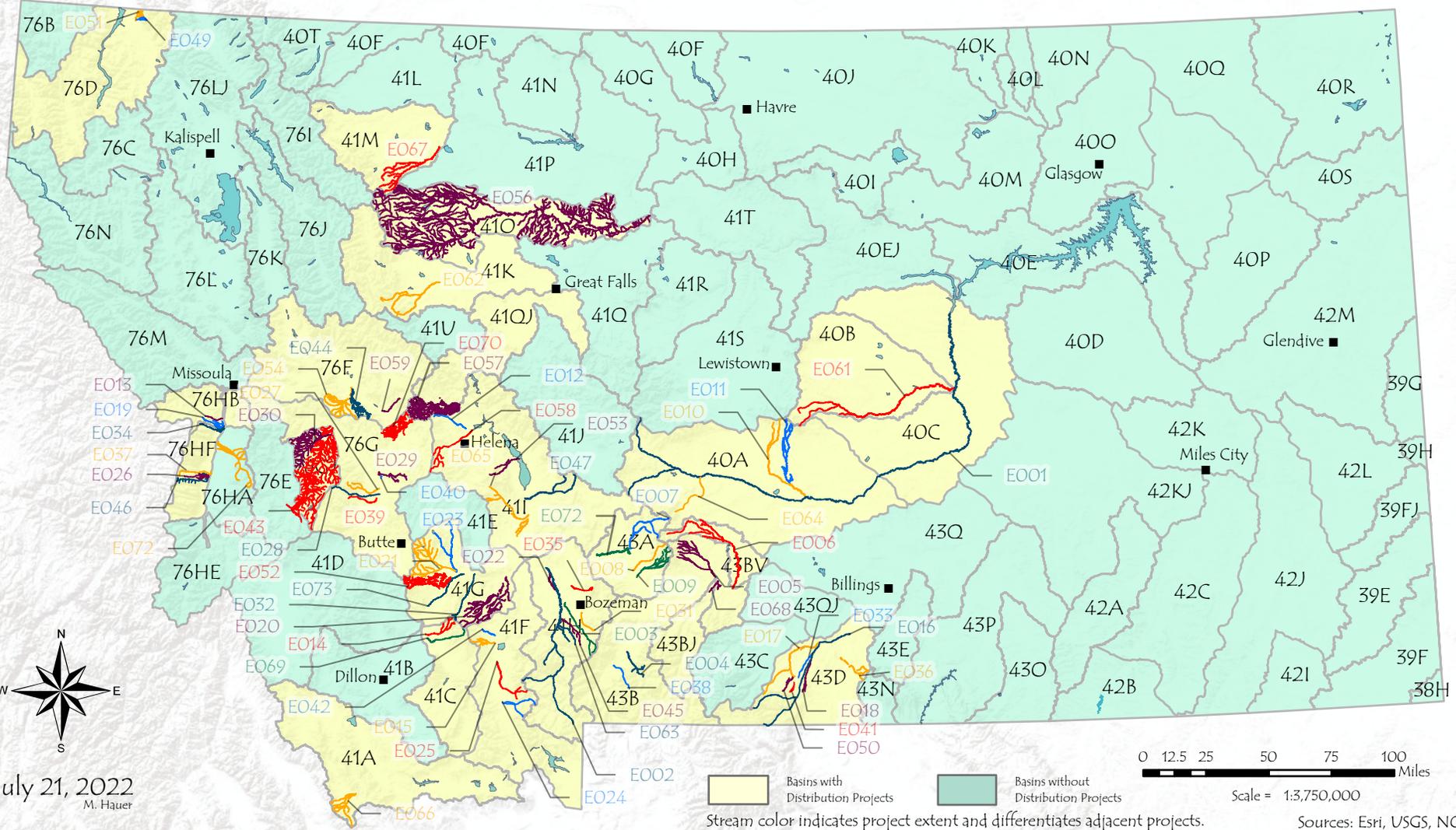
41G	E052	Fish Creek & Tributaries	Active
76F	E054	Douglas Creek & Tributaries	Active
41O	E056	Teton River & Tributaries	Active
41QJ	E057	Little Prickly Pear Creek & Tributaries	Active
41I	E058	Ten Mile Creek	Active
76F	E059	Washington Creek	Active
40B	E061	Flatwillow Creek	Active
41K	E062	Sun River, South Fork & Tributaries	Active
41H	E063	Big Bear Creek	Active
40A	E064	Big Elk Creek	Active
41A	E066	Nicholia Creek & Tributaries	Active
41M	E067	Dupuyer Creek & Tributaries	Active
43B	E004	Mill Creek	Inactive in 2021
40A	E010	Careless Creek	Inactive in 2021
40A	E011	Swimming Woman Creek	Inactive in 2021
41I	E012	Silver Creek	Inactive in 2021
43D	E017	Red Lodge Creek & Tributaries	Inactive in 2021
43D	E018	Clear Creek	Inactive in 2021
41F	E024	Indian Creek	Inactive in 2021
76H	E026	Sheafman Creek	Inactive in 2021
43D	E036	Bluewater Creek	Inactive in 2021
43B	E038	Emigrant Creek	Inactive in 2021
76G	E039	Modesty Creek	Inactive in 2021
76G	E040	Valiton Ditch	Inactive in 2021
43D	E041	Chaffin Creek	Inactive in 2021
41F	E042	North Meadow Creek	Inactive in 2021
43D	E050	Cole Creek and Barry Creek	Inactive in 2021
76D	E051	De Rozier Creek & Tributaries	Inactive in 2021
41I	E053	Beaver Creek & Stambaugh Creek	Inactive in 2021
41O	E055	Spring Creek & Tributaries	Inactive in 2021
42J	E060	Powder River & Little Powder River	Inactive in 2021
41I	E065	Crow Creek & Tributaries	Inactive in 2021

# ASSISTANCE FOR DISTRICT COURT ADMINISTRATION OF WATER COURT DECREES



## Water Distribution Projects

E#	Project Name	Basin #	E#	Project Name	Basin #	E#	Project Name	Basin #	E#	Project Name	Basin #	E#	Project Name	Basin #	E#	Project Name	Basin #
E001	Musselshell River	40A/40C	E012	Silver Creek	41I	E022	Baker Creek	41H	E033	Dry Creek	43D	E044	Cottonwood Creek	76F	E056	Teton River	41O
E002	West Gallatin River	41H	E013	Carlton Creek	76HB	E023	Whitetail Deer Cr.	41G	E034	Sweeney Creek	76H	E045	So. Cottonwood Cr.	41H	E057	Little Prickly Pear Cr.	41OJ
E003	Hyalite Creek	41H	E014	Wisconsin Creek	41C	E024	Indian Creek	41F	E035	Middle Cottonwood Cr.	41H	E046	Mill Creek	76HF	E058	Tenmile Creek	41I
E004	Mill Creek	43B	E015	South Meadow Creek	41F	E025	Bear Creek	41F	E036	Bluewater Creek	43D	E047	Deep Creek	41I	E059	Washington Creek	76F
E005	Big Timber Creek	43B	E016	Rock Creek	43D	E026	Sheafman Creek	76HF	E037	Fred Burr Creek	76H	E049	Indian Creek	76D	E060	Powder River	42I, 42J
E006	Sweet Grass Creek	43BV	E017	Red Lodge Creek	43D	E027	Dempsey Creek	76G	E038	Emigrant Creek	43B	E050	Cole Cr. & Barry Cr.	43D	E061	Flatwillow Creek	40B
E007	Shields River	43A	E018	Clear Creek	43D	E028	Racetrack Creek	76G	E039	Modesty Creek	76G	E051	De Rozier Creek	76D	E062	South Fork Sun River	41K
E008	Cottonwood Creek	43A	E019	One Horse Creek	76HB	E029	Cottonwood Creek	76G	E040	Valiton Ditch	76G	E052	Fish Creek	41G	E063	Big Bear Creek	41H
E009	Rock Creek	43A	E020	Willow Creek	41G	E030	Lower Willow Creek	76GJ	E041	Chaffin Creek	43D	E053	Beaver & Staubach CK	41I	E064	Big Elk Creek	40A
E010	Cateless Creek	40A	E021	Pipestone & Little Pipestone Creeks	41G	E031	Sourdough Creek	41H	E042	North Meadow Cr.	41F	E054	Douglas Creek	76F	E065	Crow Creek & Tribs	41I
E011	Swimming Woman Cr.	40A				E032	South Boulder River	41G	E043	Flint Creek	76GJ	E055	Spring Creek	41O	E066	Nicholia Creek	41A



July 21, 2022  
M. Hauer

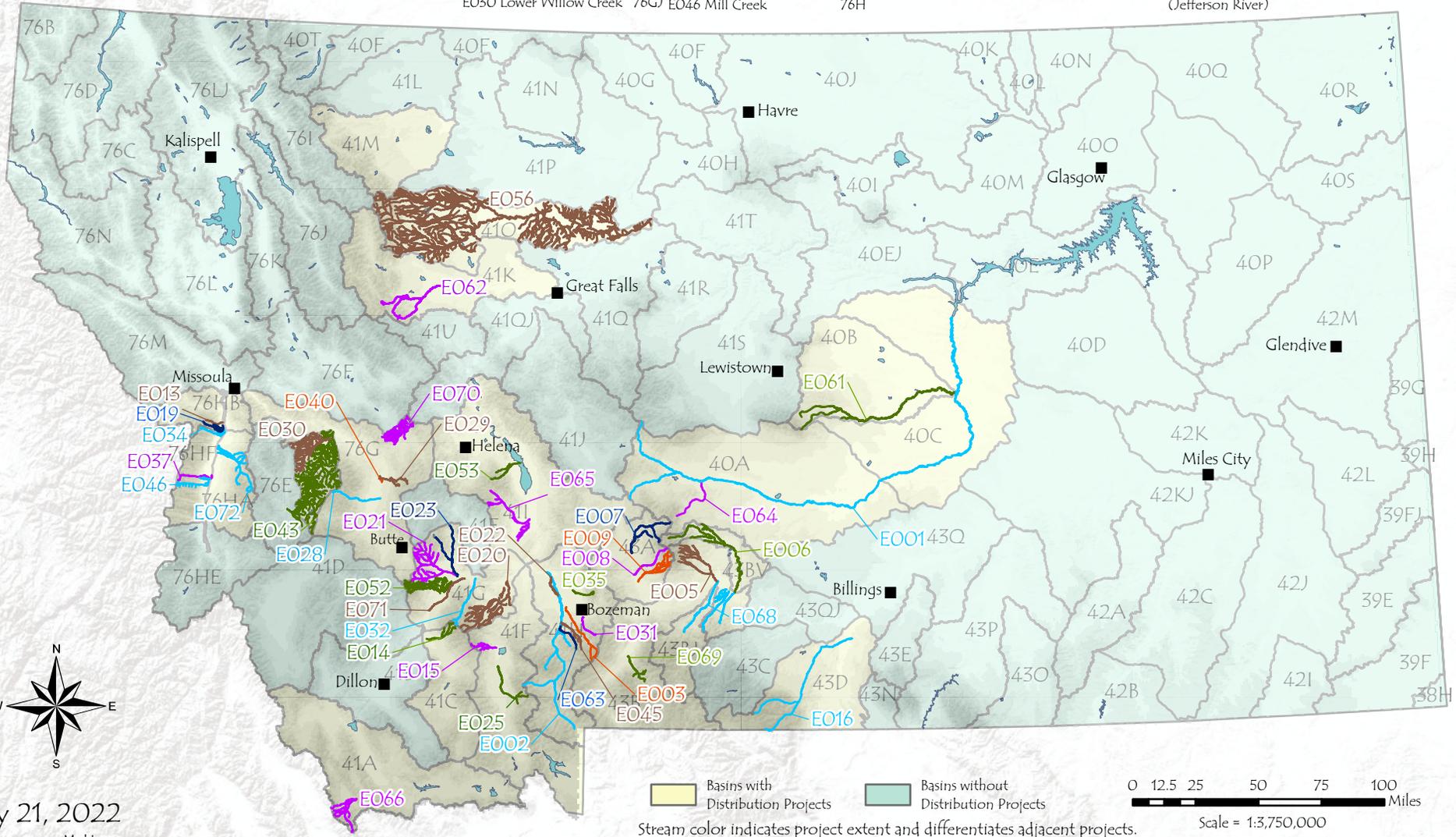
Sources: Esri, USGS, NOAA

# ASSISTANCE FOR DISTRICT COURT - ADMINISTRATION OF WATER COURT DECREES 2022 ACTIVE WATER DISTRIBUTION PROJECTS



## Water Distribution Projects

E#	Project Name	Basin #	E#	Project Name	Basin #	E#	Project Name	Basin #	E#	Project Name	Basin #	E#	Project Name	Basin #
EO01	Musselshell River	40A/40C	EO09	Rock Creek	43A	EO21	Pipestone & Little Pipestone Creeks	41G	EO31	Sourdough Creek	41H	EO52	Fish Creek	41G
EO02	West Gallatin River	41H	EO13	Carlton Creek	76HB	EO32	South Boulder River	41G	EO53	Beaver & Staubach CK	41I	EO66	Nicholia Creek	41A
EO03	Hyalite Creek	41H	EO14	Wisconsin Creek	41C	EO22	Baker Creek	41H	EO34	Sweeney Creek	76H	EO68	Dry Creek Canal Co (Boulder River)	43B, 43B
EO04	Mill Creek	43B	EO15	South Meadow Creek	41F	EO23	Whitetail Deer Cr.	41G	EO35	Mid. Cottonwood Cr.	41H	EO69	Mill Creek	41C
EO05	Big Timber Creek	43B	EO16	Rock Creek	43D	EO25	Bear Creek	41F	EO37	Fred Burr Creek	76H	EO70	Three Mile Creek	76G
EO06	Sweet Grass Creek	43BV	EO19	One Horse Creek	76HB	EO27	Dempsey Creek	76G	EO40	Valiton Ditch	76G	EO71	Flathead Creek	43A
EO07	Shields River	43A	EO20	Willow Creek	41G	EO28	Racetrack Creek	76G	EO43	Flint Creek	76GJ	EO72	Burnt Fork Creek (HA)	76H
EO08	Cottonwood Creek	43A				EO29	Cottonwood Creek	76G	EO45	S. Cottonwood Cr.	41H	EO73	Parrot Ditch Co (Jefferson River)	41G
						EO30	Lower Willow Creek	76GJ	EO46	Mill Creek	76H			



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