

## **District Court Model – For Discussion Purposes only**

### Substitution of judges

- Spells out how judges are substituted, or recused, and how and why disqualified. This makes it the same for District Court judges handling post-final decree water cases, but not the adjudication court.
- Adds a time limit of 5 days for substitution, to ensure timelines for water cases
  - Plaintiff files a case, its assigned to a judge, plaintiff has 5 days to file a substitution.
  - Defendant has 5 days after the defendant receives notice of the complaint or it is served, whichever is first

### Disqualification for cause

- This makes District Court Judges and a District Court Judge supervising the distribution of water subject to the same process as District Court judges handling other types of cases in regard to conflict of interest or other disqualifying fact

### Designation of water judge

- Adds that Chief water judge certifies to Governor and MT Supreme Court that all final decrees have been issued

### Enforcement of decrees

- Clarifies the District Court judges have jurisdiction over enforcement of decrees
- They do not have to enforce a full final decree but can enforce portions that make sense
- District Court does everything after adjudication, questions/errors in decrees etc, which has been provided in statute

### Commencement and completion

Added sections to provide procedures for the end of the adjudication which clarifies the District Courts are in charge and the water court will no longer have authority

- This will be done by basin (there are 81), to help ease the transition to District Courts, which will happen incrementally as finally decrees are completed
- Added clarification that DC judges have use of judge pro Tempe, special masters, and standing masters
- Added time limit of 5 days to the District Court, so cases are handled in a timely manner
  - Determine whether venue is proper
  - Determine if a TRO is necessary
  - Determine if use of judge pro Tempe, special master, or standing master is needed

### Final Decree

- Clarifies in subsection 8 a district court judge can correct clerical mistakes in a final decree

### Certificate of water right

- DNRC will send a copy of the final decree for a basin to the judicial district or districts