

**MONTANA WATER COURT
SMITH RIVER
(BASIN 41J)**

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

ALL WATER USERS NEED TO READ THIS NOTICE

The Montana Water Court has entered its Preliminary Decree for the Smith River (Basin 41J). This water rights Decree is now available for your review.

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

If an abstract is NOT enclosed, then you or your predecessor applied for or received a permit or certificate from the Department of Natural Resources and Conservation to appropriate water with a priority date after June 30, 1973 (for example, a well drilled in 1975 for domestic or stock purposes).

WHAT IS THE PRELIMINARY DECREE?

The Preliminary Decree contains 2,719 abstracts of existing water right claims filed in the Smith River (Basin 41J). The Decree includes all sources of water located within that drainage. The Findings of Fact and Conclusions of Law in the Index volume of the Decree explain how the Decree was prepared.

What you should do:

- 1. Review the abstract of your own water right claim or claims.**
- 2. Review the abstracts of all other water rights that affect your water right.**
- 3. Decide if these abstracts correctly identify pre-July 1973 water use.**
- 4. Decide if you want to file objections.**
- 5. File your objections with the Water Court on or before the filing deadline.**

Your water right can be affected by what is in your abstract and other abstracts in the Decree. The Montana Department of Natural Resources and Conservation (DNRC) examined all the claims. Elements of your claim may have been changed because of information the DNRC obtained during examination. If your abstract shows changes, you can challenge the changes by filing an objection with the Water Court.

Look the abstracts over carefully. The Decree Indexes will help your review.

The Source Name Index lists all claims under the name of each source of supply (Sheep Creek, for example). Under each source name, the claims are listed from the earliest priority date to the latest priority date.

The Priority Date Index lists all claims in Basin 41J beginning with the earliest date and continuing to the latest. You can find the rank of the priority date of all claims in the Decree in this index.

If there are issue remarks on the abstract of your claim which are not resolved by objection, those remarks will be addressed and resolved by the Water Court pursuant to Section 85-2-248, Montana Code Annotated. The Water Court will contact you about the issue remarks if no one objects to your claim.

SHOULD YOU FILE AN OBJECTION?

Only you can answer this question. You should first examine the abstracts of your water rights. Is the abstract correct as of July 1, 1973? If you don't agree with the elements of your abstract as printed in the Decree, you may file an objection.

You need to know:

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;
3. Your water right may be subject to Indian and Federal reserved water rights;
4. A claim that no one objects to or does not contain issue remarks may remain unchanged and may be entered in the Final Decree as is; and
5. This Decree, as modified by objections and hearings, will be enforceable under Montana law (Sections 3-7-212 and 85-2-406, MCA).

If you believe your water right claims or someone else's water right claims in this Decree do not reflect their historical (before July 1, 1973) beneficial use, you can file an objection.

HOW TO FILE AN OBJECTION AND REQUEST A HEARING

Objections must be filed on the forms provided by the Water Court. These can be found at the offices listed below or on the Internet.

ALL OBJECTIONS MUST BE RECEIVED AT THE WATER COURT ON OR BEFORE JUNE 14, 2011. Objections may be mailed to the Montana Water Court, PO Box 1389, Bozeman, MT 59771-1389, but they still must be received by JUNE 14, 2011.

EXTENSIONS

The Water Judge may grant a request for an extension of the time for filing objections. A request for an extension must be received by the Water Court on or before JUNE 14, 2011. Use the Water Court's form. If an extension is granted, it will apply to everyone. Any extension will be posted at the offices listed below and will be advertised once in the Meagher 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 forms are available at these locations:

1. Montana Water Court, 601 Haggerty Lane, Bozeman, MT.
2. Montana DNRC, Water Rights Adjudication Office, 910 Helena Ave, Helena, MT.
3. Montana DNRC, Water Resources Regional Office(s):
613 NE Main, Suite E, Lewistown, MT.
4. Clerk of District Court(s):
Cascade County, Great Falls, MT.
Meagher County, White Sulphur Springs, MT.
5. On the internet at www.dnrc.mt.gov/wrd/water_rts/adjudication Scroll down to Basin 41J and click on Smith River. Click on the 41J Decree information that interests you.

You may obtain a copy of the Preliminary Decree from the Montana Department of Natural Resources and Conservation, Water Rights Bureau, P.O. Box 201601, Helena, MT, 59620-1601. The cost of the Decree, including the Index, Findings and Conclusions is \$407.00. The Index by itself is \$61.00. Electronic copies of the Decree, including the Index on CD are \$20.00.

AFTER OBJECTIONS ARE FILED

After the time for filing objections has passed, the Water Court will notify you by mail if someone objects to any of your claims. If someone objects to your water right claims, then you are entitled to file counterobjections to their claims. The Water Court will notify you of the time when counterobjections must be filed. The Water Court will set a date for all interested parties to notify the Water Court of their intent in participating in any 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 to the 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 section 85-2-248, MCA, 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.

Meetings with the Water Court

Informal public meeting(s) will be held by C. Bruce Loble, Chief Water Judge, White Sulphur Springs Senior Center, 101 1st Ave SE, White Sulphur Springs.

Thursday afternoon, February 10, 2011 at 2:00 pm.

Informal public meeting(s) will be held by C. Bruce Loble, Chief Water Judge, White Sulphur Springs Senior Center, 101 1st Ave SE, White Sulphur Springs.

Friday afternoon, May 6, 2011 at 1:00 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 Helena office at 406-444-0560 or call the Water Court's toll free number at 1-800-624-3270 (In Montana). Our regular office number is 406-586-4364 and it is not toll free.

DATED this *16th day of December 2010*.

/s/ C. Bruce Loble
Chief Water Judge
Montana Water Court
P. O. Box 1389
Bozeman, MT 59771-1389

Remember: Objections must be received by the Water Court by *JUNE 14, 2011*.