

Watermaster holds local conferences

By Nancy Thornton
Acantha reporter

Senior Watermaster Douglas Ritter, who is adjudicating existing water rights in the Teton River basin, held in-person conferences on April 2 in the Teton County Courthouse in Choteau.

Twenty-five people, some represented by attorneys, attended the morning conference set for landowners with water rights on Blackleaf Creek west of Bynum. A like number appeared later in the day when Ritter gathered together people with water rights on Aldrich Springs along the Teton-Pondera county line east of Pendroy.

Ritter said he began reviewing claims in the Muddy Creek drainage in northern Teton County, and has set up 100 cases since the deadline passed in January for claimants to file "Notices of Intent to Appear." The Blackleaf is a tributary of Muddy Creek.

The 200-mile-long Teton River basin has more than 2,500 claims of water rights that have a "priority" date of first use before a new water law went into effect on July 1, 1973 in conjunction with the state's new constitution. The Montana Water Court issued a temporary preliminary decree of pre-July 1, 1973 water rights in December 2005 and it has taken until recently to work through the objection, counter-objection periods that are part of the adjudication process.

Ritter said he is using telephone conference calls and in-person conferences with claimants to resolve "issue remarks" or problems with various claims and objections that water users have to other water right holders who take water from the same stream.

"In most cases, the first conference will be by telephone. I have 16 cases in conferences this week," Ritter said. He explained that he prefers to combine clusters of cases that inter-relate.

The in-person conferences relating to Blackleaf Creek water claims began on April 2. In-person conferences are open to the public.

"There are 12 cases involved, although that is a bit misleading. I tend to make several small cases rather than fewer big cases. So, the same claimant can be in three or

four cases set at the same time," Ritter explained.

He plans more telephone conferences in the weeks ahead, with in-person conference set as needed. The process is informal for the time being, but Ritter said he would issue formal scheduling orders as the cases proceed.

The watermaster noted that a high number of claims only received issue remarks, or unresolved problems noted during the state Department of Natural Resources and Conservation claims' examination process. For those cases, he plans to announce a settlement date without holding a first conference.

"I should have everything in the Muddy Creek drainage set into cases by the end of the week. Then I move on to the upper Teton River. Based on what I am seeing so far, most first conferences will be by telephone," he said.

"I will need to do a certain number of in-person conferences, but not as many as I first thought," Ritter said. "I am also starting to receive a trickle of amendments from people with issue remarks who have been in contact with the DNRC. They have resolved their issues and filed the necessary documents to close proceedings on their claims. Looks like some people were paying attention at the basin meetings."

However, other people are gearing up for lengthy "discovery" periods, if the talk at the informal conferences in Choteau bears out.

In the Blackleaf drainage, for example, Ken and Elaine Rice, represented by attorney James Hubble, have for three years been disputing the amount of water that the upstream user, Dellwo & Sons Partnership, represented by attorney John Bloomquist, diverts. The attorneys spoke to Ritter at the April 2 conference.

Hubble said the Rices have a very early water right and they went to district court three years ago to resolve the dispute. The matter was referred to the Montana Water Court, but with the Teton River basin being adjudicated, the court was reluctant to bring the matter to settlement until after adjudication, which sets the scope of each water right.

Now, the two parties and others have filed objections to each other's water rights.

Bloomquist said most of his client's objections stem from issue remarks that deal with acreage irrigated and place of use, which could be clarified in the discovery process and using "stipulations" to the court. He added that the dispute on distribution, however, is a "whole new ball game."

Ritter said the Blackleaf disputes are on the "top of the list" of claims to settle and they were the reason he started with claims along the Muddy. However, he added that he would not have an enforceable decree if only the 10 claims on the Blackleaf are resolved. He said he was at least a year away from having a manageable set of adjudicated water rights to hand to a district court-appointed water commissioner for possible enforcement.

"This process is going to take a bit of time, three years, maybe four years," Ritter said.

Hubble represents the Rices, and Tee Six Ranch, which has been subdivided so that multiple owners and the developer shares the water rights once owned by the late Bill Jones. He said he would need time to depose people with information on the historic use of the water rights, and both Hubble and Bloomquist agreed that they would need 180 days for the discovery process, which Ritter granted.

The watermaster said that would mean he could hear the case by the end of the year.

Hubble described the nature of this clients' objections by saying that they were not getting water, that the junior users were using it.

Attorney Holly Franz represents Earl Perkins, who filed objections to some of the Dellwo's water rights.

"A lot of work is ahead," Franz said, during a break in the conference. She said she has represented claimants in the adjudication of the Sun, Mussellshell and Yellowstone rivers. "Every drainage has its water disputes," she said, but noted that the Teton appears to have a good share of "robust objecting."

Carter landowner Monte Giese, the president of The Lower Teton Water Users Inc., asked Ritter whether the group could schedule a field review to confirm a ditch's water capacity, and Ritter said all the objector has to do is ask the landowner at this point. He said he

did not want to get DNRC involved in field trips yet, although at some point the agency might be.

Ritter told the people who attended the conferences that the Montana Supreme Court has adopted rules that people whose operations are organized in corporations and limited liability companies must be represented by an attorney if the matters cannot be settled in conference. "If I issue a scheduling order, it becomes the bright line for the requirement for counsel," he said.

J.B. Walker, who is a member of the Lower Teton group, said he wants to see a decree that is fair for everybody, although that may mean that no one is happy. His group has in it people who claim to have the earliest rights on the Teton, which by law, entitle them to divert water before junior users.

"I envision enforcement, but I can't dream of when that will be. We want to settle the myths between the upper and lower users and start a dialogue," Walker said.

Giese said, "We have been 30 years, not three years, without water," but Ritter replied, "With that location, you are in for the long haul," referring to what might be a long wait for the adjudication to reach the lower Teton claims.

Bridal Registry

Katie Wilson & Ken Meyer (shower) May 17
..... (wedding) May 31
Katie Evensen & John Adams (shower) April 15
..... (wedding) May 31
..... (Choteau reception) July 5
Christina Lensing & Jarrod Nichter June 14
Cassie Nicholson & Nick Ostle June 14

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Thursday, April 17, 7:30 p.m.
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School menu

April 10 — Pancake, bacon, fruit, milk. Lunch: Barbecue dippers, vegetable, roll, fruit, milk.

April 11 — Breakfast: Breakfast pocket, fruit, milk. Lunch: Chicken patty on a bun, fresh vegetable, fruit, milk.

April 14 — Breakfast: Cereal, yogurt or string cheese, fruit, milk. Lunch: Hamburger and gravy, mashed potatoes, roll, fruit, milk.

April 15 — Breakfast: Omelet, muffin, fruit, milk. Lunch: Pizza, corn, fruit, milk.

April 16 — Breakfast: Maple bar, string cheese, yogurt, fruit, milk. Lunch: Taco salad, cinnamon stick, fruit, milk.

Virtue of the week, April 7-13, Flexibility: Flexibility is being open to change. You consider others' ideas and feelings and don't insist on your own way. Flexibility gives you creative new ways to get things done. You get rid of bad habits and learn new ones. Flexibility helps you to keep changing for the better.



Close Up trip Photo courtesy Rehberg Office

U.S. Rep. Denny Rehberg (R-Mont.) on April 1 meets with students from three Montana high schools touring the nation's capital through the Close Up Foundation. Rehberg answered questions and discussed his role as a member of the U.S. House with students from Choteau and Manhattan high schools and students from the Montana School for the Deaf and Blind (MSDB) in front of the Capitol Building. "It's truly a pleasure and a privilege to be able to stand before these bright, young Montana students, who represent our nation's future, and talk with them about the importance of their civic involvement," Rehberg said.

Card of Thanks
I appreciate the great service I received from the Great Falls Clinic and Teton Medical Center for my recent complications from the flu. The staff at the hospital were very efficient and put up with my jokes. I also wish to thank the people who sent sympathy cards.
George B. Hilts
3-1tp

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