



## **Water Court Notice of Availability of Objection List AND of Intent to Appear Fact Sheet**

The decree that was issued in 41H is part of the statewide water adjudication which is a statewide lawsuit. The issuance of the decree in the Gallatin means that that litigation is active in the Gallatin and cases will be heard. Each claim is considered a case in front of the Water Court unless the Water Court determines that it is best to consolidate multiple claims into the same case. If you are not informed by the Water Court that your case has been consolidated with another then your claim is likely a case in and of itself.

If someone objected to a claim, then they are now a party to the case on that claim. If someone files a NOIA then they are a party to the case on that claim.

The Water Court sent out a mailing on September 16. This mailing did two things:

- (1) Provided notice that the Gallatin (41H) Objection list was available online; and
- (2) Provided notice that the Notice of Intent to Appear (NOIA) Deadline had been set for 11/15/2019.

### **Objection List**

- All claims that received an objection are included on the objection list.
- All claims that have an issue remark (even if it did not receive an objection) are included in the objection list. All issue remarks must be resolved before final decree. The Water Court may resolve these on its own using information in the claim file or it may require more information from the water user to resolve issue remarks.
- The Water Court may also call in claims on its own motion even if there was not an objection or an issue remark based on its own findings.
- Other water right owners can file a NOIA based on the issue remarks, objections, or the Water Court's Motion.
- It is important to review all your water rights to see how they are reflected in the objection list. New issue remark elements that aren't evident on the abstract from the preliminary decree may now be noticed on your claim.
  - For example: All HB 110 exempt from filing claims (instream stock or domestic filed between 2017 and the June 30, 2019 deadline) are showing a priority date issue in the objection list.
- Review your water right abstract so that you know EXACTLY what issue remark is attached to your claim. The "issue remark" referenced on the objection list may not match the language of the "issue remark" on your water right abstract.
  - For Example:
    - Issue remark on the water right abstract: This exempt claim was filed on 12/13/17. This claim number was not included in the Basin 41H decree issued 9/26/1985.
    - Issue remark reflected in the objection list: Priority Date

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### **Notice of Intent to Appear (NOIA)**

- A NOIA can only be filed for an element that received an objection, an issue remark, or element that the court calls in on its own motion.
  - For Example: If a claim receives an objection for priority date and doesn't have any other issue remarks or objections another water user can file a NOIA only on the priority date element of the claim.
  - For Example: If a claim has an issue remark for priority date then another water user can file a NOIA on the priority date element.
  - For Example: If a claim has an issue remark on priority date and someone objected on point of diversion, another water user could file an NOIA on either the priority date or the point of diversion or both.

For additional information please refer to the Montana Water Court website: <https://courts.mt.gov/courts/water> or the AGAI website: [www.agaimt.com](http://www.agaimt.com)

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