

PUBLIC COMMENT RECEIVED BY THE WATER COURT BY EMAIL ON JUNE 23, 2011

To the Honorable Judge Loble:

I am writing to convey my opinion involving the "exempt right/vested right" question. I understand that Senator Brendan and the Water Adjudication Advisory Committee want public opinion input on this topic.

I am in support of the position detailed by Ron and Maxine Korman. In any of the old Montana statutes, water court decisions, law dictionary quotes, and state and federal supreme court rulings, there is repeated mention of vested rights.

In many cases those rights are specifically said to also apply on federally administered land. However, except for a few mentions that vested water rights shall not be impaired, etc., current Montana code post 1973 makes almost no mention of vested rights and at least some of the information coming out of the DNRC is that no rights can be considered vested. Maxine Korman has doubtlessly provided a very detailed list of citations, and all seems to indicate that vested rights were recognized prior to 1973. I would like to know what happened to them, if they have in fact disappeared, and if a right can legally evaporate like that.

Secondly, I have found no avenue to include rights that were exempted from filing requirements in the adjudication. Everything I have seen and heard states that this is in fact impossible. Everything that I have seen and heard indicates that an adjudication that does not include all parties is invalid. I can't imagine that Montana would spend the amount of time and money that has already gone into the water adjudication on an invalid adjudication.

Please consider this as a record of my concerns as an affected Montana citizen.

Sincerely,

Nancy Ereaux
Double O Ranch