



**CITY OF GREAT FALLS
COMMISSION AGENDA REPORT**

- Item:** Amendments to City Water Rights 41Q-105494, 41Q-123409, 41Q-105493, 41Q-110040 and Summary of Water Right Solutions Review of Other Water Right Claims in 41QJ Basin
- From:** Coleen Balzarini, Fiscal Services Director
- Initiated By:** City Commission Authorized Review of City and Other Water Rights in the 41Q and 41QJ Basin by Water Right Solutions, Inc
- Presented By:** Coleen Balzarini, Fiscal Services Director and David Schmidt, Water Right Solutions, Inc.
- Action Requested:** Approve Amendments to City Water Rights 41Q-105494, 41Q-123409, 41Q-105493, 41Q-110040, and Authorize City Manager to Execute Documents for Submittal to Montana Department of Natural Resources and Conservation.
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Optional Motions:

1. Commissioner moves:

“I move that the City Commission accept/reject the amendments to City Water Rights 41Q-105494, 41Q-123409, 41Q-105493, 41Q-110040, and authorize the City Manager to execute the necessary documents for submittal to Montana Department of Natural Resources and Conservation.

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

Staff Recommendation: The City Commission was presented with reports from Water Rights Solutions, Inc., on November 19, 2002, July 20, 2004, January 8, 2008, July 15, 2008 and August 5, 2008 regarding review and findings of the City’s water reservations and offering recommendations.

Staff recommends the City Commission approve the prepared amendments and authorize the City Manager to execute the necessary documents for submittal to DNRC.

Background: At the Tuesday, April 15, 2008, Commission Meeting, the Commission approved a new contract and the first amendment to that contract with Water Right Solutions, Inc. The amendment authorized the review of City water rights and water rights of others that had a

potential impact on the City's Claims. This review is precipitated by the adjudication of Basin 41Q.

City Water Right Amendments: At the Tuesday, August 5, 2008 Work Session, David Schmidt of Water Rights Solutions presented specific recommended water right amendments to the City Commission. The recommendations and amendments are attached.

Analysis of Review of Basin 41QJ: On February 6, 2008, the MT Department of Natural Resources and Conservation (DNRC) Montana Water Court issued a Notice of Entry of Temporary Preliminary Decree for the Missouri River, From Holter Dam to Sun River (Basin 41QJ). This basin has 2,584 water right claims on file with DNRC. The City has three water right claims in this basin as well as additional water rights in the downstream 41Q Basin. Staff recommended that the City evaluate and if necessary exercise its right to object to information contained in the Temporary Preliminary Decree that may have an adverse impact on the City's water rights.

All interested parties, including the City, have an opportunity to review their own water rights, as well as the water rights of other parties, during the Temporary Preliminary Decree time period. The Temporary Preliminary Decree Period has been granted an extension to November 11, 2008. The evaluation considered potential impacts to City water rights in relation to others and in relation to conflicting information related to City water rights, in Basin 41QJ. The analysis summary is attached.

Alternatives: The City Commission may opt to not approve the amendments to City water rights. The adjudication process has already identified some of the issues that are now being recommended for amending. The issues must be resolved in one way or another prior to completion of the adjudication process. If the City does not amend voluntarily, the process to be followed will include interactions with DNRC and/or the Water Court.

The City may opt to file objections to water right claims of others due to potential concern in relation to the City's water rights. Other options are to wait until the decree is actually published when consideration may be given to whether to file a notice of intent to appear, or do nothing. A notice of intent to appear allows the City to go on record with concerns, but is a less aggressive approach than an objection. The do nothing option may be the preferred course in an instance where the areas of concern have already been objected to or identified by others.

Attachments and References:

Summary of Recommendations and Proposed Amendments for Claims

1. 41Q-105494
2. 41Q-123409
3. 41Q-105493
4. 41Q-110040

5. Narrative Section of "Analysis of Claims for Objection Purposes", Prepared by Water Right Solutions, dated August 7, 2008

(Attachments not available online; on file in City Clerk's Office.)

MCA 85-2-227 details the law associated with the adjudication processes

http://data.opi.mt.gov/bills/mca_toc/85.htm.