

PRESS RELEASE
BIG HORN RIVER GENERAL ADJUDICATION

Judge Skar to Sign Historic Final Decree in the Big Horn River General Adjudication

On September 5, 2014, The Honorable Robert E. Skar will sign the final order in the Big Horn River General Adjudication, a water rights case filed on January 24, 1977. The seminal water rights case was originally assigned to the 5th Judicial District and presided over by Wyoming District Court Judge Harold Joffe. The waters involved include Wind River/Big Horn River drainage basins, Clark's Fork of the Yellowstone River and Shoshone River. Falling within Wyoming Water Division III, the adjudication dealt with water rights held by the Wind River Indian Reservation, and water rights in eight Wyoming Counties, parts of Yellowstone National Park, Shoshone and Big Horn National Forests, East Fork Winter Elk Pasture, Yellowtail Wildlife Habitat Management Area, and Bureau of Land Management federal lands.

The Big Horn River General Adjudication was first removed to US District Court under Federal District Court Judge Ewing T. Kerr in June of 1977, but the case was remanded back to Wyoming State Court under the McCarran Amendment. Judge Joffe resumed jurisdiction over the case, and appointed Special Master and former Congressman, Teno Roncalio, on May 29, 1979 to preside over initial hearings and report to the Court under Wyoming Court Rule 53. The parties initially agreed to divide the case into three distinct phases allowing for easier management. Phase I dealt with Indian Federal Reserved Water Rights. Phase II included non-Indian Federal reserved water rights and was settled by stipulation in 1983. Phase III included state water rights evidenced by permit or certificate, including examination and decree of over 4,000 surface water rights, and additional stock and domestic wells.

Upon Judge Joffe's retirement in 1983, he transferred the case to Judge Alan B. Johnson in Laramie County. During his three years as presiding judge, the Honorable Alan B. Johnson accepted the resignation of Special Master Teno Roncalio and appointed Carolyn Patterson of Thermopolis as acting Special Master. Special Master Patterson served until 1986 when case was assigned to Washakie County under the Honorable Gary P. Hartman who appointed Terrence A. Dolan as Special Master. After serving as Special Master for several years, Terrence Dolan moved to Idaho to serve as a Special Master in the Snake River Basin General Stream Adjudication. Judge Hartman assigned the Special Master position to Nancy J. Guthrie, who would eventually preside over the adjudication upon his retirement. Ramsey L. Kropf and William P. Schwartz replaced Special Master Guthrie until Schwartz's resignation in 1997. Special Master Kropf continues work for the court today. Judge Guthrie's retirement in 2010 brought in the Honorable Robert E. Skar to finish out the adjudication. Gayla Mead-Ellis, administrative assistant, has been working on the Big Horn River Adjudication since 1986.

The Big Horn River Adjudication is one of many western general stream adjudications in the United States. Many of the decisions rendered in this case have been cited or relied upon in other states. The Wyoming Supreme Court has reviewed several District Court decisions. In *Big Horn I* (1988), the Wyoming Supreme court examined the Second Treaty of Fort Bridger and found that Congress intended to reserve water for the Eastern Shoshone and Northern Arapaho Tribes' agricultural use on the reservation. The Tribes' were awarded a 499,862 acre-foot reserved water right with a treaty priority date of July 3, 1868, for the 107,976 "practicably irrigable acres" on the reservation. The Wyoming Supreme Court also held that Indian and non-Indian successors of Indian allottees were entitled to treaty based water rights for the practically irrigable acres they could prove were continuously irrigated since or within a reasonable time after the property passed out of Indian ownership ("Walton Rights"). The Wyoming Court's decision in *Big Horn I* was affirmed by the U.S. Supreme Court in *Wyoming v. United States*, 492 U.S. 406 (1989), in a 4-4 vote, without opinion. Other significant decisions and settlements occurred over the last 37 years of adjudications in the Big Horn River General Adjudication, and can be accessed through an upcoming website that documents the history of this adjudication. Signing this Final Decree will bring to a close all phases of the general adjudication including interlocutory decrees, orders on all Phase III permits and all other matters. The final decree sets in motion the deadline for filing appeals on these matters.

The historic final decree signing will occur at the Washakie County Courthouse on Friday, September 5, 2014, from 9:00 a.m. – 11:00 a.m. The public is welcome to attend.