

Colorado Water Courts: A Statistical Overview

Colorado State Court Administrator's Office
Division of Planning & Analysis

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Scope of Study

- Staff reviewed the 1,197 cases closed in FY 2007 by hand
- Data was pulled electronically going back to 1997 (the earliest year for which data was available)
- Filing data was pulled by hand going back to 1972



Goals of The Study

- To determine factors that lead to case complexity in order to better inform differentiated case management efforts—either those by rule or by judicial officer practice
- To provide basic management statistics
- To provide a comprehensive snapshot of how water courts operate



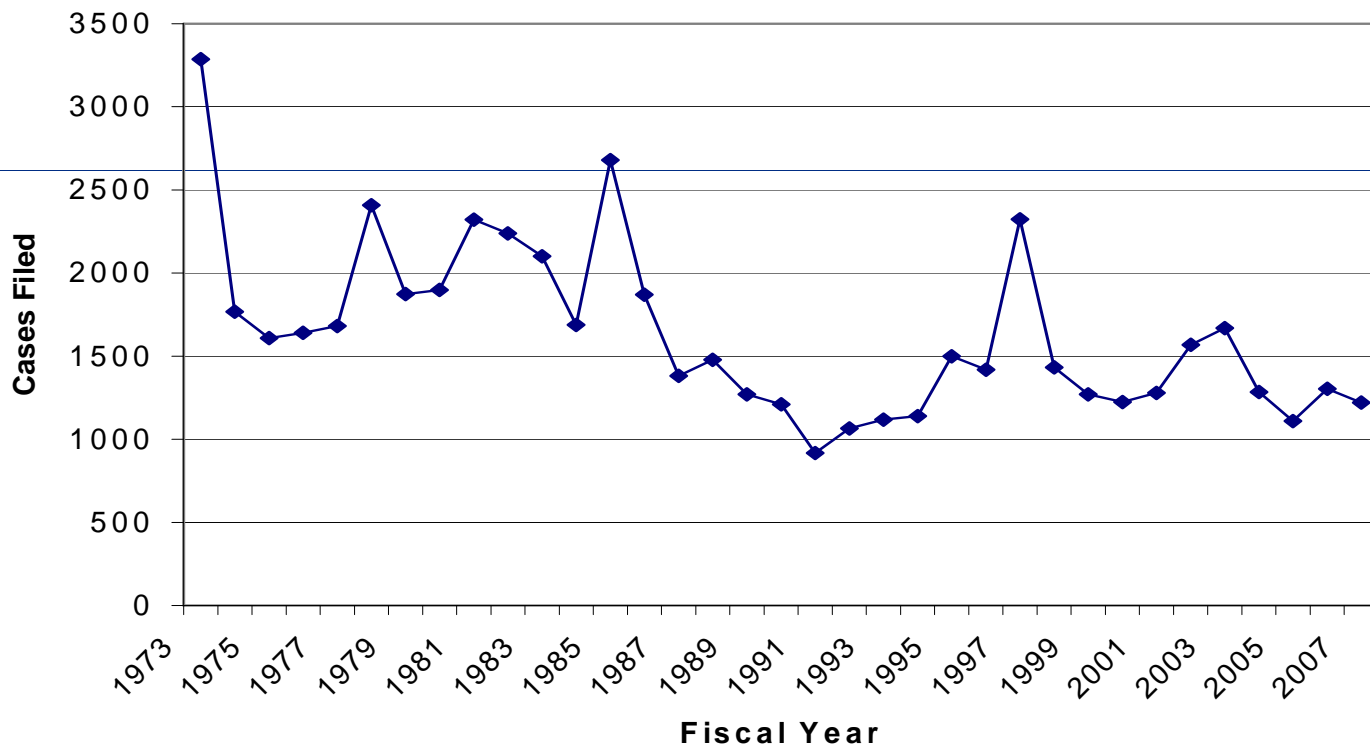
Issues Explored

- General Filing Information and Trends
- How Cases Are Resolved and Method of Resolution
- Timely Resolution of Cases
- Factors that Lead to Longer Cases
- *Pro Se* Parties in Water Courts
- Rate of Trial and Days in Trial
- Issues Related to Statements of Opposition, Re-Referrals, and Number of Structures



Filings

**Table 1.5 Water Case Filings by Fiscal Year 1973-
Present**



Filings by Case Type, FY 2001-07

**Table 1. Statewide Value Filings by Case Type
Fiscal Year Case Filed**

Case Type	2001	2002	2003	2004	2005	2006	2007
Appraisal	6	8	14	16	13	12	10
Care	13	17	24	15	17	14	13
Enforcement of Liens	25	35	33	21	20	26	27
Injunction	3	31	12	20	3	14	26
Miscellaneous	9	13	10	17	17	12	17
Order	13	4	3	50	27	2	15
Order to Arrest	1	13	7	3	2	0	1
Order for Review	0	0	0	0	0	0	2
Order	37	36	34	23	23	32	27
Order	6	5	8	6	3	6	4
Order to Arrest	10	12	11	10	8	15	12
Order	17	17	21	17	11	8	11
TOTAL	129	153	133	125	110	133	121



Judges vs. Referees, Resolution of Cases

- A referee resolved case is defined as one in which an order of referral occurs and a case is either dismissed or results in a referee order that is not protested and is signed by the water judge
- Referees Resolved 83% of Cases
- Judges Resolved 17% of Cases

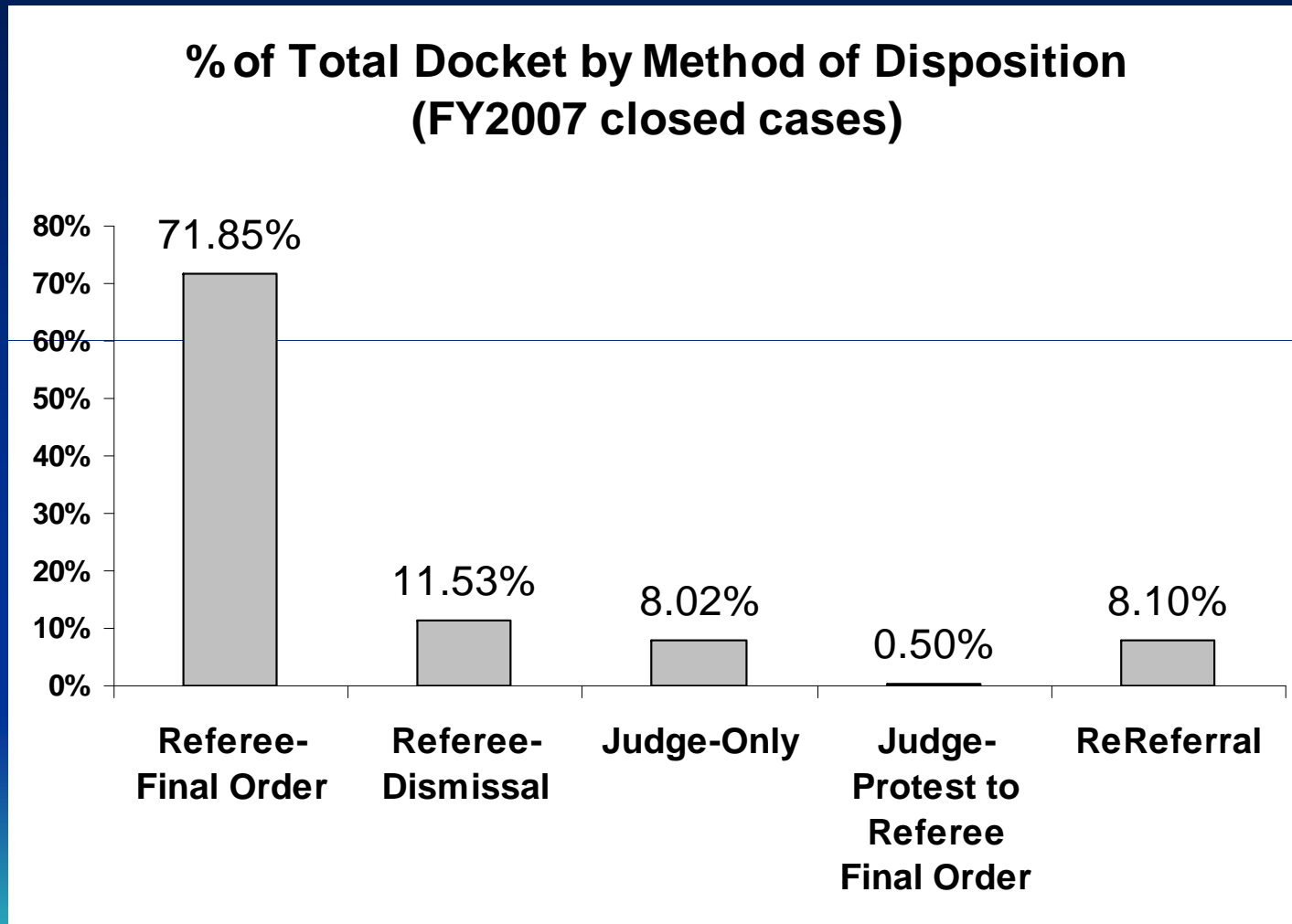


The Five Ways a Case Is Resolved

- (1) **Referee-Final Order**: cases referred to a referee, a referee issues a final order, a judge signs the order
- (2) **Judge-Only**: cases not referred to a referee and resolved by a judge
- (3) **Re-Referrals**: cases referred to a referee and then re-referred to a judge
- (4) **Judge-Protest to Referee Final Order**: cases referred to a referee, a referee issues a final order, a party objects to the referee order and a judge resolves the case
- (5) **Referee-Dismissal**: cases referred to a referee, the matter was dismissed prior to referee entry of final order

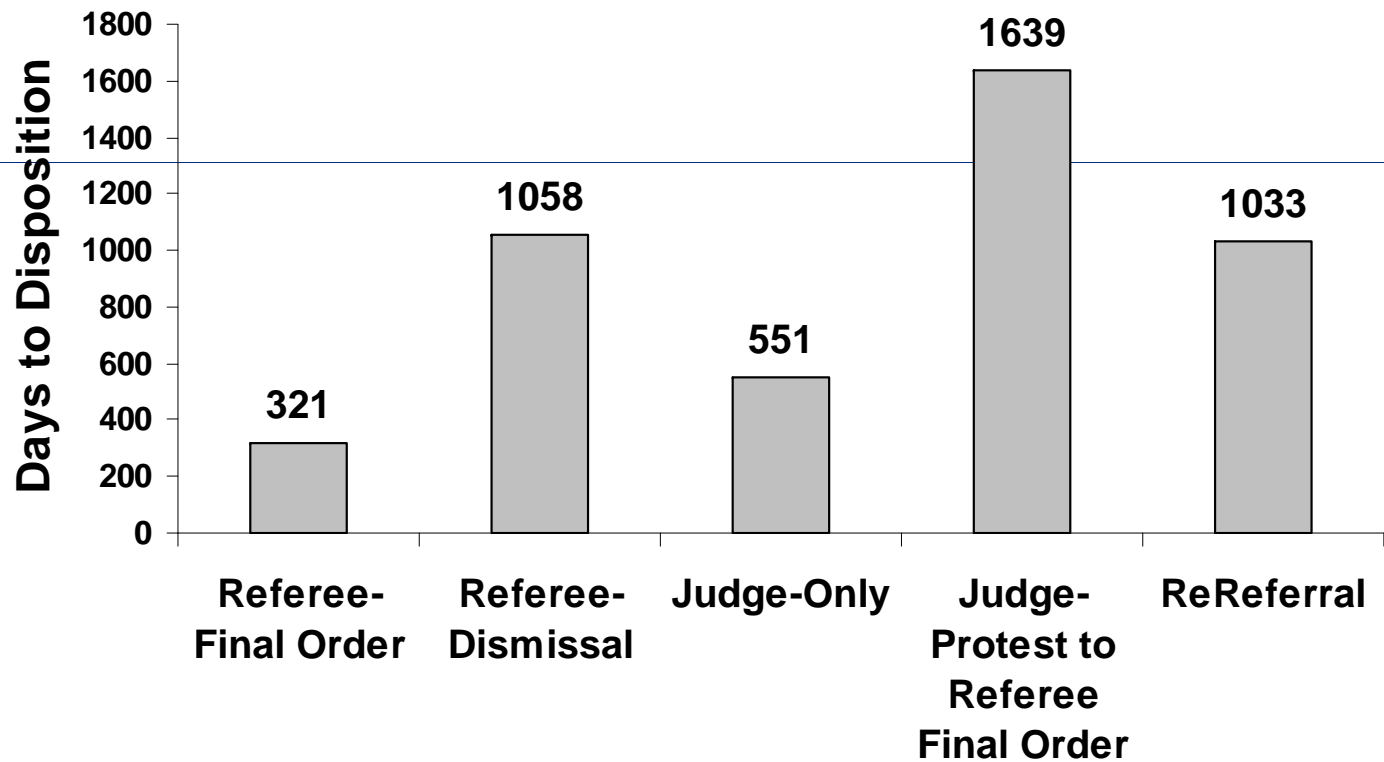


The Five Ways a Case Is Resolved



Five Ways a Case is Resolved

**Time to Disposition by Method of Disposition
(FY2007 closed cases)**



Conclusions from the Five Ways Cases are Resolved

- Cases that are referred and dismissed tend to languish on referee dockets (the median case is nearly 3 years old at time of dismissal)
- Re-referred cases take three times as long to resolve
- 72% of cases, those that might be considered the typical referee-resolved case, have a median time to resolution of 321 days, or just less than 1 year



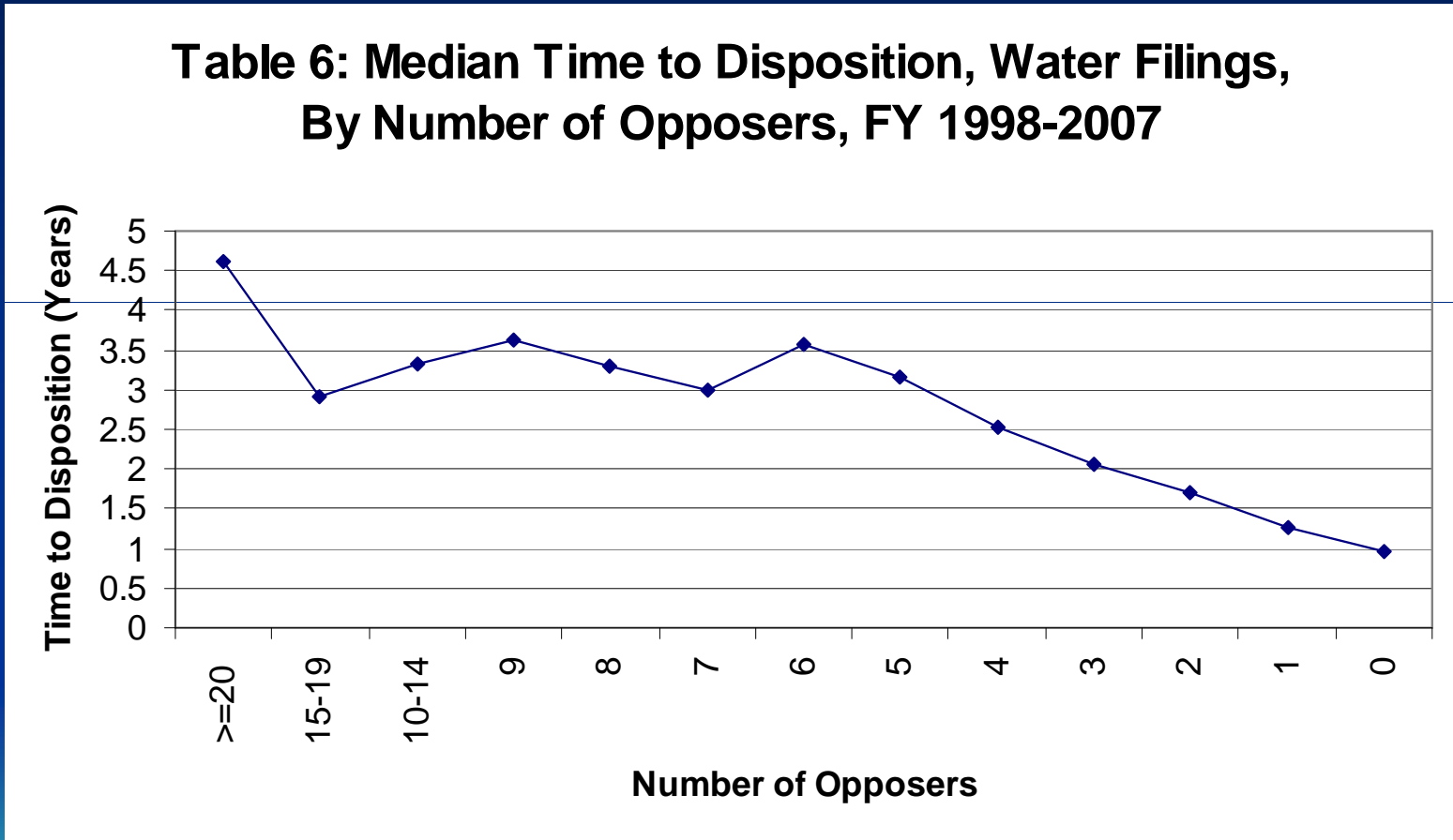
Analysis of the “Typical” Case

- The “typical” cases are the Referee-Final Order cases (72 percent of state-wide docket).
- There are four key points in time in a typical water case (the statewide median between those events for all cases is in parenthesis):
 - From filing to referral to referee (5 days)
 - From referral to summary of consultation filed (98 days)
 - From filing of summary of consultation to referee final order (146 days)
 - From referee final order to judge signing final order (30 days)



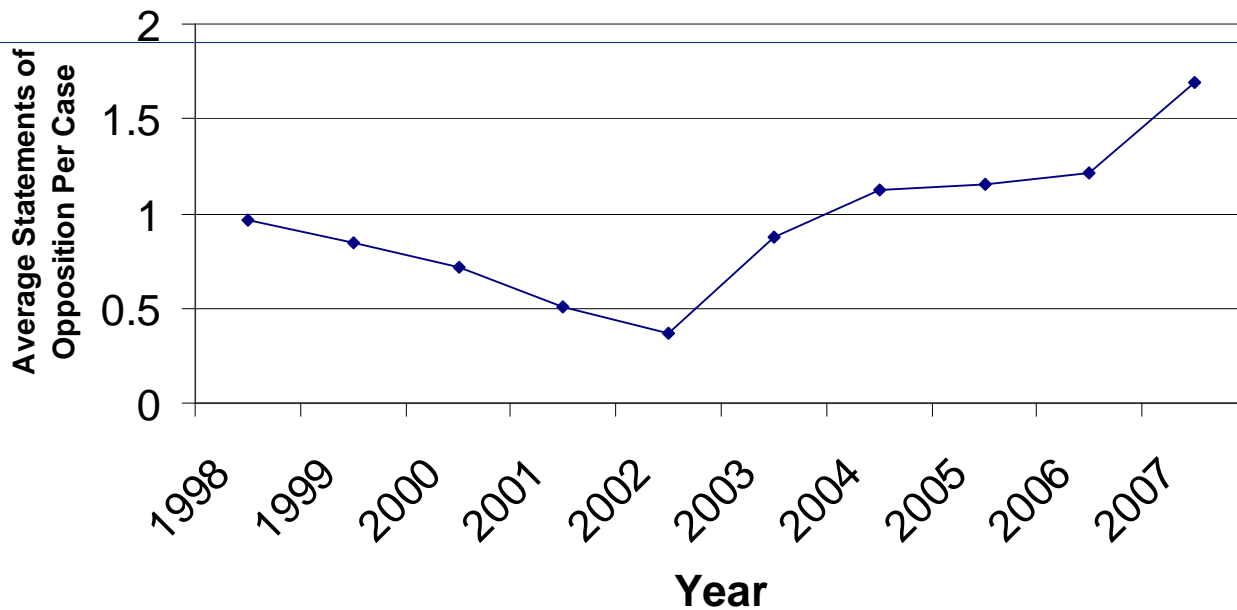
Statements of Opposition: The Number Will Affect Time to Disposition

Table 6: Median Time to Disposition, Water Filings, By Number of Opposers, FY 1998-2007



Statements of Opposition: Increasing

**Table 7: Statements of Opposition: Average
Number Filed Per Case, FY1998-2007**



Statements of Opposition: Conclusions

Statements of Opposition Are Increasing,
Thus Increasing Need for Case
Management

The Data Suggests Three Groups of Cases
for Purposes of Case Management:

- (1) unopposed cases, those 70 percent that take roughly 1 year to resolve;
- (2) those cases with less than 4 or 5 statements of opposition filed, which generally completed between 1 and 2.5 years;
- (3) those complex cases (5.1 percent of total docket) with greater than 5 statements of opposition filed, which generally last more than 3 years.



Pro Se Parties in Colorado Water Courts

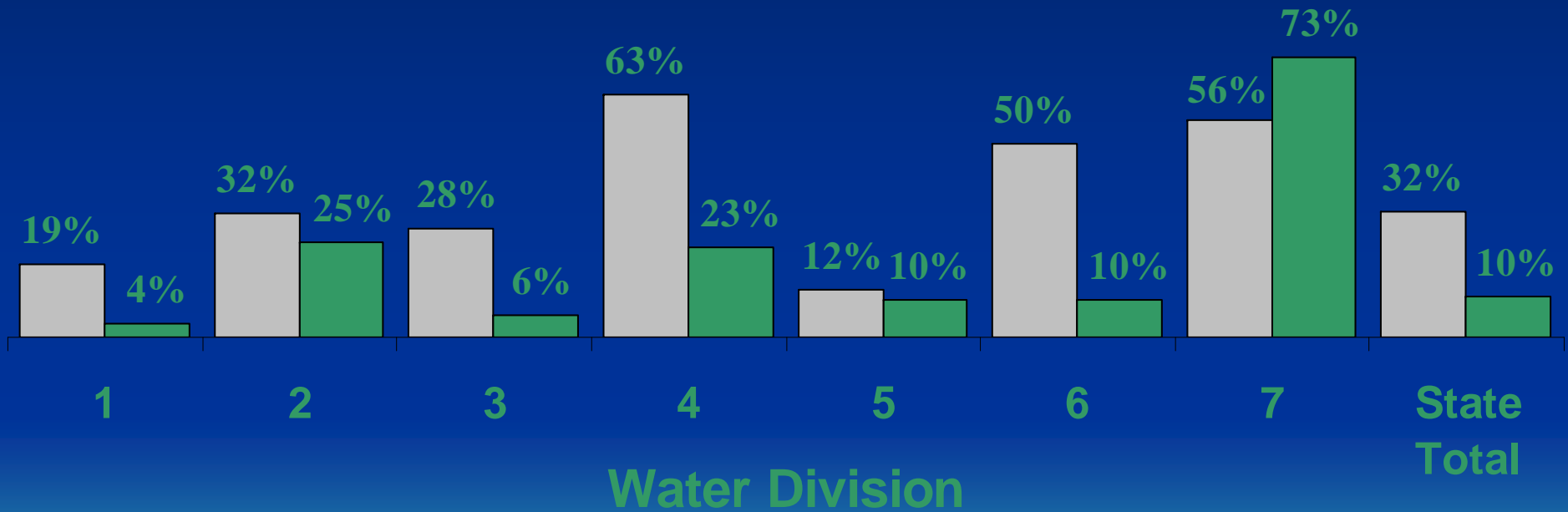
- General Findings
 - 32.4% of cases are filed *pro se*
 - 10.5% of statements of opposition are filed *pro se*
 - There are wide-variations by water division, as shown on the next slide.....



Pro Se Parties by Water Division

Percent of Pro Se Applications and Statements of Opposition Filed (cases closed FY2007)

Gray=Applications, Green=Statements of Opposition



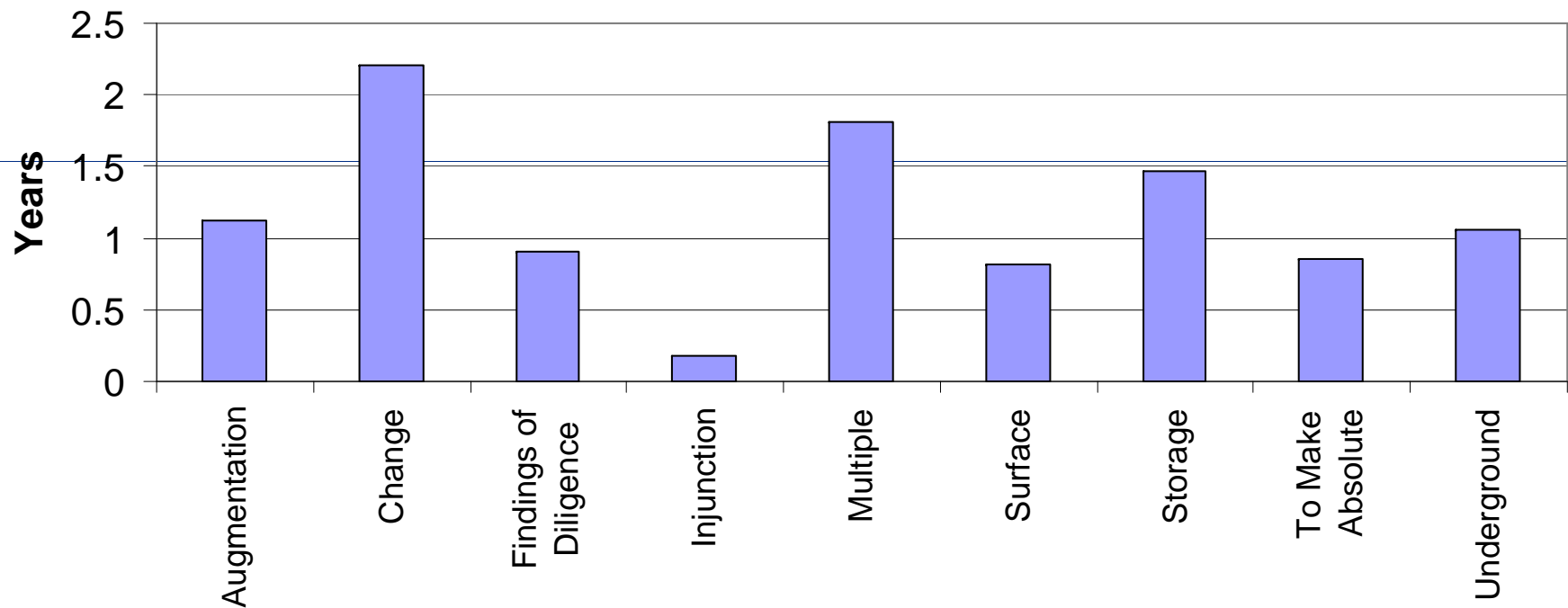
Timely Resolution

- 25 percent of cases will take less than 0.64 years to resolve
- 25 percent of cases will take between 0.65 and 1.01 years to resolve
- 25 percent of cases will take between 1.02 and 2.40 years to resolve
- 25 percent of cases will take 2.41 years or greater to resolve



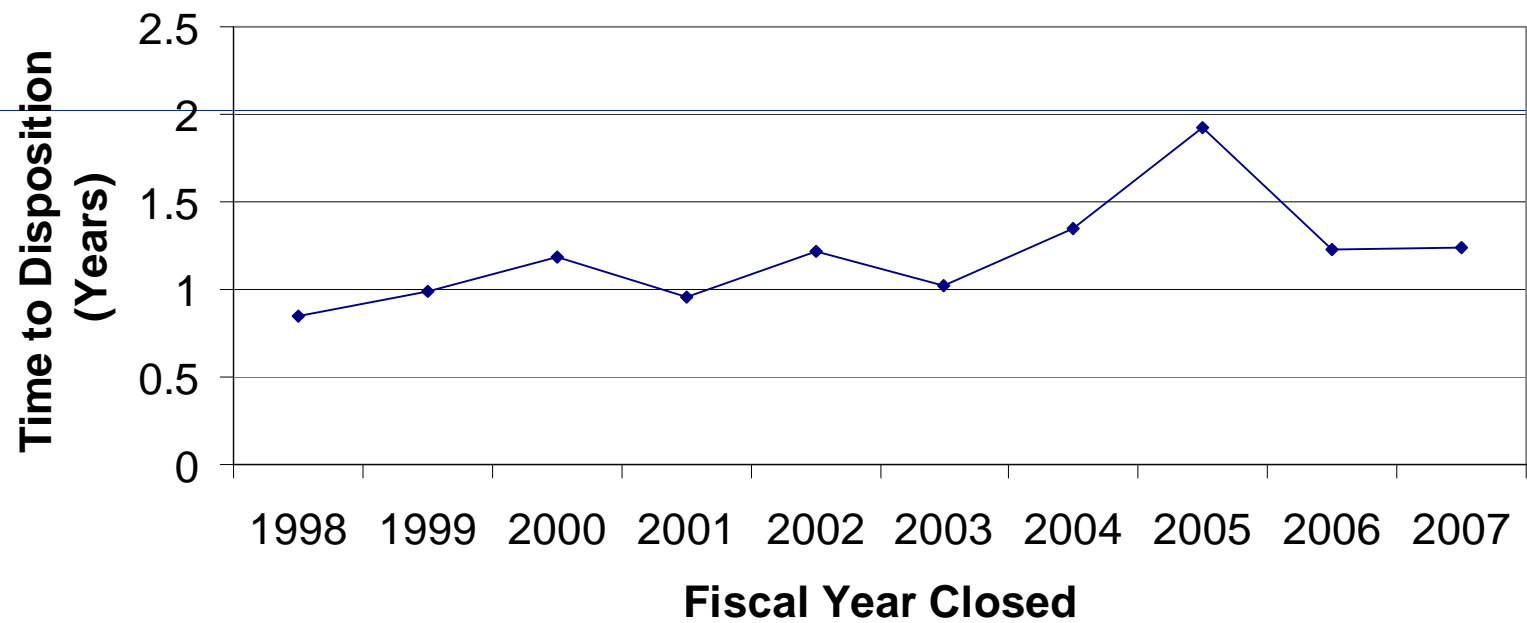
Timely Resolution by Case Type

Median Time to Disposition by Case Type, FY2007



Trends in Timely Resolution

Table 12: Median Time to Disposition, Cases brought to Disposition FY 1998-2007



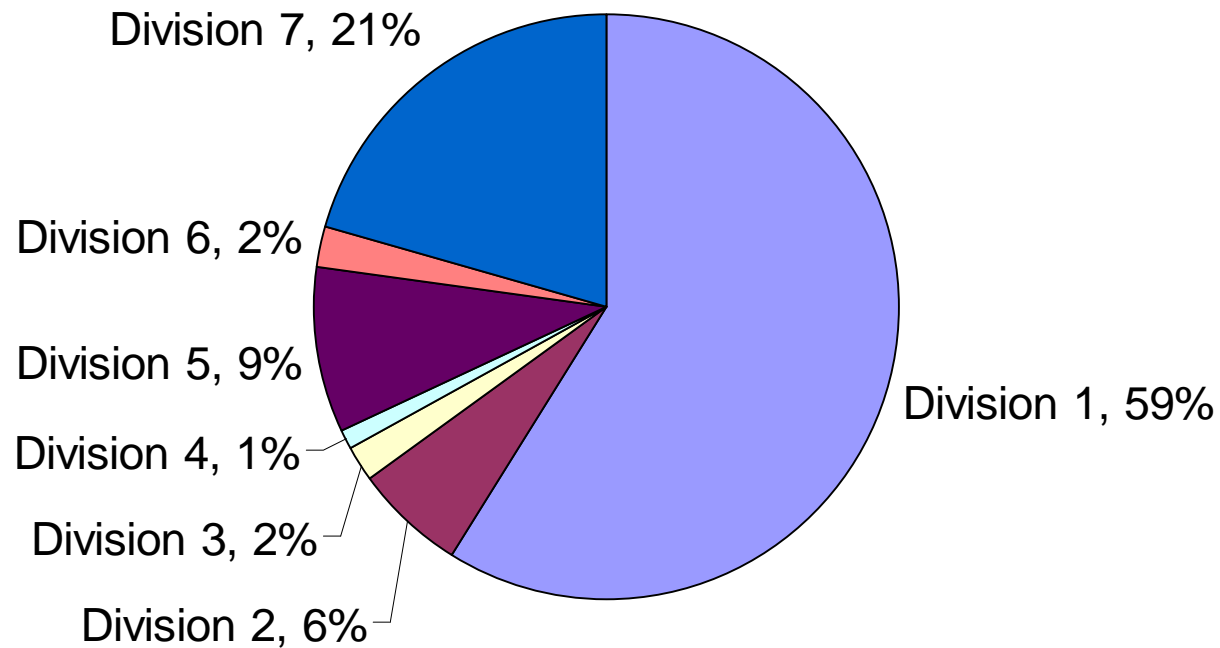
Re-Referrals

- Occurred in 8.1 percent of the FY 2007 closed cases (97 out of 1197)
- Median time to disposition is 2.83 years compared with 1.01 years for all cases
- The median case spends 447 days pending before the referee and 538 days pending before the water judge



Percent of Total Re-referrals by Division, FY2007

Rereferrals, % of Total By Division, Cases Closed FY 2007



Trials

- Rate of Trial is Generally Less than 1 percent
- Of the 1197 cases closed in 2007, 9 went to trial for a 0.75 percent rate of trial
- The trial rate has been between 0.32 and 0.84 percent since FY 2001



Trials, By Division and Trial Days

Table 16: Water Court Trials Held and Trial Days, FY2006-2008

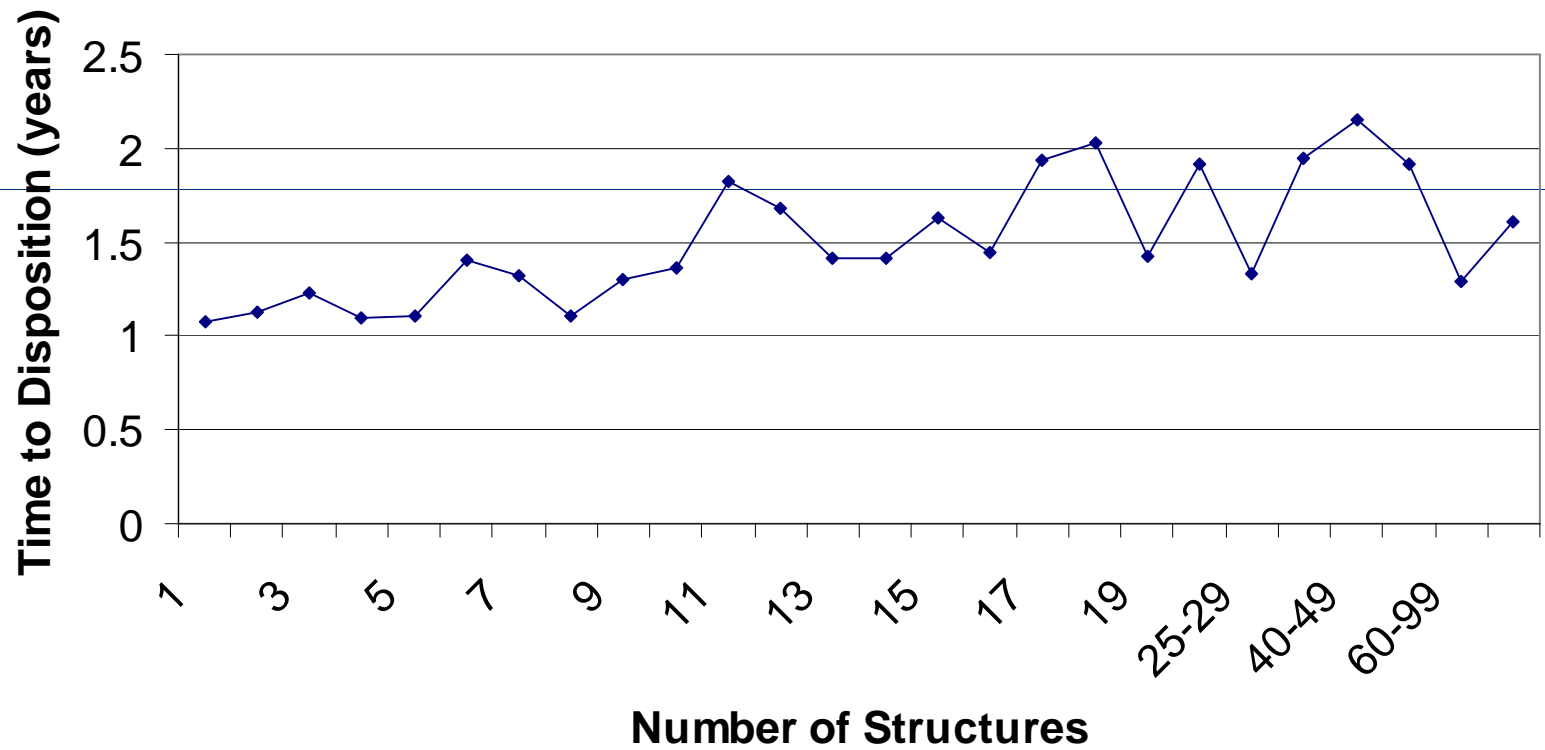
Division	FY2006		FY2007		FY2008*	
	Trial Days	Trials Held	Trial Days	Trials Held	Trial Days	Trials Held
1, Greeley	6	3	62	4	14	5
2, Pueblo	4	1	8	1	2	2
3, Alamosa	31	1	1	1	1	1
4, Montrose	0	0	1	1	1	1
5, Glenwood	4	3	3	1	6	1
6, Steamboat	8	1	0	0	0	0
7, Durango	8	2	5	1	0	0
Total	61	11	80	9	24	10

*First three quarters of Fiscal Year 2008



Structures at Issue

Table 17: Median Time to Disposition by Number of Structures, FY1998-2007



Conclusions

- Factors that lead to longer cases: number of statements of opposition filed, case type, and structures at issue
- There are opportunities for differentiated case management
- There are cases (11 percent of docket) that do tend to languish on dockets prior to being dismissed



Conclusions

- Cases are generally resolved in a timely fashion—1/2 will be resolved in a year or less
- Filings and times to resolution of cases are stable and not increasing
- The average number of statements of opposition filed in a case is increasing

