

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
1-800-624-3270
(406) 586-4364
watercourt@mt.gov

IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
MILK RIVER BELOW WHITEWATER CREEK INCLUDING PORCUPINE CREEK
BASIN 400
INTERLOCUTORY DECREE

**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE
INTERLOCUTORY DECREE OF THE MILK RIVER BELOW WHITEWATER
CREEK INCLUDING PORCUPINE CREEK (BASIN 400)**

The Preliminary Decree of the Milk River Below Whitewater Creek Including Porcupine Creek (Basin 400) was issued on May 24, 1995.

These Findings of Fact and Conclusions of Law are issued for inclusion in the Interlocutory Decree of the Milk River Below Whitewater Creek Including Porcupine Creek (Basin 400) as authorized by §§ 3-7-224(2), 85-2-231, MCA.

FINDINGS OF FACT

DESCRIPTION OF BASIN

1. Basin 400 encompasses the drainage of the Milk River and its tributaries below the confluences of Beaver and Rock Creek with the Milk River as well as groundwater located within Basin 400.¹ The boundaries of Basin 400 are outlined on the attached map. Although this Decree includes water rights within the hydrologic boundaries of Basin 400, it does not include all the water rights in the Basin. The purpose of this Decree is to adjudicate water rights not included in the Preliminary Decree in Basin 400.

¹ See May 24, 1995 Findings of Fact and Conclusions of Law on the Milk River Below Whitewater Creek Including Porcupine Creek (400) Finding of Fact 5.

DECREE ABSTRACTS AND INDEX

2. In addition to these Findings and Conclusions, this Decree consists of abstracts for the 421 claims included in this Decree. Accompanying the Decree are six Indexes designed to facilitate research on water rights included in the Decree. The six Indexes are as follows:

- Water Right Claim Identification Number Index
- Owner Name Index
- Priority Date Index
- Point of Diversion Index
- Source Name Index
- Issue Remark Index

3. Copies of the Decree and six Indexes are located at the Department of Natural Resources and Conservation (DNRC) Glasgow Regional Office, the DNRC Water Rights Adjudication Office in Helena, and the Montana Water Court in Bozeman. This information is also available on the DNRC's Water Rights Adjudication webpage.

UNRESOLVED FACTUAL AND LEGAL ISSUES

4. Parties may file objections ONLY to the water rights in this Decree. Issues may also be raised by the Water Court on its own initiative. Rule 8, W.R.Adj.R.

Unresolved factual and legal issues have been noted by issue remarks on claim abstracts. The Issue Remark Index combines the issue remarks into a list arranged numerically by water right claim number. Searching the Issue Remark Index by water right claim number will identify issue remarks on individual claim abstracts. Issue remarks not resolved through the objection process will be resolved pursuant to § 85-2-248, MCA.

Water users within this Basin and other interested persons will be mailed a Notice of Entry of Interlocutory Decree and Notice of Availability contemporaneously with the filing of these Findings and Conclusions. The Notice of Availability explains the objection process and sets a deadline for filing objections with the Water Court.

CONCLUSIONS OF LAW

1. This is a general adjudication of existing water rights. An existing water right is a right to the use of water which is protected under the law as it existed prior to July 1, 1973. Section 85-2-102(13), MCA.

2. Certain claims were exempt from the statement of claim filing process but could be voluntarily filed. Section 85-2-222, MCA (1973). These exempt rights were for stock or domestic uses from instream or groundwater sources. In 2013, the Montana Legislature created a process to file claims for existing water rights that were exempt from filing in the statewide water right adjudication. Section 85-2-222(2), MCA.

3. The Montana Water Court has jurisdiction to enter an Interlocutory Decree of the Milk River Below Whitewater Creek Including Porcupine Creek (Basin 400) pursuant to Title 85, Chapter 2, Montana Code Annotated. *Ariz. v. San Carlos Apache Tribe*, 463 U.S. 545, 103 S. Ct. 3201 (1983); *State ex rel. Greely v. Confederated Salish and Kootenai Tribes*, 219 Mont. 76, 712 P.2d 754 (1985).

4. These Findings of Fact, Conclusions of Law, and abstracts define these 421 existing water rights under Montana law in Basin 400 and comprise an Interlocutory Decree in accordance with § 85-2-231, MCA, and Rule 4, W.R.Adj.R.

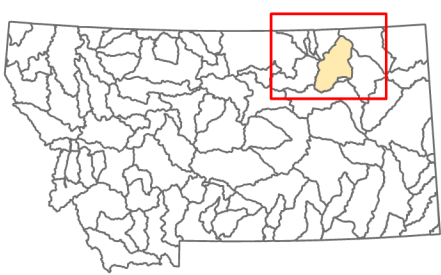
ELECTRONICALLY SIGNED AND DATED BELOW.

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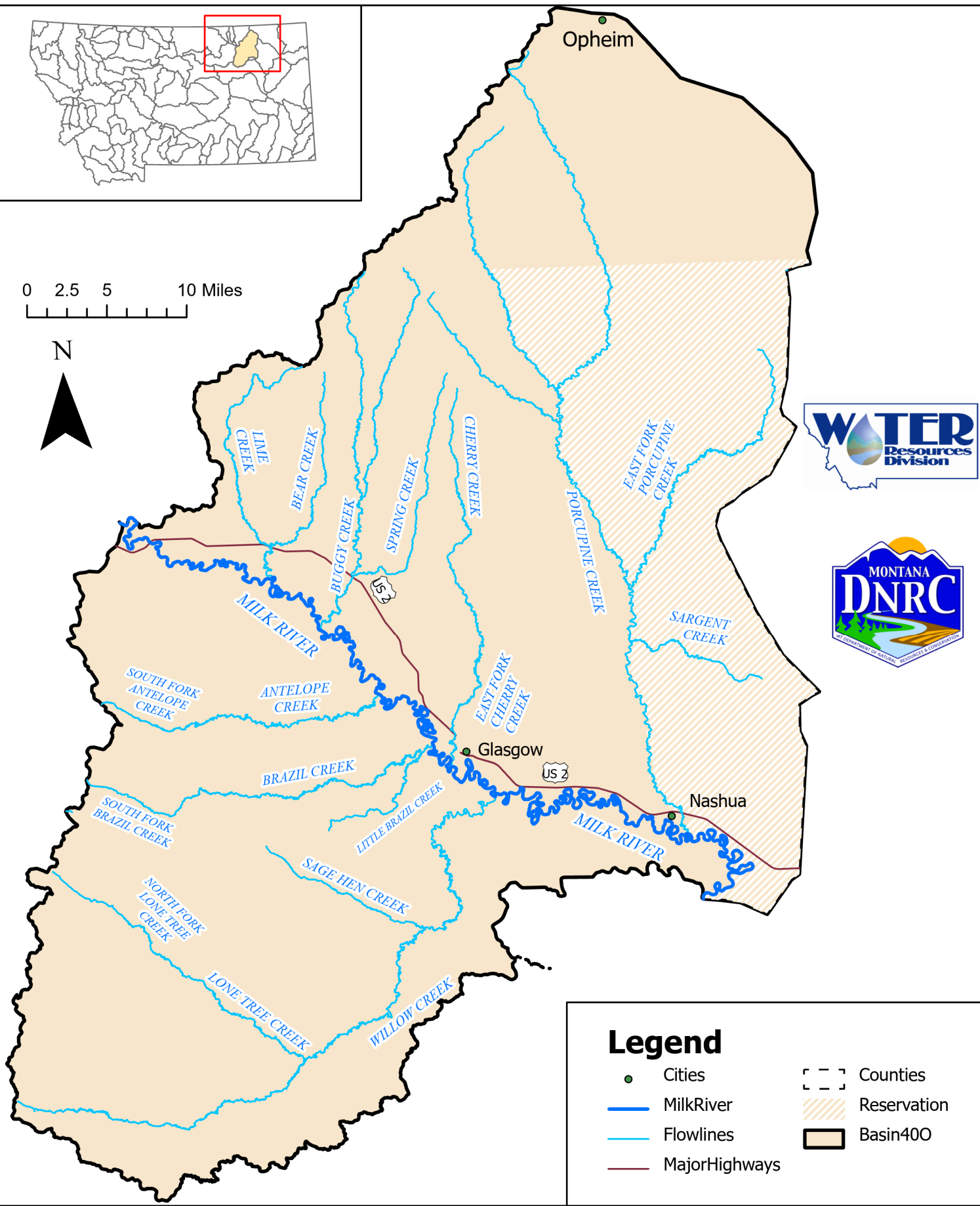
Laura Hinck, Adjudication Supervisor
DNRC Adjudication Office
PO Box 201602
Helena, MT 59620
Lhinck2@mt.gov

DNRC Water Resources
Glasgow Regional Office
PO Box 1269
Glasgow, MT 59230-1269
(406) 228-2561
Ryan.Hartwell@mt.gov
lhinck2@mt.gov
lih-an.yang@mt.gov

400 Milk River, Below Whitewater Including Porcupine Creek



0 2.5 5 10 Miles



Legend

- Cities
- MilkRiver
- Flowlines
- MajorHighways
- Counties
- Reservation
- Basin400