

IN THE WATER COURT OF THE STATE OF MONTANA  
YELLOWSTONE DIVISION  
LITTLE BEAVER CREEK BASIN (39FJ)

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE  
INTERLOCUTORY DECREE OF LITTLE BEAVER CREEK  
-BASIN 39FJ-**

The Preliminary Decree for Little Beaver Creek (Basin 39FJ) was issued on November 1, 2018. Objections filed to claims in the Preliminary Decree and issue remarks decreed on the claims in the Preliminary Decree have been addressed and resolved.

These Findings of Fact and Conclusions of Law are issued for inclusion in the Interlocutory Decree for Little Beaver Creek (Basin 39FJ) as authorized by §§ 3-7-224(2), 85-2-231, MCA.

**FINDINGS OF FACT**

**DESCRIPTION OF BASIN**

1. Basin 39FJ encompasses Little Beaver Creek and its tributaries as well as groundwater located within Basin 39FJ. The boundaries of Basin 39FJ are outlined on the attached map. Although this Decree includes water rights within the hydrologic boundaries of Basin 39FJ, 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 prior Decree in Basin 39FJ.

**DECREE ABSTRACTS AND INDEX**

2. In addition to these Findings and Conclusions, this Decree consists of abstracts for the claims included in the 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. CD copies of the Decree and six Indexes are located at the Department of Natural Resources and Conservation (DNRC) Billings 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. The objection period allows interested parties to raise issues regarding ONLY 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. Objections may be filed to claims with issue remarks. 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 that is protected under the law as it existed prior to July 1, 1973, § 85-2-102(13), MCA.

2. Certain claims were exempt from the statement of claim filing process but could be voluntarily filed. § 85-2-222, MCA (1979). 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 rights adjudication. § 85-2-222(2), MCA.

3. The Montana Water Court has jurisdiction to enter an Interlocutory Decree for Little Beaver Creek (Basin 39FJ) pursuant to Title 85, Chapter 2, Montana Code Annotated. *Ariz. 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 existing water rights under Montana law in Basin 39FJ and comprise an Interlocutory Decree in accordance with § 85-2-231, MCA, and Rule 4, W.R.Adj.R.

 Digitally  
signed by  
Russ McElyea

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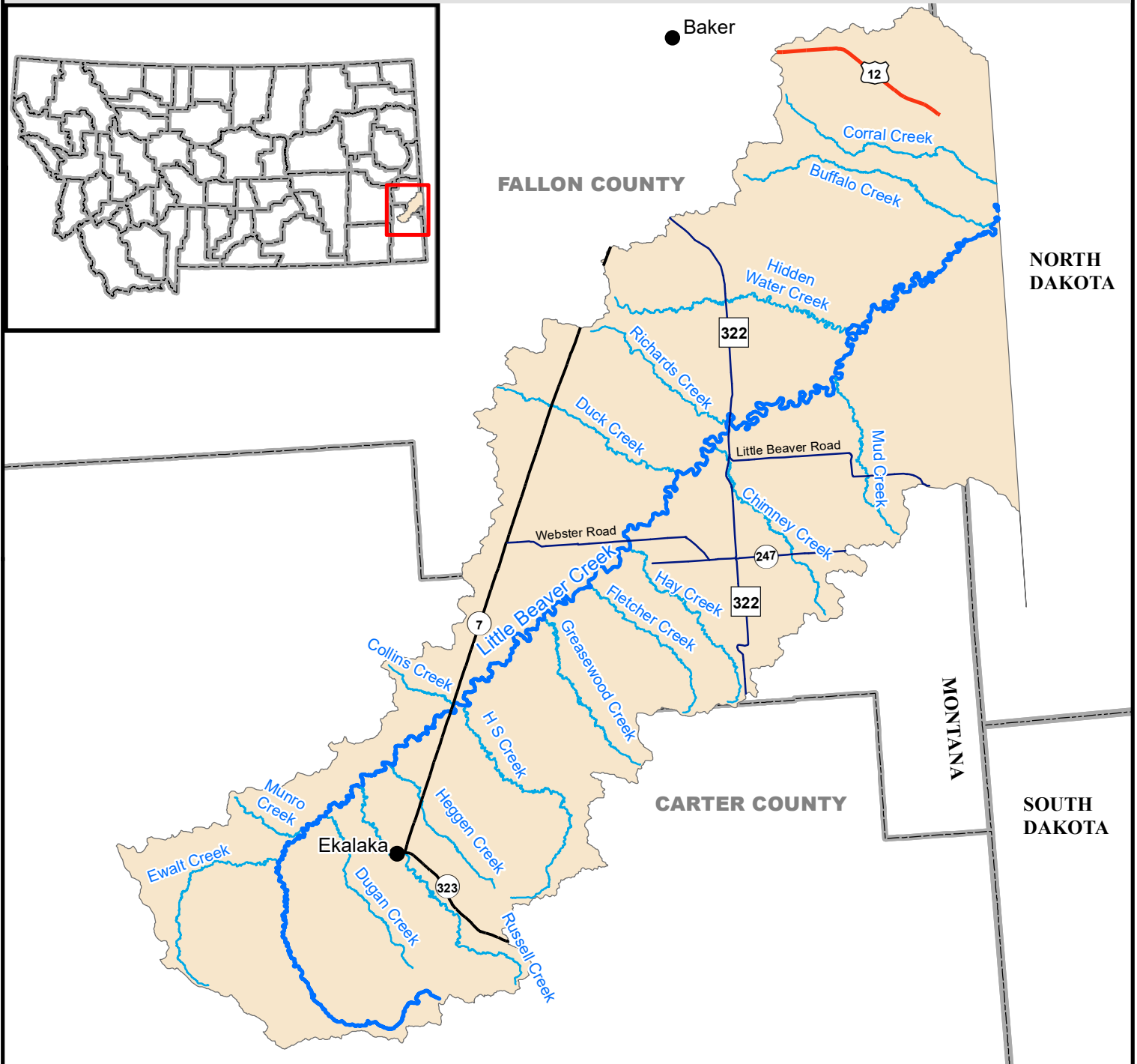
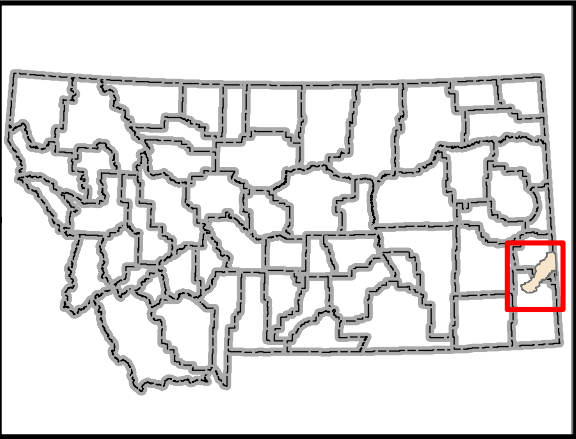
Russ McElyea  
Chief Water Judge

**Service Via Electronic Mail:**

Helena DNRC Adjudication Office  
Attn: Laura Hinck  
PO Box 201602  
Helena, MT 59620-1602  
[Lhinck2@mt.gov](mailto:Lhinck2@mt.gov)

DNRC Billings Regional Office  
Airport Industrial Park  
1371 Rintop Drive  
Billings, MT 59105-1978  
[brock.shouldis@mt.gov](mailto:brock.shouldis@mt.gov)  
[brandy.gray@mt.gov](mailto:brandy.gray@mt.gov)

# Basin 39FJ Little Beaver Creek



**Legend**

Little Beaver Creek	Town/City
Streams	Counties
39FJ Basin Boundary	US Highway
State Boundary	Major Road

