

**MONTANA WATER COURT  
LOWER MISSOURI DIVISION  
MISSOURI RIVER BETWEEN BULLWHACKER CREEK AND MUSSELSHELL RIVER  
BASIN 40EJ  
INTERLOCUTORY DECREE**

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE  
INTERLOCUTORY DECREE OF MISSOURI RIVER  
BETWEEN BULLWHACKER CREEK AND MUSSELSHELL RIVER**

The Preliminary Decree of the Missouri River – Between Bullwhacker Creek and Musselshell River (Basin 40EJ) was issued on April 25, 2014. Objections filed to claims in the Preliminary Decree and issue remarks appearing 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 of the Missouri River – Between Bullwhacker Creek and Musselshell River (Basin 40EJ) as authorized by §§ 3-7-224(2), 85-2-231, MCA.

**FINDINGS OF FACT**

**DESCRIPTION OF BASIN**

1. Basin 40EJ encompasses the Missouri River – Between Bullwhacker Creek and Musselshell River and its tributaries as well as groundwater located within Basin 40EJ. The boundaries of Basin 40EJ are outlined on the attached map. Although this Decree includes water rights within the hydrologic boundaries of Basin 40EJ, 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 40EJ.

## DECREE ABSTRACTS AND INDEX

2. In addition to these Findings and Conclusions, this Decree consists of abstracts for the 344 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 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.

5. 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.

6. 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.

7. Claims for water rights reserved under the laws of the United States of America are included in the Montana general adjudication of water rights. The State of Montana, through the Reserved Water Rights Compact Commission, engaged in the negotiation of reserved water right compacts with Indian Tribes and the federal

government. Sections 85-2-701 through 85-2-708, MCA. There may be claimed tribal reserved rights and federal reserved rights in this basin that are not reflected in this Decree, including but not limited to reserved rights related to the Compact entered into by the State of Montana, the Fort Belknap Indian Community of the Fort Belknap Reservation, and the United States of America. Additionally, resolution of any claims in this basin made by the Confederated Salish and Kootenai Tribes of the Flathead Reservation (“Tribes”) or the United States of America on behalf of the Tribes currently is stayed and such claims are not addressed in this Decree. Those rights may be issued in a separate decree.

### 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 (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 right adjudication. Section 85-2-222(2), MCA.

3. The Montana Water Court has jurisdiction to enter an Interlocutory Decree of the Missouri River – Between Bullwhacker Creek and Musselshell River (Basin 40EJ) 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 344 existing water rights under Montana law in Basin 40EJ and comprise an Interlocutory Decree in accordance with § 85-2-231, MCA, and Rule 4, W.R.Adj.R.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

Electronically Signed By:  
Hon. Judge Stephen R Brown  
Fri, Sep 26 2025 08:22:23 AM

**Service via Electronic Mail:**

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# **BASIN 40EJ - MISSOURI RIVER, BETWEEN BULLWHACKER CREEK AND MUSSELSHELL RIVERS**



## **Legend**

- Missouri River
- Creeks
- Fort Peck Lake
- Basin 40EJ Boundary



0 5 10 Miles