

**IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
BEAVER CREEK, TRIBUTARY OF MILK RIVER
BASIN 40M**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE
INTERLOCUTORY DECREE OF
BEAVER CREEK, TRIBUTARY OF MILK RIVER
BASIN 40M**

The Preliminary Decree of the Beaver Creek, Tributary of Milk River (Basin 40M) 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 Beaver Creek, Tributary of Milk River (Basin 40M) as authorized by §§ 3-7-224(2), 85-2-231, MCA. Although this Decree includes water rights within the hydrologic boundaries of Basin 40M, it does not include all the water rights in the Basin. The purpose of this Decree is to adjudicate water rights that were not included in the Preliminary Decree in Basin 40M, and also not included in a prior decree involving a federal or tribal compact.

FINDINGS OF FACT

DESCRIPTION OF BASIN

1. Basin 40M encompasses the Beaver Creek drainage, including its tributaries and groundwater located within the basin. Beaver Creek is a tributary of the Milk River with its confluence near Hinsdale, Montana. The basin includes portions of Phillips and Valley Counties. A portion of the basin is within the Fort Belknap Indian Reservation. The boundaries of Basin 40M are outlined on the attached map.

DECREE ABSTRACTS AND INDEX

2. In addition to these Findings and Conclusions, this Decree consists of abstracts for 513 claims in Basin 40M. 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 rights compacts with the federal government and Indian tribes. Sections 85-2-701 through 85-2-708, MCA. There may be tribal, federal reserved rights addressed in compacts that include this basin that are not reflected in this Decree. Those rights may be or have been adjudicated in one or more separate decrees.

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. These exempt rights were for stock or domestic uses from instream or groundwater sources. 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 Beaver Creek, Tributary of Milk River (Basin 40M) pursuant to Title 85, Chapter 2, Montana Code Annotated. *Ariz. v. San Carlos Apache Tribe*, 463 U.S. 545 (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 513 existing water rights under Montana law in Basin 40M and comprise an Interlocutory Decree in accordance with § 85-2-231, MCA, and Rule 4, W.R.Adj.R.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via Electronic Mail:

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BASIN 40M - BEAVER CREEK

