

Montana Water Court  
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**MONTANA WATER COURT  
YELLOWSTONE DIVISION  
YELLOWSTONE RIVER DRAINAGE BETWEEN BIGHORN AND TONGUE RIVERS  
BASIN 42KJ  
INTERLOCUTORY DECREE**

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE INTERLOCUTORY  
DECREE OF THE YELLOWSTONE RIVER DRAINAGE BETWEEN BIGHORN AND  
TONGUE RIVERS**

The Temporary Preliminary Decree of the Yellowstone River Drainage between Bighorn and Tongue Rivers (Basin 42KJ) was issued on November 14, 2003. Objections filed to claims in the Temporary Preliminary Decree and issue remarks appearing on the claims in the Temporary Preliminary Decree continue to be addressed and resolved.

These Findings of Fact and Conclusions of Law are issued for the Interlocutory Decree of the Yellowstone River Drainage between Bighorn and Tongue Rivers (Basin 42KJ) as authorized by §§ 3-7-224(2) and 85-2-231, MCA.

**FINDINGS OF FACT**

**DESCRIPTION OF BASIN**

1. Basin 42KJ encompasses the Yellowstone River Drainage between Bighorn and Tongue Rivers and its tributaries as well as groundwater located within Basin 42KJ. The boundaries of Basin 42KJ are outlined on the attached map. Although this Decree includes water rights within the hydrologic boundaries of Basin 42KJ, 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 Temporary Preliminary Decree in Basin 42KJ and not claimed as

reserved water rights by any Indian tribe or by the federal government for the benefit of any Indian tribe.

#### DECREE ABSTRACTS AND INDEX

2. In addition to these Findings and Conclusions, this Decree consists of abstracts for the 459 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”) 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. 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. §§ 85-2-701 through 85-2-708, MCA. There may be tribal reserved rights in this basin that are not reflected 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 Yellowstone River Drainage between Bighorn and Tongue Rivers (Basin 42KJ) 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 459 existing water rights under Montana law in Basin 42KJ 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:**

Montana DNRC, Water Resources

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# Basin 42KJ - Yellowstone River, Between Bighorn And Tongue Rivers



## Legend

- Towns
- - - County Line
- Basin Boundary
- Yellowstone River
- Streams



0 5 10  
Miles

Scale: 1:850,000

