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MONTANA WATER COURT
YELLOWSTONE DIVISION
CLARKS FORK, YELLOWSTONE RIVER
BASIN 43D

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FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE INTERLOCUTORY DECREE OF CLARKS FORK, YELLOWSTONE RIVER (BASIN 43D)

The Water Court issued the Preliminary Decree for the Clarks Fork of the Yellowstone River Basin (Basin 43D) on April 7, 2017. These Findings of Fact and Conclusions of Law are issued as the Interlocutory Decree for Basin 43D, as authorized by §§ 3-7-224(2), 85-2-231, MCA. Although this Decree includes water rights within the hydrologic boundaries of Basin 43D, 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 Basin 43D Preliminary Decree, water rights not included in a decree involving a federal or tribal compact, and any previously-decreed water rights with unresolved issue remarks that are not currently in a pending case.

FINDINGS OF FACT

DESCRIPTION OF BASIN

1. Basin 43D encompasses the Clarks Fork of the Yellowstone River drainage, including its tributaries and groundwater located within the basin. The Clarks Fork is a tributary of the Yellowstone River with its confluence in Yellowstone County, near Laurel. The basin is located Yellowstone Division and includes portions of Carbon County, Park County, Yellowstone County, and small portions of Stillwater County and Big Horn County. A portion of the hydrologic basin is located in Wyoming. The basin boundaries are depicted on the attached map.

DECREE ABSTRACTS AND INDEX

2. In addition to these Findings and Conclusions, this Decree consists of abstracts for 597 claims in Basin 43D. 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 Department of Natural Resources and Conservation ("DNRC") Water Rights Adjudication webpage (https://dnrc.mt.gov/Water-Resources/Water-Rights/Basin-Status).

UNRESOLVED FACTUAL AND LEGAL ISSUES

4. Objections filed to the claims in the Preliminary Decree and most issue remarks appearing on the claims in the Preliminary Decree have been addressed and resolved. Any claims from the Preliminary Decree with unresolved issue remarks or claims within the Basin not included in the Preliminary Decree are included in this Decree.

5. 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.

6. DNRC examined the claims in this Decree pursuant to its claim examination rules and orders from the Water Court. Following its examination, DNRC provided a summary report to the Water Court. DNRC's summary report identified issues with certain claims.

7. 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.

8. 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.

9. 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 claimed tribal reserved rights and federal reserved rights in this basin that are not reflected in this Decree. Resolution of any off-reservation 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 l, 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 later 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 Basin (Basin 43D) pursuant to Title 85, Chapter 2, Montana Code Annotated. *Arizona 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 597 existing water rights under Montana law in Basin 43D 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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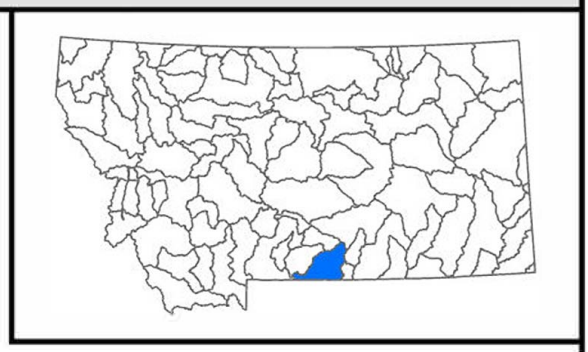
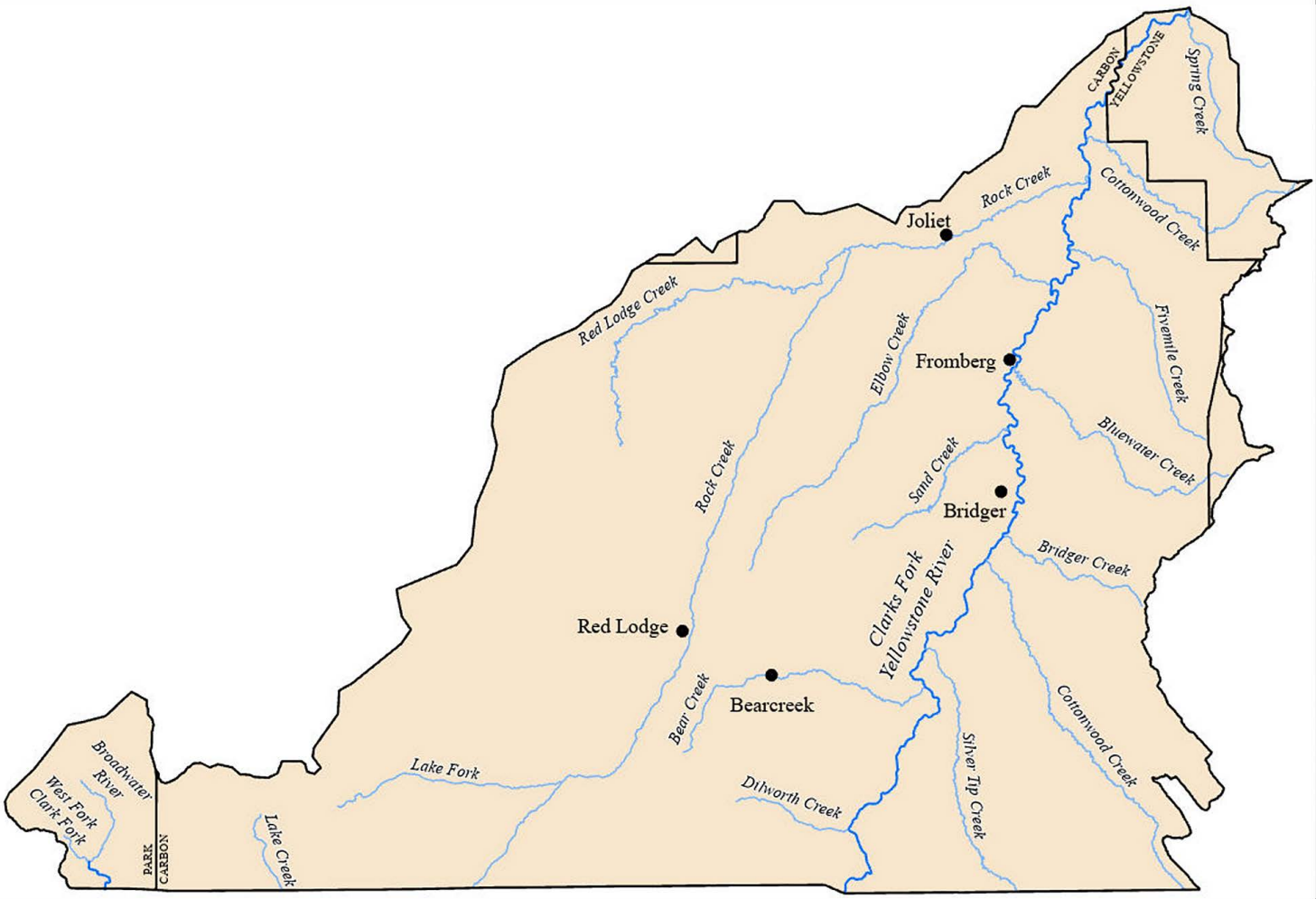
Electronically Signed By:
Hon. Judge Stephen R Brown
Wed, May 27 2026 09:14:27 AM

BASIN 43D - CLARKS FORK YELLOWSTONE RIVER





Legend

- Towns
- Clarks Fork Yellowstone River
- Streams
- Basin 43D Boundary

N

0 5 10 Miles