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**MONTANA WATER COURT, YELLOWSTONE DIVISION
BIGHORN RIVER BELOW GREYBULL RIVER
BASIN 43P**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE INTERLOCUTORY
DECREE OF THE BIGHORN RIVER BELOW GREYBULL RIVER
-BASIN 43P-**

These Findings of Fact and Conclusions of Law are issued by the Water Judge for inclusion in the Interlocutory Decree for the Bighorn River below Greybull River (Basin 43P) as authorized by §§ 3-7-224(2) and 85-2-231, MCA.

FINDINGS OF FACT

DESCRIPTION OF BASIN

1. Basin 43P encompasses the Bighorn River drainage below the Greybull River. This Decree affects all sources of water located within the basin. There are a total of 193 claims in this Interlocutory Decree. The boundaries of this basin are outlined on the attached map.

DECREE ABSTRACTS AND INDEX

2. In addition to these Findings and Conclusions, this Decree consists of abstracts of each individual water right claim decreed in this basin. Accompanying the Decree are six Indexes designed to help people research and find 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 Index 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 provides an opportunity for all interested parties to raise issues that need to be resolved. Any issues may also be reviewed by the Water Court on its own initiative (“on its own motion”). *See* Rule 8, W.R.Adj.R.

5. Many unresolved factual and legal issues have been noted by issue remarks on the individual claim abstracts. The Issue Remark Index combines all the issue remarks into one index arranged numerically by water right claim number. Searching the Issue Remark Index by water right claim number will identify all issue remarks that are noted on individual claim abstracts. Issue remarks not resolved through the objection process will be resolved as directed by § 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.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Water Judge makes the following 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.

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. This Decree includes those “exempt” water right claims that were voluntarily filed but does not include “exempt” water rights that were not filed. 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. § 85-2-222(2), MCA.

3. The Yellowstone River Compact dividing the waters of the tributaries of the Yellowstone, including the Bighorn River, among the States of Montana, Wyoming, and North Dakota was ratified by the three States and the Federal government in 1951. §§ 85-20-101 through 85-20-121 MCA.

4. 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 the federal government and Indian Tribes. §§ 85-2-701 through 85-2-708, MCA.

Many of the Basin 43P claims are within or in close proximity to the Crow Indian Reservation. There are numerous claims asserting reserved water right claims. Any non-Crow Tribe reserved water right claim will be reviewed by the Water Court to determine whether it is part of the Tribal Water Right identified in the Compact or whether it is a state law based claim.

5. The Montana Water Court has jurisdiction to enter an Interlocutory Decree for the Bighorn River below Greybull (Basin 43P) pursuant to Title 85, Chapter 2, Montana Code Annotated. *Arizona v. San Carlos Apache Tribe*, 463 U.S. 545, 103 S.Ct. 3201, 77 L.Ed.2d 837 (1983); and *State ex rel. Greely v. Conf. Salish & Kootenai Tribes*, 219 Mont. 76, 712 P.2d 754 (1985).

6. These Findings of Fact, Conclusions of Law, and abstracts define the nature and extent of each claimed existing water right under Montana law in Basin 43P and comprise an Interlocutory Decree in accordance with § 85-2-231, MCA, and Rule 4, W.R.Adj.R.

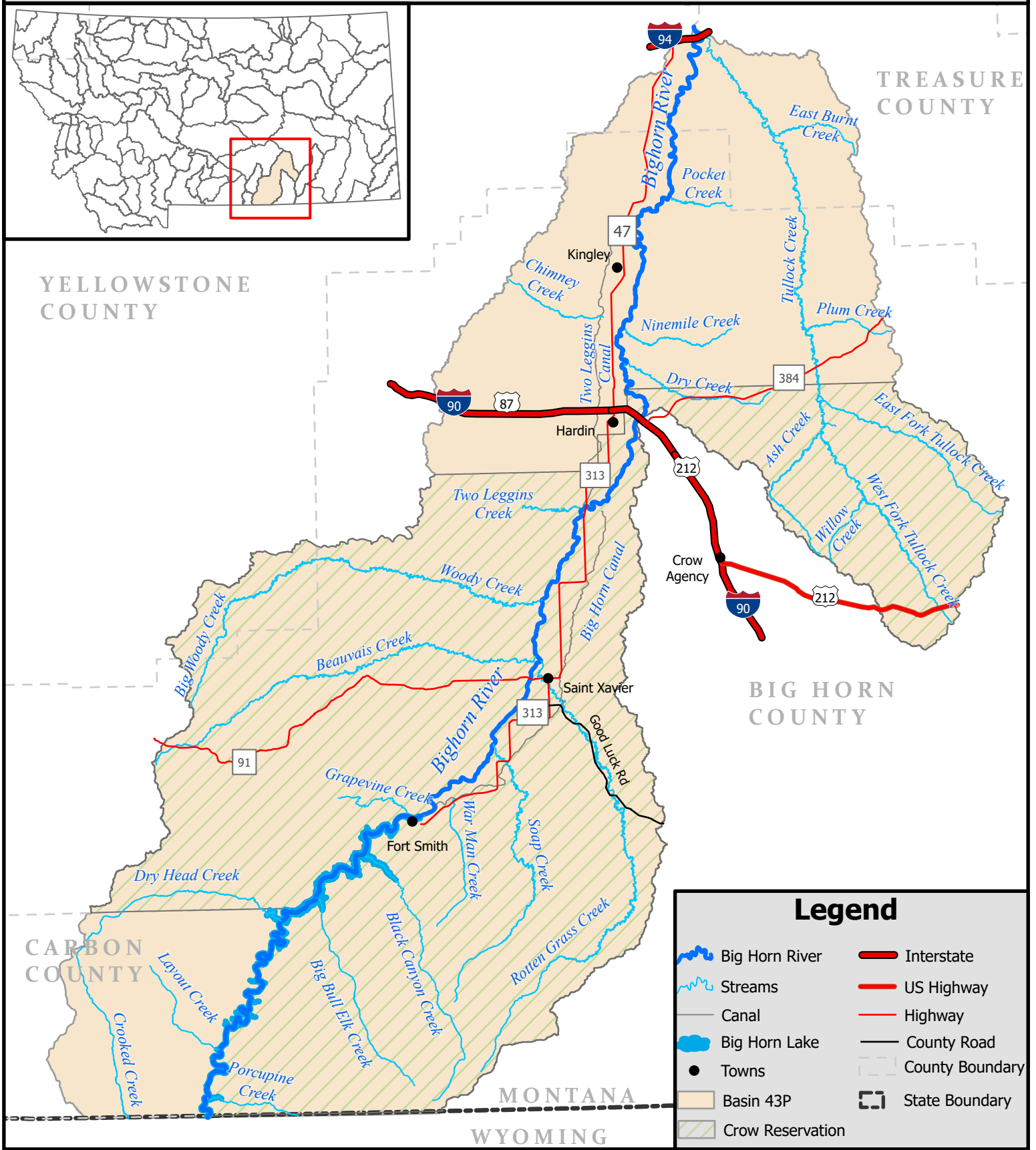
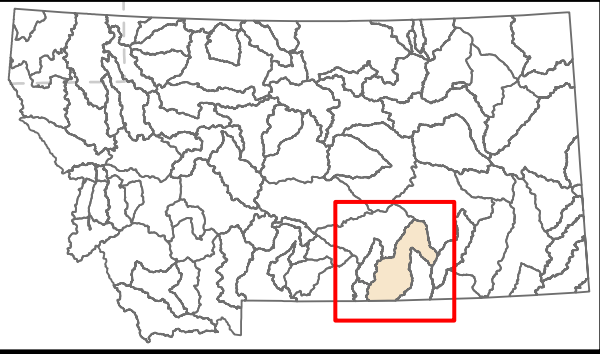
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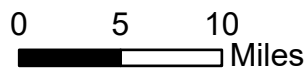
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Basin 43P Big Horn River, Below Greybull River



Legend

	Big Horn River		Interstate
	Streams		US Highway
	Canal		Highway
	Big Horn Lake		County Road
	Towns		County Boundary
	Basin 43P		State Boundary
	Crow Reservation		



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Map Created 1/31/2023 by L. Miller