

**IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
ARROW CREEK BASIN (41R)**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
FOR THE INTERLOCUTORY DECREE OF
ARROW CREEK BASIN (41R)**

The Water Court issued the Preliminary Decree of the Arrow Creek Basin (41R) on June 23, 2011. Objections filed to the 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 Arrow Creek Basin (41R) as authorized by §§ 3-7-224(2), 85-2-231, MCA. Although this Decree includes water rights within the hydrologic boundaries of Basin 41R, 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 41R and not included in a decree involving a federal or tribal compact, or that have unresolved issue remarks.

FINDINGS OF FACT

DESCRIPTION OF BASIN

1. Basin 41R encompasses the Arrow Creek drainage, including its tributaries and groundwater located within the basin. The Arrow Creek is a tributary of the Missouri River. The basin includes portions of Chouteau, Fergus, and Judith Basin Counties. The boundaries of Basin 41R are outlined on the attached map.

DECREE ABSTRACTS AND INDEX

2. In addition to these Findings and Conclusions, this Decree consists of abstracts for 171 claims in Basin 41R. 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 (<https://dnrc.mt.gov/Water-Resources/Water-Rights/Basin-Status>).

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. 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 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. 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 Arrow Creek Basin (Basin 41R) 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 171 existing water rights under Montana law in Basin 41R 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
Todd Netto, Adjudication, Enforcement and Distribution Bureau Chief
Shannon Buswell, Water Rights Data Quality & Standards Program Supervisor
TNetto@mt.gov
Shannon.Buswell@mt.gov

DNRC Lewistown Regional Office
DNRCLeWistownWater@mt.gov
steven.hamilton@mt.gov
brandon.ahlgren@mt.gov

Basin 41R - Arrow Creek



Legend

- Towns
- Arrow Creek
- <all other values>
- Lake/Reservoir
- - - County Line
- Basin Boundary



0 5 10 Miles

Scale: 1:500,000

