

**IN THE WATER COURT OF THE STATE OF MONTANA
 CLARK FORK DIVISION
 BITTERROOT RIVER (BASIN 76H)**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE
 INTERLOCUTORY DECREE OF THE BITTERROOT RIVER
 (BASIN 76H)**

These Findings of Fact and Conclusions of Law are issued for inclusion in the Interlocutory Decree of the Bitterroot River (Basin 76H) as authorized by §§ 3-7-224(2), 85-2-231, MCA. The Bitterroot River (Basin 76H) previously was divided into four subbasins – the Mainstem (Basin 76HA), the North End (Basin 76HB), the South End (Basin 76HE), and the West Side (Basin 76HF). This division was intended to more efficiently adjudicate the historical water rights in the Bitterroot River Basin 76H. This Interlocutory Decree includes all of the subbasins.

FINDINGS OF FACT

DESCRIPTION OF BASIN

1. Basin 76H encompasses the Bitterroot River and its tributaries as well as groundwater located within the basin, including all previously designated subbasins. The basin includes Ravalli County and a portion of Missoula County. The boundaries of Basin 76H are outlined on the attached map.

2. The Water Court previously issued the Preliminary Decree of the Bitterroot River, Mainstem (Basin 76HA) on December 4, 2015. The Temporary Preliminary Decree of the Bitterroot River, North End (Basin 76HB) was issued on September 16, 1992. The Temporary Preliminary Decree of the Bitterroot River, South End (Basin 76HE) was issued on May 25, 1994. The Preliminary Decree of the Bitterroot River, West Side (Basin 76HF) was issued on January 14, 1998. The claims included in each of these prior decrees were examined by the Department of Natural Resources and Conservation (“DNRC”). Objections filed to claims in the Temporary Preliminary Decrees and Preliminary Decrees and issue remarks appearing on the claims in the

Temporary Preliminary Decrees and Preliminary Decrees continue to be addressed and resolved.

3. Although this Decree includes water rights within the hydrologic boundaries of Basin 76H, 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 of the Bitterroot River, Mainstem (Basin 76HA), the Temporary Preliminary Decree of the Bitterroot River, North End (Basin 76HB), the Temporary Preliminary Decree of the Bitterroot River, South End (Basin 76HE), and the Preliminary Decree of the Bitterroot River, West Side (Basin 76HF), water rights not included in a decree involving a federal or tribal compact and not reserved by the federal government or a tribe, and any previously decreed water rights with unresolved issue remarks.

DECREE ABSTRACTS AND INDEX

4. In addition to these Findings and Conclusions, this Decree consists of abstracts for the 1,364 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

5. Copies of the Decree and six Indexes are located at the DNRC Missoula 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 (<https://dnrc.mt.gov/Water-Resources/Water-Rights/Basin-Status>).

UNRESOLVED FACTUAL AND LEGAL ISSUES

6. 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.

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 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 Bitterroot River (Basin 76H) 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 1,364 existing water rights under Montana law in Basin 76H and comprise an Interlocutory Decree in accordance with § 85-2-231, MCA, and Rule 4, W.R.Adj.R.

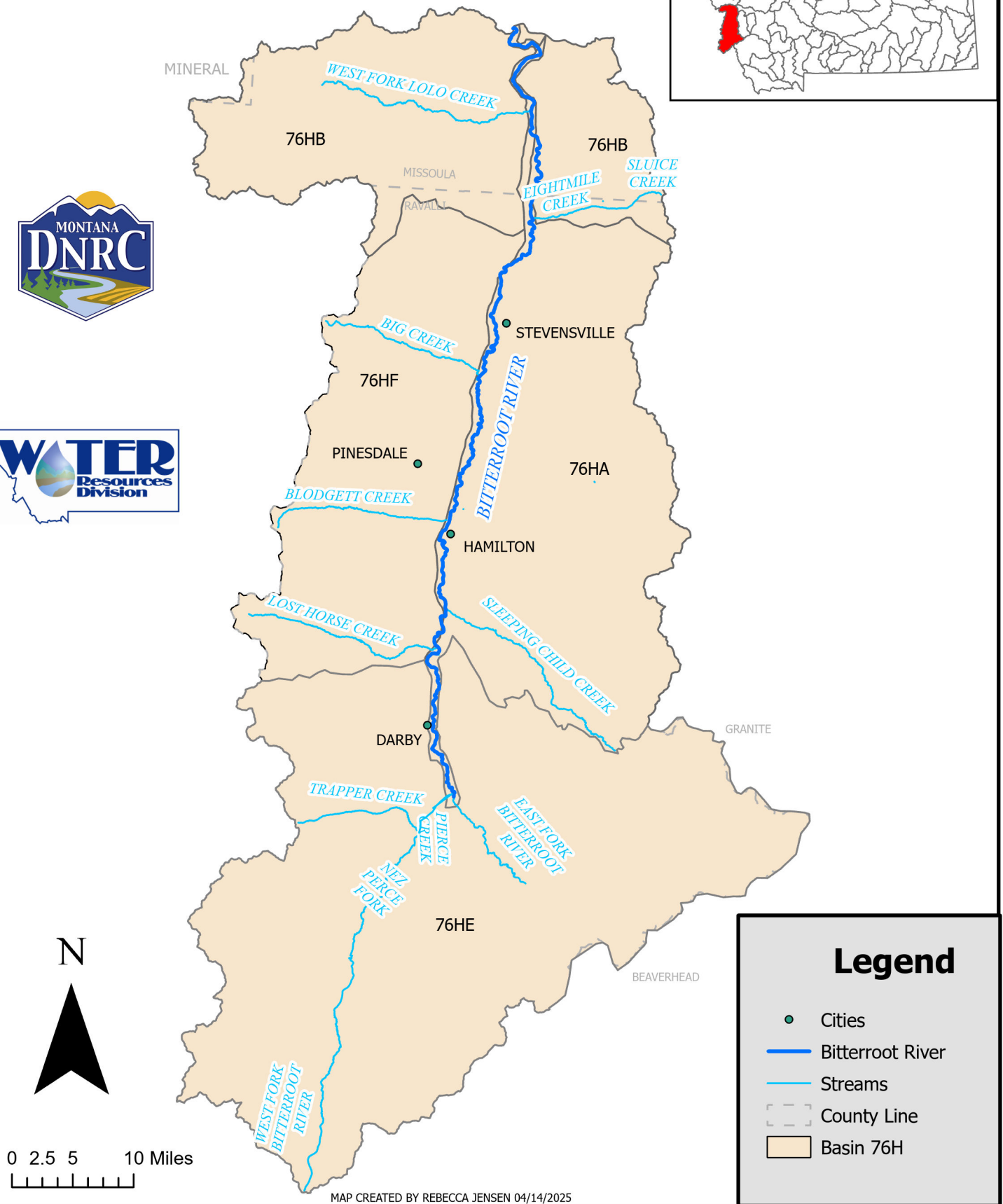
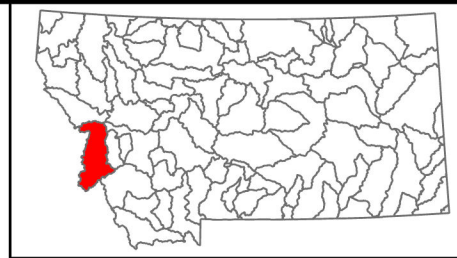
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BASIN 76H - BITTERROOT RIVER



MAP CREATED BY REBECCA JENSEN 04/14/2025