

BASIN

76C

**ORDER AND  
WATER MASTER  
REPORT**

MONTANA DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

**Memorandum**

**DNRC**

To: JIM KINDLE From: JUDY J. Date: 12-16-83

Jim:  
Attached are the acceptable lake and reservoir  
names for 76C and 76N per policy.  
Any questions?

Judy

ACCEPTABLE LAKE AND RESERVOIR NAMES FOR 76 C

LAKE NAME	OUTFLOWING STREAM
Dahl Lake	UT Pleasant Valley Creek
Island Lake	Island Creek
Lynch Lake	Island Creek
Myron Lake	UT
RESERVOIR NAME	OUTFLOWING STREAM
Pearson Reservoir	UT Pleasant Valley Fisher River

76C

IN THE WATER COURTS OF THE STATE OF MONTANA

CLARK FORK DIVISION

FISHER RIVER BASIN

\*\*\*\*\* STATE OF MONTANA Water Courts \*\*\*\*\*

IN THE MATTER OF THE ADJUDICATION OF THE EXISTING RIGHTS TO THE USE OF ALL THE WATER, BOTH SURFACE AND UNDERGROUND, WITHIN THE FISHER RIVER DRAINAGE AREA INCLUDING ALL TRIBUTARIES OF FISHER RIVER IN LINCOLN AND FLATHEAD COUNTIES, MONTANA.

I hereby certify that the instrument to which the certificate is attached is a true, correct and unaltered copy of the original on file in the office of the Clerk of the Water Courts. Witness my hand and the seal of the Water Courts of the State of Montana this 24th day of February 1984

Christie A. Jones  
Clerk of Water Courts

ORDER

After having reviewed the Water Master's Report of existing rights in the Fisher River Basin, the Court finds that the Report meets the requirements for the Temporary Preliminary Decree set forth in 85-2-231(1) MCA 1978. The Court, being satisfied with the Findings of Fact and Conclusions of Law contained in the Report, hereby

ORDERS that the Water Master's Report (attached herein) and the abstracts of the individual water rights in the Fisher River Basin be adopted as the Temporary Preliminary Decree for that Basin pursuant to Section 85-2-231(3) MCA 1978.

DATED this 23 day of Feb., 1984

W. W. LESSLEY  
Chief Water Judge  
On behalf of Robert M. Holter  
Water Judge, Clark Fork Division

IN THE WATER COURTS OF THE STATE OF MONTANA

CLARK FORK DIVISION

FISHER RIVER BASIN

\*\*\*\*\*

IN THE MATTER OF THE ADJUDICATION )  
OF THE EXISTING RIGHTS TO THE USE )  
OF ALL THE WATER, BOTH SURFACE AND )  
UNDERGROUND, WITHIN THE FISHER RIVER )  
DRAINAGE AREA, INCLUDING ALL )  
TRIBUTARIES OF THE FISHER RIVER )  
IN LINCOLN AND FLATHEAD COUNTIES, )  
MONTANA. )

Report of the Water Master on the  
Fisher River Basin

This Report is submitted to the Honorable Robert M. Holter,  
Water Judge of the Clark Fork Division of the Water Courts of  
the State of Montana, by A. Suzanne Nellen, Water Master for the  
Fisher River Basin.

FINDINGS OF FACT

1. Authority to Act

This Decree is issued by a Water Judge as authorized by  
Chapter 697, Session Laws 1979 (85-2-201) as amended.

2. Description of Basin

The Fisher River lies in Lincoln and Flathead counties.  
This northwestern corner of Montana, a tall-timbered country,  
consists of dense growths of evergreens, high alpine meadows,  
precipitous mountains and sparkling streams.

The Fisher is a tributary of the mighty Kootenai River. The  
fish and game are plentiful. A variety of game fish can be

found in the stream, including the cutthroat, whitefish, and Dolly Varden. The green forested mountains offer sanctuary to a variety of game birds and animals. The area is recognized for its natural beauty and outdoor recreation.

Lumber is the principal industry. There are a few scattered farms and cattle ranches, and some mining activity in the area. Christmas tree cutting is also another important industry.

Water is undoubtedly one of the more valuable resources. Water is stored in the heavy snows on National Forest land and is released into the river systems in warmer months, and makes significant contributions to irrigation, power production, domestic and industrial needs in the local area.

237 claims for existing water rights were filed in the Fisher River Basin.

### 3. Water Right Owner

Generally, the Court issues a water right to the appropriator, who is usually the claimant. If there is evidence that a change of ownership has occurred, the Court issues the right in the name of the new owner. If a change has occurred and the Court was not informed, the correct name can be added at a later date.

Some water rights are claimed by more than one person on separate claim forms. When both claimants insist on ownership, each is decreed the right but a remark is added to each decree noting the conflict.

#### 4. Pre-1973 Water Rights

The general adjudication of water rights is to cover rights exercised before 1973.

An existing water right includes those rights which would be protected under the law as it existed prior to July 1, 1973, pursuant to 85-2-102(7) MCA.

#### 5. Specifics of Procedure

The Court outlined and supervised the procedure of processing the claims to existing rights. A claim is examined for incomplete or inaccurate information. It is then reviewed for actual and beneficial use. The Court ordered the Department of Natural Resources and Conservation to assist in the processing of the claims.

The extent of each individual water right claim is further defined by these Findings of Fact and Conclusions of Law. Where a claimant filed two or more water rights on the same claim form, each right was separated and assigned an individual water right number. If the claim did not include all the information required by 85-2-224 MCA and the information was not available, the right was decreed within the limits of the information submitted.

The specifics of each individual claim is defined by an abstract of the water right. Each individual abstract of the claimed right includes (where possible):

- (a) The name and post office address of the owner of the right;

- (b) The amount of water, rate, and volume included in the right;
- (c) The date of priority of the right;
- (d) The purpose for which the water included in the right is used;
- (e) The place of use and a description of the land, if any, to which the right is appurtenant;
- (f) The source of water included in the right;
- (g) The place and means of diversion;
- (h) The inclusive dates during which the water is used each year;
- (i) Any other information necessary to fully define the nature and extent of the right.

#### 6. Multiple Uses of a Water Right

Usually, a water right is decreed and the uses of the right are noted. In this general adjudication, the claimants filed separate claims for each use of the water right. Special claim forms were used for irrigation, stockwatering, domestic use and a catch-all form for all other uses. As a result of this unique filing, each use of a water right will be decreed separately. Therefore, a water right might be represented by two or more decreed uses.

A remark notation of the multiple use of a water right appears in the following instances:

1. Whenever an irrigation and an "other use" are for the same water right.

2. Whenever a water right has two or more "other uses."

In all cases where any multiple use of a right occurs, the combined flow rate and volume cannot exceed the original appropriation. The use of the right for several purposes does not increase the extent of the right, rather it decrees the right to alternate and interchange the use (purpose) of the water in accord with historic practices.



#### 7. Source Name

Although some sources of surface water in the Fisher River Basin were claimed under several names, the source is generally designated in the Decree by the name listed in the United States Geological Survey. If the source has not been designated by the U.S.G.S., the source name of most common recognition in the locality has been used.

Commonly recognized reservoir and lake names will appear as source names. Those lakes and reservoirs that have no commonly recognized name are generally decreed under the name of the outflowing stream. The source name index of the Temporary Preliminary Decree cross-indexes any such source names for easy access.

When more than one source is claimed for a water right, the Court determines the major source and lists that source in the decree. If more than one source is determined to be major, a separate claim is made for the claimant.

#### 8. Priority Date

The priority date claimed is recognized as prima facie and so decreed except where it is incomplete; or it would result in a clearly erroneous interpretation of the law; or the claim's supporting documentation contradicts the claimed priority date.

Priority dates were decreed in accord with the following:

Where a claimed priority date included only a year, or a year and a month, the last day of the year and the last day of the month are decreed as the priority date.

Priority dates for groundwater rights after 1961 are

reviewed for compliance with the Groundwater Act. Priority dates are not changed if it appeared that the wrong form had been used.

If a claim to groundwater after 1961 is based on use, the priority date is decreed as the date of filing the claim to the existing right.

#### 9. Irrigation

Irrigation is a beneficial use of water. The limits of irrigation rights are guided by reliance on crop requirements and the overall efficiency of the irrigation system.

Flow Rates. Flow rates are decreed in gallons per minute (gpm) or in cubic feet per second (cfs) instead of the traditional miner's inches. Eleven gpm is equivalent to one miner's inch; forty miner's inches is equivalent to one cubic foot per second.

The flow rates of all previously decreed water rights are unchanged and issued in accord with the flow rate decreed in the original adjudication. When different claimants claimed water rights based on decrees and the total flow rate claimed between the claimants exceeded the amount on the document, a remark is entered on each decree noting those decreed uses of the earlier decreed right.

Flow rates based on a "filed notice of appropriation" or "use" right shall not exceed a reasonable application rate. A reasonable application rate for flood, sprinkling and pump systems which is in keeping with the general requirement of most

users in the Basin shall not exceed 17 gpm per acre (1.5 miner's inches). The Court has decreed all claimed flow rates of 17 gpm per acre or less on such systems. However, if the submitted documentation clearly documents a larger claimed flow rate, it was so decreed.

Water spreading, subirrigation and natural overflow and other irrigation systems not subject to quantification do not generally have a constant or consistent flow rate. The extent of the right is limited by the decreed volume. While the water rights for subirrigation and natural overflow are decreed, the owner of the right does not have a right to demand continued right of the water by these means of diversion.

Flow rates are measured at the point of diversion.

Volume. Volume is decreed in acre-feet beneficially used in one year. An acre-foot of water will cover one acre to a depth of one foot. Net crop consumption requirements are considered to be the total amount of irrigation water a crop will use during an average growing season. Water usage is dependent on the overall efficiency of the irrigation system. General maximum requirements of differing systems are outlined in the following table:

<u>Climatic Area</u>	<u>Flood Systems (diversion ditch) Volumes (AF/A)</u>	<u>Sprinkler &amp; Pumped Diversion Systems Volumes (AF/A)</u>	<u>Water Spreading Systems, Subirrigation and Natural Overflow Volumes (AF/A)</u>
I	5.7	3.8	2.3
II	5.3	3.5	2.1
III	5.0	3.3	2.0
IV	4.6	3.1	1.9
V	4.4	3.0	1.8

Climatic areas are delineated by reliance on the designation of Irrigation Guide for Montana, USDA, S.C.S., 1973.

Volumes are measured at the point of diversion.

Any claimed volume not exceeding those designated in the table are decreed as claimed. Those exceeding the volume designated in the table are reduced in accord with those standards. In any case, where the documentation clearly supports a greater amount, it was so decreed.

Place of Use.

A. Verification of Place of Use. Irrigation rights are decreed to a defined place of use. In delineating the place of use, the claim is verified by the use of aerial photographs, field investigation and data submitted by the Department of Natural Resources and Conservation and the claimant. The place of use for irrigation is accepted as claimed except when the land did not appear irrigated or irrigable.

The place of use is designated by legal land description and can be further defined by reference to the maps and referenced aerial photographs included in the Court records.

B. Supplemental Water Rights and Place of Use. In many cases, several water rights with differing priority dates or different sources are combined to supplement the irrigation requirements of all or part of the same acreage. Each water right is decreed a specific place of use, flow rate and volume. Where these rights are used jointly, the combined volume and flow rate cannot exceed the amount of water necessary for the designated beneficial use.

The water user has the right to determine the volume contribution of each source or priority up to the maximum volume.

Period of Use. Because the period of use can vary widely for each individual user, the period of use is accepted as claimed unless the claimed period of use contradicts a previously decreed or documented period of use.

If a period of use was not designated by the claimant, a period of use for irrigation claims was assigned in accord with a reasonable irrigation season for the climatic area. Those seasons are as follows:

<u>Climatic Area</u>	<u>Period of Use</u>
I	3-15 to 11-15
II	4-01 to 10-30
III	4-15 to 10-15
IV	4-20 to 10-10
V	4-25 to 10-05

Place and Means of Diversion. The place and means of diversion are designated. The place of diversion is specifically designated by legal land description.

Secondary points of diversion are noted when possible; however, the claim and the claimant's map in many cases will more specifically define the point of diversion.

When a point of diversion is found on a source other than the one claimed, the other source points of diversion are decreed when that source is determined to be an incidental part of the original source. A remark will appear with the other source points of diversion that identifies the incidental source. If the other source is not considered incidental, a

separate claim is created.

#### 10. Irrigation Districts

Some irrigation districts used their water rights on designated places of use and the right has become appurtenant to the land. In those cases, the claim is verified and decreed in accord with the criteria used for all other irrigation claims.

Where the irrigation district engaged in the sale of water or the place of use changed on a continuing basis, the claimed flow rate and volume were decreed as claimed without an attempt to verify usage.

The several rights on one claim form are identified as being supplemental. Water rights from separate sources that water the same land are identified as being supplemental.

#### 11. Domestic Use

Flow Rate. The average flow rate from a groundwater source in the State of Montana is approximately 25 gallons per minute. However, a flow rate of 40 gallons per minute is acceptable. As a result, those domestic rights with a claimed flow rate of 40 gallons per minute or less are so decreed. Where the claimed flow rate and the accompanying documentation does not substantiate a flow rate, the right is decreed a flow rate of 25 gallons per minute. When a flow rate claimed had been previously decreed, the flow rate is not changed.

Volume. A reasonable volume of water for domestic use is calculated at 1.0 acre-feet per household with an additional .5

acre-foot for each quarter acre of yard.

Flow rates and volumes are measured at the point of diversion.

Place of Use. Land irrigated as part of the domestic use is decreed as part of the place of use. If a claim for domestic use included irrigation separate from the domestic use, the irrigated land was decreed separately.

Period of Use. The period of use claimed is the period of use decreed.

## 12. Stockwater

Volume. Stockwater is a beneficial use of water. The limit of the right is based on a consumptive use of 30 gallons per day per animal unit. An animal unit is described as a cow-calf pair or equivalent. The number of animal units is in most instances limited to the reasonable carrying capacity of the area historically serviced by the water source. In those cases when historically the source is utilized more intensively, for instance in the case of a confined stockyard, the right increases based on the number of animal units. Finally, where the stockwater is impounded in a reservoir, a right to reasonable carryover for use in future years is acknowledged.

Flow Rate. The flow rates for groundwater developments for stockwatering purposes were governed by the same principles on domestic groundwater sources. Those rights involving stock drinking directly from instream surface water sources do not reflect a specific flow rate. The instream flow rate shall be

reasonable and shall not exceed the extent of the right as historically utilized.

Place of Use. Where stock drink directly from the surface water source, the point of diversion and place of use seek to show all land adjacent to the source.

#### 13. Reservoirs and Storage of Water

A storage right can exist for water that would otherwise go to waste. This right is dependent upon the lack of interference with other rights.

The right to appropriate water by storage in a reservoir is a right separate from a water right. Actual beneficial use of stored water creates a water right. The Court decrees the limits of that right.

#### 14. Other Uses

In the Fisher River Basin, claims for industrial, commercial, mining, fire protection, fish and wildlife and recreational uses were submitted.

The Court finds that no individual nor Department filed any valid instream claims for fish and wildlife and recreational instream uses.

"Murphy Rights." Section 1 of Chapter 345 of the 1969 Session Laws provided for the appropriation of water in designated streams to maintain fish and wildlife habitat. The Court subjects these rights to all prior existing rights pursuant to 89-801 RCM 1947. The flow rate and volume of these rights are



subject to change should the Court determine the waters are needed for a use determined to be more beneficial to the public.

Flow Rates. Flow rates are decreed as claimed unless the documentation accompanying the claim supported a different amount. The Court could not, however, determine a flow rate for the minimal amount necessary to sustain fishing, wildlife, recreation and navigation. Flow rates for mining, power generation and fish raceways were accepted when it is determined that the amount claimed is less than the average annual stream flow. Rates in excess of the average annual stream flow are reduced to that average rate.

Volumes. Volumes are decreed as claimed unless the documentation accompanying the claim support a different amount.

Commercial and industrial use are limited to a volume based on a twelve hour day unless documentation supports a higher volume based on an extended period of use.

Agricultural spraying was limited to a reasonable volume of five acre-feet unless documentation supported a higher volume.

Incidental Use. Many purposes, especially fish, wildlife and recreation, are incidental to another beneficial use of water. The extent of the water right for an incidental use is no more than the extent of the primary use of the water.

Non-Consumptive Use. The Court recognizes that several uses do not consume water. A remark is added to these uses declaring the use to be non-consumptive.

#### 15. Standards

Standards accepted by the Water Court can be made more accurate upon objection.

#### 16. Compacts, Federal Reservations and Filings

This Temporary Preliminary Decree allows for Compacts, compact negotiating and federal reservations to provide for the orderly administration of water rights (85-2-231 MCA). This Temporary Preliminary Decree is also subject to later amendments as to Compacts and Federal Reserved filings as set out in 85-2-217 MCA.

The integrity of Compacts and their negotiations concerning reserved water rights in National Forests will be preserved and protected. This we will do by stipulations and agreements between the Water Courts and the Federal Government.

Such stipulations and agreements will be used when needed by the Water Courts and the Federal Government during the Compact process and water adjudication.

Further, any change or changes resulting from such use of stipulation and agreement in water right adjudication will be made clear to water claimants with full notice to them with the right to object and have a full hearing if so desired by those water claimants.

The Final Decree of a Basin shall allow for, and make a part of its provision, the final agreement of the Federal Reserve rights if any, together with the final individual water claims.

Also, a Water Court Rule provides that Water Court

procedures for the issuance of this Temporary Preliminary Decree are identical with that of an ordinary Preliminary Decree.

#### 17. Terminated Claim

The Water Court takes judicial notice of water claims that have been terminated during this adjudication process.

Instances are:

1. A claim filed with the adjudication Field Office and withdrawn and terminated by the claimant because of self-confessed errors and filed anew.
2. Claims filed and then withdrawn at claimant's request.
3. Claims that appear in the abstracts of water rights as part of the Temporary Preliminary Decree because they were assigned a "number" by the Helena, Montana office, and later returned to the forwarding Field Office; and these claims have a remark on the abstract of their termination for one reason or another from the claimant. These claims are "alphabetized" and stored in the archives of the Department of Natural Resources and Conservation by the Field Offices.

The claims are printed in both decrees. The "0" prefix will tell the computer to print a statement saying, "The Court finds no right for this claim, as it has been withdrawn at the request of the claimant."

4. Claims terminated by the Field Offices and the DNRC before an Order of this Court of April 22, 1982, ordering that these claims were not to be terminated but stamped at the time of filing and processed as all other claims, even though there

was a failure of payment of fees. All claims terminated because of lack of payment will be considered specially by this Court at the time of Temporary Preliminary Decree hearings.

Based on the Findings of Fact, the Water Master makes the following:

CONCLUSIONS OF LAW

1.

This Report meets the requirements for a Temporary Preliminary Decree as required by 85-2-231 MCA 1979.

2.

For each person who claims an existing water right in this Basin, there is attached to this Temporary Preliminary Decree a statement defining the nature and extent of his claimed right, as found by the Water Court and as requested by 85-2-231 MCA and 85-2-234 MCA; these Conclusions make all these attached statements a part of this Report.

3.

All notices, all substantive and procedural requirements of court adjudication of water claims and requirements for hearing and decision have been fulfilled.

4.

The water adjudicated in this cause is a water use that is of a beneficial use and is the property of the State of Montana and for the use of these named water claimants, subject to their appropriative rights as specified in this Report.

5.

All Findings are merged with these Conclusions of Law to

give them the force of law in this Report.

DATED this 23 day of FEBRUARY, 1984.



A. SUZANNE NELLEN  
Water Master  
P.O. Box 879  
Bozeman, MT 59715



IN THE WATER COURTS OF THE STATE OF MONTANA

CLARK FORK DIVISION

FISHER RIVER BASIN

\*\*\*\*\*

IN THE MATTER OF THE ADJUDICATION )  
OF THE EXISTING RIGHTS TO THE USE )  
OF ALL THE WATER, BOTH SURFACE AND )  
UNDERGROUND, WITHIN THE FISHER )  
RIVER DRAINAGE, INCLUDING ALL )  
TRIBUTARIES OF THE FISHER RIVER IN )  
LINCOLN AND FLATHEAD COUNTIES, )  
MONTANA. )

MEMORANDUM

The command of the Legislature was to "expedite" and facilitate the adjudication of the water rights of Montana.

To assure a speedy, simple and effective program for adjudication of Montana water, there was created a specific statewide program, operated by a newly created Water Courts system, all under the supervision of the Montana Supreme Court.

The Act creating the adjudication program and its Water Courts became law May 11, 1979; immediately on June 8, 1979 the Supreme Court promulgated its rules and prescribed forms and set in motion a statewide filing of water right claims.

Meanwhile, between May 11, 1979 and June 12, 1979, Water Judges were elected. Present Water Judges are Bernard W. Thomas, Robert M. Holter and Roy C. Rodeghiero. Early in June, 1979, these Water Judges met and began supervising (under Supreme Court direction) the preparing, filing and collecting of more than 200,000 water claims in the State of Montana. These Judges met and elected Judge W. W. Lessley to act as a Chief

Water Judge to give direction and unity to their work. (In 1981 a statute amending the original Adjudication Act was passed and Lessley was appointed Chief Water Judge by Chief Justice Haswell of the Supreme Court.)

On April 30, 1982, all water claims were in under the direction of the Water Courts and clarification by field personnel began.

In early November, 1980, the first Water Master was appointed and adjudication began in two large basins of the Powder River. 10,302 water claims were adjudicated, 316 objections were filed; hearings held on 146 cases. A final decree on both basins was filed April 14, 1983, and only one appeal from all that adjudication has been filed in the Supreme Court.

Meanwhile in June, 1983, the Water Courts had the 200,000 claims computerized and in a single master computer located in Helena. The Courts are now supervising the final verification of all claims for the final computer run for all preliminary decrees.

The organization and staff of the Water Courts has grown. As directed by the Legislature, it has three Water Judges, a Chief Water Judge, three Water Masters, an engineer assigned to and actively working with the Water Courts, and two office employees skilled in office skills, word processing, docket-base computer work and skills in Water Courts procedures and forms.

The Water Courts have established their own Rules of Court, specialized forms for objections, pre-pre trial and pre-trial



procedure for water case hearings and trials; all objections are heard promptly and accurate recording machines prepare Court records and transcripts of all hearings.

In the year 1983, preliminary decrees have been issued in three Basins.

The Water Courts in 1984 will adjudicate at least fourteen Basins; there is a real possibility to adjudicate 20 Basins. Preliminary decrees in two Basins were issued in the month of January, 1984.

Specifically, 13,506 individual water claims have been clarified, verified and adjudicated by preliminary decrees as of January, 1984, with final decrees ahead.

This comprehensive Water Court program has been challenged in Federal Courts. The words of the District Federal Judges who first heard the challenge are significant. The key phrase of the evaluation of Montana's program by Chief District Judge Battin and District Judge Hatfield is: "It is clear that the adjudication contemplated by the Bill is both comprehensive and efficient." Federal Judges Battin and Hatfield spell out the specifics of the working of the Montana Water Courts in this clear and practical language:

"By enactment of the last legislature of the State of Montana, Senate Bill 76, as yet uncodified, has provided the vehicle for adjudicating claims of existing water rights in Montana. The provisions of that Bill bear heavily upon this Court's decision to dismiss these cases on the basis of wise judicial administration

In essence the Bill provides for adjudication of all existing water rights in the State of Montana. Section 6 of the Bill provides that:

(1) The action for the adjudication of all existing water rights under [this act] is commenced with the issuing of the order by the Montana Supreme Court to file a statement of a claim of an existing water right as provided in [section 16].

(2) The water judge for each division shall exercise jurisdiction over all matters concerning the determination and interpretation of existing water rights within his division

(4) All matters concerning the determination and interpretation of existing water rights shall be brought before or immediately transferred to the water judge in the proper water division unless witnesses have been sworn and testimony has been taken by a district court prior to the date of the Montana Supreme Court order as provided in [section 16].

Section 16 of the Bill provides that:

(1) The Montana Supreme Court shall within 10 days of the filing of the petition by the attorney general issue an order to file a statement of a claim of an existing water right in substantially the following form:

"WATER RIGHTS ORDER

FAILURE TO FILE A CLAIM AS REQUIRED BY LAW WILL RESULT IN A CONCLUSIVE PRESUMPTION THAT THE WATER RIGHT OR CLAIMED WATER RIGHT HAS BEEN ABANDONED . . . This order is notice of commencement of procedures for the general adjudication of existing rights to the use of water and of the requirement to file a claim for certain existing rights to the use of water. Every person, including but not limited to an individual, partnership, association, public or private corporation, city or other municipality, county, state agency of the State of Montana, and federal agency of the United States of America on its own behalf or as trustee for any Indian or Indian tribe, asserting a claim to an existing right to the use of water arising prior to July 1, 1973, is ordered to file a statement of claim to that right with the department no later than June 30, 1983 . . ."

[3] The above-cited sections reflect both the policy and the essential mechanism for adjudication of state water rights. Adjudication by adversary proceeding initiated by one claimant against all others in his drainage has been for-

saken in favor of blanket adjudication of all claims, including federal and federal trust claims, in a systematic manner. The procedure outlined in the Bill is that of: (1) filing of an order by the Supreme Court requiring the filing by all claimants of statements of each claim; (2) upon filing of all claims, submission of the claims to the water judge in the division or district in which the claimed water is diverted; (3) through utilization of special masters, the rendering, by the water judge, on the basis of the filed claims, of a preliminary decree of water right; (4) after passage of time without objection to the preliminary decree, entry of a final decree of water right which is binding upon all parties; (5) if objection is timely taken by the claimant to the preliminary decree, judicial determination of the right, but without the necessity of joining all users in the claimant's drainage.

And the Court concludes:

As the general adjudication has been initiated by recent order of the Montana Supreme Court, it would seem that the greater wisdom lies in following Colorado River, and on the basis of wise judicial administration, deferring to the comprehensive state proceedings. The federal proceedings are all in their infancy; service of process has been but recently completed. The state adjudication is thorough, as opposed to the piecemeal proceedings initiated by the Government. There is no jurisdictional question preliminarily attending the state adjudication; all such questions have been eliminated by the McCarran Amendment. The state forum will likely be more convenient, geographically, than the federal forum.

The original hearing before the 9th Circuit carried the minority opinion of Circuit Judge Merrill. His statements are significant as bearing on the need and practicality of the Montana Water Courts operation:

I agree with the district court. Water adjudication is essentially a local concern, and in every western state water scarcity poses a problem not just to Indians but to everyone. In

my view, it is highly important that each state be accorded room for an effort to solve its water scarcity problem in the manner it regards as most appropriate. Here so long as Montana gives recognition to Indian water rights and their establishment pursuant to federal law, I see no good reason why Indians shouldn't be joined with other water users in the state in order to achieve a comprehensive state adjudication.

Finally, the federal law on the Montana Water Courts, as spoken by the Supreme Court of the United States, through Justice Brennan for the Majority:

In light of this history, the parties in this case have engaged in a vigorous debate as to the exact meaning and significance of the Arizona and Montana Enabling Acts.<sup>14</sup> We need not resolve that debate, however, nor need we resort to the more general doctrines that have developed to chart the limits of state authority over Indians, because we are convinced that, whatever limitation the Enabling Acts or federal policy may have originally placed on state court jurisdiction over Indian water rights, those limitations were removed by the McCarran Amendment.<sup>15</sup>

And on specific problems of Indian rights and federal reservations vis-a-vis Montana State program by adjudication, the Justice continued:

But the most important consideration in Colorado River, and the most important consideration in any federal water suit concurrent to a comprehensive state proceeding, must be the "policy underlying the McCarran Amendment," 424 U.S., at 820; see Moses H. Cone Hospital, supra, at \_\_\_\_\_, and, despite the strong arguments raised by the respondents, we cannot conclude that water rights suits brought by Indians and seeking adjudication only of Indian rights should be excepted from the application of that policy or from the general principles set out in Colorado River.

Even more important is Justice Brennan's clear approval of what the Montana Water Courts can do:

. . . assuming that the state adjudications are adequate to quantify the rights at issue in the federal suits,<sup>20</sup> and taking into account the McCarran Amendment policies we have just discussed, the expertise and administrative machinery available to the state courts, the infancy of the federal suits, the general judicial bias against piecemeal litigation, and the convenience to the parties, we must conclude that the District Courts were correct in deferring to the state proceedings.<sup>21</sup>

We here at the Montana Water Courts know the Justice is not retreating from general principles of Indian rights, and federal reservations. In these words he makes the understanding clear:

Nothing we say today should be understood to represent even the slightest retreat from the general proposition we expressed so recently in New Mexico v. Mescalero Apache Tribe, ante, at \_\_\_\_\_, (1983): "Because of their sovereign status, [Indian] tribes and their reservation lands are insulated in some respects by an 'historic immunity from state and local control,' Mescalero Apache Tribe v. Jones, 411 U.S. 145, 152 (1973), and tribes retain any aspect of their historical sovereignty not 'inconsistent with the overriding interests of the National Government.' Washington v. Confederated Tribes, [447 U.S. 134, 153 (1980)]." Nor should we be understood to retreat from the general proposition, expressed in Colorado River, that federal courts have a "virtually unflagging obligation. . . to exercise the jurisdiction given them." 424 U.S., at 817. See generally Moses H. Cone Hospital, supra, at \_\_\_\_\_. But water rights adjudication is a virtually unique type of proceeding, and the McCarran Amendment is a virtually unique federal statute, and we cannot in this contract be guided by general propositions.

Further:

We also emphasize, as we did in Colorado River, that our decision in no way changes the substantive law by which Indian rights in state water adjudication must be judged. State courts, as much as federal courts, have a solemn obligation to follow federal law. Moreover, any state court decision alleged to abridge Indian water rights protected by federal law can expect to receive, if brought for review before this Court, a particularized and exacting scrutiny commensurate with the powerful federal interest in safeguarding those rights from state encroachment.

The Act creating the Water Courts and its jurisdiction and its operation meets the caveats of Justice Brennan's opinion. This is evident in the careful adjustment of the general adjudication process to special problems of Indian and federal reserved rights.

85-2-701. Legislative intent. Because the water and water rights within each water division are interrelated, it is the intent of the legislature to conduct unified proceedings for the general adjudication of existing water rights under the Montana Water Use Act. Therefore, it is the intent of the legislature that the attorney general's petition required in 85-2-211 include all claimants of reserved Indian water rights as necessary and indispensable parties under authority granted the state by 43 USC 666. However, it is further intended that the state of Montana proceed under the provisions of this part in an effort to conclude compacts for the equitable division and apportionment of waters between the state and its people and the several Indian tribes claiming reserved water rights within the state.

85-2-702. Negotiation with Indian tribes. (1) The reserved water rights compact commission, created by 2-15-212, may negotiate with the Indian tribes or their authorized representatives jointly or severally to conclude compacts under 85-2-701. Compact proceedings shall be commenced by the commission. The commission shall serve by

certified mail directed to the governing body of each tribe a written request for the initiation of negotiations under this part and a request for the designation of an authorized representative of the tribe to conduct compact negotiations. Upon receipt of such written designation from the governing body of a tribe, compact negotiations shall be considered to have commenced.

(2) When the compact commission and the Indian tribes or their authorized representatives have agreed to a compact, they shall sign a copy and file an original copy with the department of state of the United States of America and copies with the secretary of the state of Montana and with the governing body for the tribe involved. The compact is effective and binding upon all parties upon ratification by the legislature of Montana, any affected tribal governing body, and the congress of the United States.

(3) Upon its approval by the Montana legislature and the tribe or federal agency, the terms of a compact must be included in the preliminary decree as provided by 85-2-231. However, if approval of the state legislature and tribe or federal agency has not been accomplished by July 1, 1985, all federal and Indian claims for reserved water rights that have not been resolved by a compact must be filed with the department within 60 days. These new filings shall be used in the formulation of the preliminary decree and shall be given treatment similar to that given to all other filings.

85-2-703. Negotiation with federal government. The compact commission may also enter into separate negotiations with the federal government for the conclusion of compacts concerning the equitable division and apportionment of water between the state and its people and the federal government claiming non-Indian reserved waters within the state. The terms and conditions of such negotiations shall be the same as provided in this section for negotiations with Indian tribes.

85-2-704. Termination of negotiations. The commission or any other party to the negotiations may terminate negotiations by providing notice to all parties 30 days in advance of the termination date. On the termination date, the suspension of the application of part 2 provided for in 85-2-217 shall also terminate. The tribe or federal agency shall file all of the claims for reserved rights within 60 days of the termination of negotiations.

A strict construction of the language used in 85-2-231(d) which states, "The preliminary decree shall be issued within 90 days after the close of the special filing period.", read together with 85-2-270(3), which says that the reserved rights not resolved by an approved compact "must be filed" and "shall be used in the formulation of a preliminary decree" indicates that either approved compacts or filed claims are technically necessary to issue a preliminary decree. However, this strict construction of the legislation could frustrate the clear legislative purpose underlying SB76, which is to "expedite and facilitate" the general adjudication of water rights, by slowing the adjudication process.

The Legislature has authorized the use of an interlocutory decree or "other temporary decrees" prior to the issuance of a preliminary decree when it is needed for "the orderly administration of water rights," 85-2-231. The inclusion of this procedure supports the argument that a preliminary decree should not be issued lacking an approved compact or filed reserved right claims. On the other hand, it also supports the argument that the Court should proceed expeditiously to adjudicate basins even though the extent and quantity of federal reserved right claims is undetermined or unknown.

After close study of the language pertaining to preliminary decrees in the Water Use Act, we should conclude that 85-2-231 technically requires inclusion of approved compacts or filed claims for reserved rights. But as a practical matter it is insignificant whether the decree is called a preliminary or a



temporary decree if they both do the same thing. Furthermore, if both decrees have the same legal effect, the use of the normal procedure, which involves issuance of a preliminary decree, makes sense because it is consistent with the general adjudication procedures established by the Legislature and the Water Courts, and, therefore best serves the orderly administration of water rights.

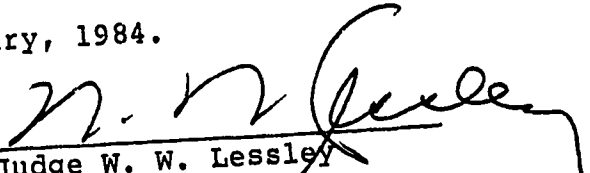
The Compact Commission is organized; is working; is talking with the Indian tribes concerning compacts on their water. The Compact Commission is attempting to secure talks with the Forest Service.

All of this procedure is considered by the Water Courts because in the words of the law, ". . . the water and water rights within each water division are interrelated, it is the intent of the legislature to conduct unified proceedings for the general adjudication of existing water rights. . ."

And so the Water Courts Rule of Court No. 10 and its findings of fact on compacts and federal reservations meet the requirement for unified proceedings. And in some extreme cases to meet what the words of the statute call "the orderly administration of water rights prior to the issuance of a preliminary decree" the Water Court can use an "interlocutory" or "temporary" decree.

In any event, the statewide unified adjudication of water goes on.

DATED this 9th day of February, 1984.

  
Judge W. W. Lessley  
Chief Water Judge  
P.O. Box 879  
Bozeman, MT 59715

76 C

IN THE WATER COURTS OF THE STATE OF MONTANA  
CLARK FORK DIVISION  
FISHER RIVER BASIN

\*\*\*\*\*

NOTICE OF ENTRY OF TEMPORARY PRELIMINARY DECREE  
AND NOTICE OF AVAILABILITY

Since you have filed a claim for a water right existing before July 1, 1973, we are sending with this Notice your abstract of your claim entered on the Fisher River Basin.

However, if you received a certificate or applied for a "water use permit to appropriate" or reserve water under the 1973 Water Use Act do not expect to receive an abstract of your claim.

This Notice is being sent to others as required in 85-2-232 MCA.

What is a Temporary Preliminary Decree?

A Temporary Preliminary Decree decides the water rights in the Fisher River Basin and lists those water rights.

If you don't agree with what it decides as to your right or any other water right which may affect your water right claims, you may file an objection, request a hearing and the Water Courts will hear it.

IF A RIGHT IS NOT OBJECTED TO, IT SHALL REMAIN UNCHANGED AND BE ENTERED IN THE FINAL DECREE.

How You File an Objection and Request a Hearing

AN OBJECTION MUST BE FILED PURSUANT TO WATER COURTS RULE #6 AND ON THE FORMS PROVIDED BY THE WATER COURTS.

ALL OBJECTIONS MUST BE FILED AND RECEIVED BY THE 4th DAY OF June, 1984. Objections must be sent to the Montana Water Courts, P.O. Box 879, Bozeman, MT 59715.

Can You Get an Extension?

Extension for filing objections may be granted by the Water Judge. Requests must be received by the Water Courts on or before the 4th day of June 1984. USE THE FORM FURNISHED BY THE WATER COURTS AND FOLLOW WATER COURT RULE #7.

Where You Can See or Get the Temporary Preliminary Decree for the Fisher River Basin

See it at:

1. Water Courts Office, P.O. Box 879, 601 Haggerty Lane, Bozeman, MT 59715
2. Department of Natural Resources, Water Rights Bureau, 32 South Ewing, Helena, MT 59620
3. Department of Natural Resources Field Office, P.O. Box 860, 3220 Highway 93 S., Kalispell, MT 59903.
4. Clerk of the District Court, Flathead County, Kalispell, MT 59903.

(Over Please)

76C

5. Clerk and Recorder's Office, Flathead County, Kalispell, MT 59903.
6. Clerk of the District Court, Lincoln County, Libby, MT 59923.
7. Clerk and Recorder's Office, Lincoln County, Libby, MT 59923.

Microfilm of the existing water rights claimed and the abstract as reviewed by DNRC at:

1. Water Courts Office, P.O. Box 879, 601 Haggerty Lane, Bozeman, MT 59715
2. Department of Natural Resources, Water Rights Bureau, 32 South Ewing, Helena, MT 59620
3. Department of Natural Resources Field Office, P.O. Box 860, 3220 Highway 93 S., Kalispell, MT 59903.
4. Clerk of the District Court, Lincoln Co., Libby, MT 59923.

You can buy a copy of the Temporary Preliminary Decree at the Department of Natural Resources, Water Rights Bureau, 32 South Ewing, Helena, MT 59620.  
Any questions? Call the Water Courts Office at (406) 586-4364.

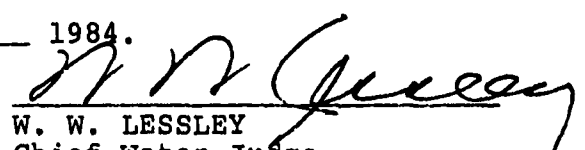
After Objections are Filed

After the time for filing objections has passed, the Water Courts will notify each party named in the Decree that hearings have been requested and set a date for all interested parties to notify the Water Courts of their intent to participate in any of those hearings.

THE WATER COURT RULES AND FORMS CAN BE FOUND AT THE OFFICES LISTED BELOW:

1. Water Courts Office, P.O. Box 879, 601 Haggerty Lane, Bozeman, MT 59715
2. Clerk of the District Court, Flathead Co., Kalispell, MT 59903.
3. Clerk of the District Court, Lincoln Co., Libby, MT 59923.

DATED this 28th day of February, 1984.

  
W. W. LESSLEY  
Chief Water Judge

BASIN 76C

**ACCEPTABLE LAKE AND  
RESERVOIR NAMES**

ACCEPTABLE LAKE AND RESERVOIR NAMES FOR 76 C

LAKE NAME	OUTFLOWING STREAM
Dahl Lake	UT Pleasant Valley Creek
Island Lake	Island Creek
Lynch Lake	Island Creek
Myron Lake	UT

RESERVOIR NAME	OUTFLOWING STREAM
Pearson Reservoir	UT Pleasant Valley Fisher River

**BASIN** 76C

**CERTIFICATE  
OF MAILING**

DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION  
WATER RESOURCES DIVISION



TED SCHWINDEN, GOVERNOR

32 SOUTH EWING

STATE OF MONTANA

HELENA, MONTANA 59620

(406) 444-6603 ADMINISTRATOR  
(406) 444-6646 ENGINEERING BUREAU  
(406) 444-6688 WATER DEVELOPMENT BUREAU  
(406) 444-6601 WATER MANAGEMENT BUREAU  
(406) 444-6610 WATER RIGHTS BUREAU

May 14, 1984

Ms Chris Jenson  
Water Courts  
Box 879  
Bozeman, MT 59715

Dear Chris:

Enclosed is the certificate of mailing for the Fisher River Basin (Basin 76C). This mailing was completed February 28, 1984.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim".

Jim Kindle  
Records Section Supervisor  
Water Rights Bureau

Enclosure  
JK/jg

publinter & graph

AN EQUAL OPPORTUNITY EMPLOYER



FISHER RIVER BASIN (Basin 76C)

CERTIFICATE OF MAILING

The Notice of Entry of Temporary Preliminary Decree and Notice of Availability  
for the Fisher River Basin (Basin 76C)

\*\*\*\*\*

State of Montana                    )  
  ; SS.  
County of Lewis and Clark        )

I, JAMES E. KINDLE, Records Supervisor for the Water Resources  
Division of the Department of Natural Resources and Conservation of the State  
of Montana, hereby certify that:

A. The Notice of Entry of Temporary Preliminary Decree, Notice of  
Availability, and abstracts showing dispositions of each person filing a claim  
for the Fisher River Basin (Basin 76C) has been placed in the United States  
Mail, postage prepaid and addressed to each party as per the records of the  
Water Rights Bureau, Department of Natural Resources and Conservation, February  
28, 1984.

B. The Notice of Entry of Temporary Preliminary Decree and Notice of  
Availability for the Fisher River Basin (Basin 76C) has been placed in the  
United States Mail, postage prepaid and addressed to each party as per the  
records of the Water Rights Bureau, Department of Natural Resources and  
Conservation, February 28, 1984 for (1) all parties in the Fisher River issued  
permits for water use in that Basin pursuant to 85-2-301 MCA 1978 or their  
successor in interest, if known; (2) all parties who have applied for permits  
for use of water in the Fisher River Basin pursuant to 85-2-301 MCA 1978;

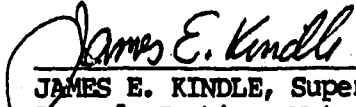
(3) all parties who have been granted a reservation in the Fisher River Basin pursuant to 85-2-316 MCA 1978; (4) all parties in the Fisher River Basin who have received certificates of water rights pursuant to 85-2-306 MCA 1978 for wells under 100 gallons per minute; (5) all federal land management agencies in the Clark Fork Water Division; (6) all Indian Tribes in the Clark Fork Water Division; (7) all neighboring states of the Clark Fork Water Division; (8) the County Clerk of Court and Clerk and Recorder of Flathead, and Lincoln Counties, Montana; (9) any other persons who have requested service of notice from the Water Judge.

C. The Department of Natural Resources and Conservation sent to the Clerk of Court and Clerk and Recorder of Flathead, and Lincoln Counties entire copies of the Temporary Preliminary Decree for the Fisher River Basin and indexes thereto.

D. The Department of Natural Resources and Conservation sent to the Clerk of Court of Lincoln County (Libby, MT) microfilm copies of prima facie claims and Department records for all claims submitted in the Fisher River Basin.

This mailing and distribution was made under my direction and control on February 28, 1984.


Dated this 14<sup>th</sup> day of MAY, 1984.

  
\_\_\_\_\_  
JAMES E. KINDLE, Supervisor  
Records Section, Water Rights Bureau  
Water Resources Division  
Department of Natural Resources and  
Conservation  
State of Montana

State of Montana )  
: ss.  
County of Lewis & Clark)

On this 14 day of MAY, 1984, before me, a Notary Public in and for said state, personally appeared James E. Kindle, known to me to be a Supervisor for the Water Resources Division of the Department of Natural Resources and Conservation, and acknowledges to me that he, in his official capacity, executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal, the day and year in this certificate first above written.

  
John P. Gibson  
Notary Public for the State of Montana  
Residing at Helena  
My Commission expires 1.21.1987

NOTICE TO INTERESTED PARTIES

BASIN 76C

(5)

All Federal Land Management Agencies in the Clark Fork Division

Area Director  
U.S.D.A. Forest Service  
Federal Building  
Missoula, MT 59807

Director  
Bureau of Land Management  
P.O. Box 36800  
Billings, MT 59107

Division Engineer  
U.S. Army Corps of Engineers  
P.O. Box 103  
Downtown Station  
Omaha, NE 68101

Regional Director  
Bureau of Reclamation  
316 N. 26th Street  
Room 3035  
Billings, MT 59101

Soil Conservation Service  
10 West Babcock  
Room 443, Federal Building  
Bozeman, MT 59715

(6)

All Neighboring States of the Clark Fork Water Division

Director  
Department of Water Resources  
State Office, 450 West State Street  
Boise, ID 83720

(7)

All Indian Tribes in the Clark Fork Water Division

Mr. Tom Pablo  
Tribal Chairman  
Salish-Kootenai Tribes  
Pablo, MT 59855

Dr. Alonzo Spang  
Superintendent  
P.O. Box A  
Ronan, MT 59864

(8)

County Officials

Mr. John Van  
Clerk of Court  
P.O. Box 897  
Kalispell, MT 59901

Mrs. Iris Hindman  
Clerk and Recorder  
Flathead County Courthouse  
Kalispell, MT 59901

(8) Continued

Mr. Elliott Holder  
Clerk of Court  
Lincoln County Courthouse  
Libby, MT 59923

Ms. Janet Siegel  
Clerk and Recorder  
Lincoln County Courthouse  
Libby, MT 59923

(9)

Other Interested Parties

Department of Natural Resources  
Field Office  
P.O. Box 860  
Kalispell, MT 59903

John C. Chaffin  
Department of Interior  
SOL/DER/6045  
18th and C Streets NW  
Washington, D.C. 20240

Pat Barry  
Indian Resource Section  
Land and Natural Resources Div.  
U.S. Dept. of Justice  
10th & Pennsylvania Ave. NW  
Washington, D.C. 20530

Regional Engineer  
U.S. Fish and Wildlife Service  
P.O. Box 25486  
Denver Federal Center  
Denver, CO 80225

U.S. Attorney General  
Department of Justice Building  
Washington, D.C. 20530

U.S. Attorney  
Federal Building  
Missoula, MT 59801

Field Solicitor  
Room 5931  
Federal Building  
Billings, MT 59103

Aaron Hostyk  
U.S. Army Engineer District  
Omaha  
Corps of Engineers  
6014 U.S. Post Office &  
Courthouse  
Omaha, NE 68102

G. Steven Brown  
Attorney for Montana  
State Department of  
Fish, Wildlife & Parks  
1313 11th Avenue  
Helena, MT 59601





PRELIMINARY DECREE ON FISHER RIVER  
BASIN 76C

\*\*\*\* OWNER LIST \*\*\*\*

BERSCHAM ENERGY & MINERALS INC  
1025 PRIMROSE ST  
RENO NV 89509

BIG MEADOWS GRAZING ASSOC  
STAR RT  
MARION MT 59225

BUCKNER HEDWIG  
STAR RT 1  
LIBBY MT 59923

BUCKNER WILEY  
STAR RT 1  
LIBBY MT 59923

BURLINGTON NORTHERN RAILROAD CO  
1ST NW BANK BLDG  
10TH FLOOR SUITE 1003  
BILLINGS MT 59101

BURLINGTON NORTHERN RAILROAD CO  
175 N 27TH ST  
1003 1ST NORTHWESTERN BNK BLDG  
BILLINGS MT 59101

CATE & OMEA  
13056 HWY 2 W  
MARION MT 59925

CHAMPION INTERNATIONAL CORP  
PO BOX 8  
MILLTOWN MT 59851

CHURCH MARGARET C  
505 MINERAL AVE  
LIBBY MT 59923

CHURCH UNIVERSAL LIFE CHARTER #38629  
% C E CROCKER  
505 MINERAL AVE  
LIBBY MT 59923

CLARK HERB W  
LOST TRAIL RANCH  
6900 PLEASANT VALLEY RD  
MARION MT 59925



PRELIMINARY DECREE ON FISHER RIVER  
BASIN 76C

\*\*\*\* OWNER LIST \*\*\*\*

CREON STAR RT 1 LIBBY	ELEANOR MT	A 59923
DASIOS PO BOX TROY	SOTIRIOS MT	59935
DEJONG MARION	LOUIS MT	59925
DENNY 250 HART HILL DR KALISPELL	WILLIAM MT	59901
DREW PO BOX 565 LAGRANDE	LAWRENCE OR	97850
FENNESSY 505 MINERAL AVE LIBBY	J MT	F 59923
FRENCH 1999 JOSHUA TREE PLACE PALM SPRINGS	JACK CA	B 92262
HALL 250 HART HILL DR KALISPELL	RAY MT	E 59901
HANLEY RT 3 BOX 773 LIBBY	RITA MT	Z 59923
HANLEY RT 3 BOX 773 LIBBY	WILLIAM MT	R 59923
HANSON 16 7TH AVE W KALISPELL	BARBARA MT	M 59901

PRELIMINARY DECREE ON FISHER RIVER  
BASIN 76C

\*\*\*\* OWNER LIST \*\*\*\*

HANSON 16 7TH AVE W KALISPELL	GARY	MT	K 59901
HARDY 9800 LOST PRAIRIE RD MARION	BRENDA	MT	J 59925
HARDY 9800 LOST PRAIRIE RD MARION	C WORDEN	MT	59925
HEINLEIN PO BOX 722 LIBBY	BILL	MT	B 59923
HEINLEIN PO BOX 722 LIBBY	DOROTHY	MT	A 59923
HONTHAAS STAR RT 1 LIBBY	DOUGLAS	MT	A 59923
HONTHAAS STAR RT 1 LIBBY	VERONICA	MT	J 59923
INGRAHAM STAR RT 1 LIBBY	DONALD		E 59923
INGRAHAM KOOTENAI VISTA TROY	ELMER	MT	H 59935
INGRAHAM STAR RT 1 LIBBY	ELMER	MT	H 59923
JACOBSEN, JR PO BOX 605 SHAFTER	ROLF	CA	A 93263

PRELIMINARY DECREE ON FISHER RIVER  
BASIN 76C

\*\*\*\* OWNER LIST \*\*\*\*

JACOBSON, JR BOX 605 SHAFTER	ROLF	A	CA	93263
KENELTY RT 1 BOX 987A LIBBY	GERALD	G	MT	59923
KENELTY RT 1 BOX 987A LIBBY	MARILYN	J	MT	59923
KENELTY RT 1 BOX 987A LIBBY	MARYLIN	J	MT	59923
KENELTY STAR RT 1 LIBBY	RICHARD	H	MT	59923
KLEHM 40 MEADOWLARK DR KALISPELL	DAVID	S	MT	59901
KLEHM 40 MEADOWLARK DR KALISPELL	NANCY	G	MT	59901
KRAFT BOX 695 COUER D'ALENE	JAMES	K	ID	83814
LAHNER 6295 PLEASANT VALLEY RD MARION	PHILLIP	H	MT	59925
LINDGREN STAR RT 1 LIBBY	DORIS	E	MT	59923
LINDGREN STAR RT 1 LIBBY	RALPH	T	MT	59923

PRELIMINARY DECREE ON FISHER RIVER  
BASIN 76C

\*\*\*\* OWNER LIST \*\*\*\*

LINDSLEY RR 1 BOX 157 LAWRENCE	OGDEN	R	KS	66044
LOUDEN 9998 LOST PRAIRIE RD MARION	BETTY	E	MT	59925
LOUDEN 9998 LOST PRAIRIE RD MARION	JACOB	R	MT	59925
MARINER 8425 LOST PRAIRIE RD MARION	CHRISTY	L	MT	59925
MARINER 8425 LOST PRAIRIE RD MARION	DUNCAN	L	MT	59925
MCCLEARY DIAMOND BAR RANCH STAR RT 1 LIBBY	DENNIS	M	MT	59923
MCCLEARY DIAMOND BAR RANCH STAR RT 1 LIBBY	DENNIS	M	MT	59923
MCCLEARY DIAMOND BAR RANCH STAR RT 1 LIBBY	JAMES	E	MT	59923
MCCLEARY DIAMOND BAR RANCH STAR RT 1 LIBBY	RICHARD	J	MT	59923
MCCLEARY DIAMOND BAR RANCH STAR RT 1 LIBBY	RICHARD	J	MT	59923
MONK BOX 938 MARION	AUSTIN	J	MT	59925

PRELIMINARY DECREE ON FISHER RIVER  
BASIN 76C

\*\*\*\* OWNER LIST \*\*\*\*

●	MONK	LADONA		
●	8195 PLEASANT VALLEY RD		MT	59925
●	MARION			
●	MONK	MILDRED	I	
●	BOX 938		MT	59925
●	MARION			
●	MONK	MILDRED	S	
○	BOX 938		MT	59925
○	MARION			
○	MONK	ROBERT	L	
○	8195 PLEASANT VALLEY RD		MT	59925
○	MARION			
○	MONTANA, STATE OF BOARD OF LAND COMMISSIONER			
○	DEPARTMENT OF STATE LANDS			
○	CAPITOL STATION		MT	59620
○	HELENA			
○	MONTANA, STATE OF BOARD OF LAND COMMISSIONER			
○	FORESTRY DIVISION			
○	2705 SPURGIN RD		MT	59801
○	MISSOULA			
○	MONTANA, STATE OF BOARD OF LAND COMMISSIONER			
○	FORESTRY DIVISION			
○	2705 SPURGIN ROAD		MT	59801
○	MISSOULA			
○	MONTANA, STATE OF DEPT OF HIGHWAYS			
○	2701 PROSPECT		MT	59620
○	HELENA			
○	NEILS	GERALD	T	
○	860 OREGON		ID	83330
○	GOODING			
○	NEILS	LEANNE	T	
○	860 OREGON		ID	83330
○	GOODING			
○	NOVY	LOWELL	L	
○	1445 E LOS ANGELES		CA	93065
○	SIMI			

PRELIMINARY DECREE ON FISHER RIVER  
BASIN 76C

\*\*\*\* OWNER LIST \*\*\*\*

NOVY 1445 E LOS ANGELES AVE SIMI VALLEY	LOWELL	L	CA	93065
PARKISON STAR ROUTE 1 LIBBY	ALICE	J	MT	59923
PARKISON STAR ROUTE 1 LIBBY	BERT	E	MT	59923
PENTTILA STAR RT 1 LIBBY	HENNING	E	MT	59923
PENTTILA STAR RT 1 LIBBY	HERMAN	R	MT	59923
PENTTILA STAR RT 1 LIBBY	SUZANNE	M	MT	59923
PUGH STAR RT 1 LIBBY	DELMAR	L	MT	59923
PUGH STAR RT 1 LIBBY	SALLY	J	MT	59923
RAINWATER 2330 GREEN ACRES DR VISALIA	ALICE	M	CA	93277
RAINWATER 2330 GREEN ACRES DR VISALIA	HAROLD	G	CA	93277
RAINWATER FAMILY TRUST X HAROLD RAINWATER 2330 GREEN ACRES DR VISALIA			CA	93277

PRELIMINARY DECREE ON FISHER RIVER  
BASIN 76C

\*\*\*\* OWNER LIST \*\*\*\*

RICHARDSON 1601 RONALD MISSOULA	SHARON MT	L 59801
RYNNE 2 C E CROCKER 505 MINERAL AVE LIBBY	MICHAEL MT	59923
SCHMIDT PO BOX 605 SHAFTER	CLARENCE CA	R 93263
SCHNEIDER STAR RT 1 BOX 68 LIBBY	JAMES MT	C 59923
SCHNEIDER STAR RT 1 LIBBY	VICKI MT	L 59923
SCHWARTZ LOST PRAIRIE RD MARION	ANN MT	M 59925
SPOWART 2390 JUNIPER AVE BOULDER	MICHAEL CO	P 80302
SPOWART 2390 JUNIPER AVE BOULDER	RICHARD CO	P 80302
SWITZER RIDIN P RANCH STAR RT 1 LIBBY	HEIDY MT	59923
SWITZER RIDIN P RANCH STAR RT 1 LIBBY	MICHAEL MT	J 59923
TESSARI LOST TRAIL RANCH 6900 PLEASANT VALLEY P MARION	JOHN MT	A 5 25

PRELIMINARY DECREE ON FISHER RIVER  
BASIN 76C

\*\*\*\* OWNER LIST \*\*\*\*

TODD 116 5TH AVE E KALISPELL	JAMES	M	MT	59901
UITHOF 505 MINERAL AVE LIBBY	AL	H	MT	59923
US DEPT OF AGRICULTURE FOREST SERVICE REGION 1 PO BOX 7669 MISSOULA			MT	59807
WADE STAR RT 1 LIBBY	C (MRS)	W	MT	59923
WALTERS 215 W SPRINGCREEK DR KALISPELL	RICHARD	G	MT	59901
WAYLETT STAR RT 1 LIBBY	HARRY	K	MT	59923
WAYLETT STAR RT 1 LIBBY	NELLIE	C	MT	59923
1031 INC BOX 835 WHITEFISH			MT	59937



BASIN

76C

**WATER COURT ORDERS  
AND CORRESPONDENCE  
PRELIMINARY DECREE**

76C



MONTANA WATER COURTS  
STATE OF MONTANA

WATER JUDGES:

Upper Missouri River Basin  
Chief Judge W. W. Lesley  
P.O. Box 879  
Bozeman, MT 59715

Lower Missouri River Basin  
Judge Bernard W. Thomas  
P.O. Box 938  
Chinook, MT 59523

Clerk Fork River Basin  
Judge Robert M. Holter  
Lincoln County Courthouse  
Libby, MT 59923

Yellowstone River Basin  
Judge Roy C. Rodeghiero  
P.O. Box 448  
Roundup, MT 59072

January 25, 1984

RECEIVED

JAN 26 1984

MONTANA DEPT. OF NATURAL  
RESOURCES & CONSERVATION

Jim Kindle  
Records Section  
Department of Natural Resources  
32 South Ewing  
Helena, MT 59620

Re: Basins 76C, 76D, 76E, and 76GJ

Dear Jim:

Enclosed are signed copies of the Orders  
directing DNRC to mail the notices of availability  
in the above named basins.

Please call if you have questions.

Sincerely,

*Chris*  
Chris Jensen  
Clerk

caj  
encls.

IN THE WATER COURTS OF THE STATE OF MONTANA

CLARK FORK DIVISION - FISHER RIVER BASIN

\* \* \* \* \*

IN THE MATTER OF THE ADJUDICATION )  
OF THE EXISTING RIGHTS TO THE USE )  
OF ALL THE WATER, BOTH SURFACE AND )  
UNDERGROUND, WITHIN THE FISHER )  
RIVER DRAINAGE AREA, INCLUDING ALL )  
TRIBUTARIES OF THE FISHER RIVER IN )  
LINCOLN AND FLATHEAD COUNTIES, )  
MONTANA. )

ORDER

DESIGNATING THE DNRC TO MAIL NOTICE OF  
AVAILABILITY OF THE PRELIMINARY DECREE

This Order complies with the requirements of 85-2-232  
MCA 1978.

ORDERED that the Department of Natural Resources and  
Conservation send by mail to each person and their  
successor in interest, if known, who has filed a claim of  
existing right in the Fisher River Basin (Basin 76C), a  
copy of the Notice of Availability of the Preliminary  
Decree on that Basin and an abstract of the disposition of  
such person's claim of existing right.

ORDERED specifically that the Notice of Availability be  
mailed to: (1) all parties in the Fisher River Basin  
issued permits for water use in that Basin pursuant to  
85-2-301 MCA 1978 or their successor in interest, if known;  
(2) all parties who have applied for permits for use of  
water in the Fisher River Basin pursuant to 85-2-301 MCA  
1978; (3) all parties who have been granted a reservation  
in the Fisher River Basin pursuant to 85-2-316 MCA 1978;

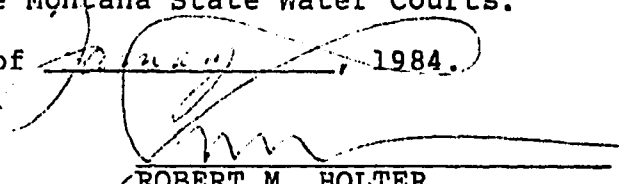
(4) all parties in the Fisher River Basin who have received certificates of water rights pursuant to 85-2-306 MCA 1978 for wells under 100 gallons per minute; (5) all federal land management agencies in the Clark Fork Water Division; (6) all neighboring states of the Clark Fork Water Division; (7) all Indian Tribes of the Clark Fork Water Division; (8) the County Clerk of Court and Clerk and Recorder of Lincoln and Flathead Counties, Montana; (9) any other persons who have requested service of notice from the Water Judge.

ORDERED that the Montana State Water Courts publish the Notice of Availability in newspapers of general circulation in the Fisher River Basin, including the Western News, the Lincoln County Eagle and the Kalispell Daily Water Lake; including any advertisements which may bring the Notice of Availability to the attention of the public.

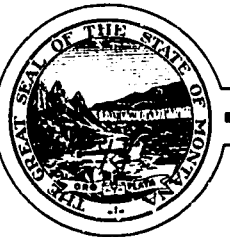
ORDERED that the Department shall make a general certificate of mailing certifying that a copy of notice has been placed in the United States Mail, postage prepaid and addressed to each party required by this Order to be served notice of the Preliminary Decree.

FINALLY IT IS ORDERED that the original certificate of mailing be filed with the Montana State Water Courts.

DATED this 24 day of June, 1984.

  
ROBERT M. HOLTER  
Water Judge  
Clark Fork Division

76C



MONTANA WATER COURTS  
STATE OF MONTANA

RECEIVED

FEB 16 1984

DEPT. OF NATURAL  
RESOURCES & CONSERVATION

WATER JUDGES:

February 14, 1984

Upper Missouri River Basin  
Chief Judge W. W. Lassley  
P.O. Box 1506 879  
Bozeman, MT 59715

Lower Missouri River Basin  
Judge Bernard W. Thomas  
P.O. Box 938  
Chinook, MT 59523

Clark Fork River Basin  
Judge Robert M. Holter  
Lincoln County Courthouse  
Libby, MT 59923

Yellowstone River Basin  
Judge Roy C. Rodeghiero  
P.O. Box 448  
Roundup, MT 59072

Jim Kindle  
Records Section  
DNRC Water Rights Bureau  
32 South Ewing  
Helena, MT 59620

Re: Basins 76N and 76C

Dear Jim;

This letter is to confirm our discussion on Tuesday, February 14, 1984, concerning the review copy of the Preliminary Decrees on 76N and 76C. There appears to be no problems in 76C, so you can go ahead and print the Preliminary Decree without making any changes.

76N does require corrections before printing the Preliminary Decree. The following corrections should be implemented:

1. Implement corrections submitted by Judy Jeniker on February 8, 1984. The copy of her letter of corrections is enclosed.
2. 76N-W-000810: Delete second paragraph under Remarks. i.e., This right is recognized as a....
3. 76N-W-000811: Delete second paragraph under Remark.
4. 76N-W-001601: Insert means of diversion as pipeline. Also insert reservoir remark and location. The location is Government Lot 6, SESWSW Sec. 14, Township 26N, Range 33W, Sanders County, and indicate that it is offstream.

"... to expedite and facilitate the adjudication of existing water rights."  
CH. 697 L. 1979

Page 2,  
February 14, 1984  
Jim Kindle

5. 76N-W-040618: Delete second paragraph under Remarks.
6. 76N-W-040620: Delete second paragraph under Remarks.
7. 76N-W-040621: Delete second paragraph under Remarks.
8. 76N-W-040622: Delete second paragraph under Remarks.
9. 76N-W-040623: Delete second paragraph under Remarks.

Should any problems arise concerning these corrections, please contact me immediately.

Sincerely,



Suzanne Nellen,  
Water Master  
P.O. Box 879  
Bozeman, MT 59715

ASN/nf

76C



MONTANA WATER COURTS

STATE OF MONTANA

WATER JUDGES: February 27, 1984

Upper Missouri River Basin  
Chief Judge W W Lessley  
P.O. Box 879  
Bozeman, MT 59715

Lower Missouri River Basin  
Judge Bernard W. Thomas  
P.O. Box 938  
Chinook, MT 59523

Clerk Fork River Basin  
Judge Robert M. Holter  
Lincoln County Courthouse  
Libby, MT 59923

Yellowstone River Basin  
Judge Roy C. Rodeghiero  
P.O. Box 448  
Roundup, MT 59072

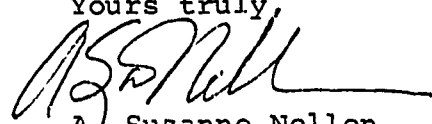
Jim Kindle  
Records Section  
DNRC Water Rights Bureau  
32 South Ewing  
Helena, MT 59620

Dear Jim;

Pursuant to our conversation of February 22, 1984, please amend the title of the preliminary decree on Basins 76N, 76C, 76B, and 76D, to read: Temporary Preliminary Decree.

You will be notified by either Judge Lessley or Water Master regarding the title of any future basins.

Thank you very much for sending down the Yaak. I look forward to visiting with you in the future, and thanks very much Jim, for your cooperation. If any problems arise concerning the change in title, please contact me immediately.

Yours truly,  
  
A. Suzanne Nellen,  
Water Master  
P.O. Box 879  
Bozeman, MT 59715

ASN/nf

BASIN 76C

**AMENDED CERTIFICATE  
OF MAILING  
PRELIMINARY DECREE**

September 7, 1984



DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION  
WATER RESOURCES DIVISION



TED SCHWINDEN, GOVERNOR

32 SOUTH FWING

STATE OF MONTANA

(406) 444-6603 ADMINISTRATOR  
(406) 444-6646 ENGINEERING BUREAU  
(406) 444-6668 WATER DEVELOPMENT BUREAU  
(406) 444-6601 WATER MANAGEMENT BUREAU  
(406) 444-6610 WATER RIGHTS BUREAU

HELENA, MONTANA 59620

September 7, 1984

Ms. Chris Jenson  
Water Courts  
Box 879  
Bozeman, MT 59715

Dear Chris:

Enclosed is the amended certificate of mailing because of returned mail for the Temporary Preliminary Decree for the Fisher River Basin (Basin 76C).

Sincerely,

*Jim*

Jim Kindle  
Records Section Supervisor  
Water Rights Bureau

Enclosure  
JK/jg

GP

FISHER RIVER

AMMENDED CERTIFICATE OF MAILING

Notice of Entry of Temporary Preliminary Decree and Notice of Availability for the Fisher River Basin (Basin 76C)

\*\*\*\*\*

State of Montana )  
County of Lewis and Clark ) : ss.

I, JAMES E. KINDLE, Records Supervisor for the Water Resources Division of the Department of Natural Resources and Conservation of the State of Montana, hereby certify that all return mail for the Notice of Entry of Temporary Preliminary Decree and Notice of Availability for the Fisher River Basin (Basin 76C) has been researched by the water rights field offices and that based on their research the following has been sent, postage prepaid, first class, United States Mail:

A. For persons filing claims;

1. Owner address changes only. Based on research, all parties have been sent the Notice of Entry of Temporary Preliminary Decree and Notice of Availability of the Temporary Preliminary Decree. When address changes were confirmed by the claimants to the Department, abstracts showing dispositions of each party's filings have also been sent.

2. Transferred owners. Based on research, all apparent successors in interest for water rights concerning return mail have been sent the Notice of Entry of Temporary

Preliminary Decree and Notice of Availability of the  
Temporary Preliminary Decree and Water Right Transfer  
Certificate forms.

B. For post July 1, 1973 water rights; (1) all parties in the Fisher River issued permits for water use in that Basin pursuant to 85-2-301 MCA or their successor in interest; (2) all parties who have applied for permits for the use of water in the Fisher River Basin pursuant to 85-2-301 MCA 1978; (3) all parties who have been granted a reservation in the Fisher River Basin pursuant to 85-2-316 MCA 1978; (4) all parties in the Fisher River Basin who have received certificates of water rights pursuant to 85-2-306 MCA 1978 for wells under 100 gallons per minute; the following has been sent:

1. Owner address changes only. Based on research, all parties have been sent the Notice of Entry of Temporary Preliminary Decree and Notice of Availability of the Temporary Preliminary Decree.
2. Transferred owners. Based on research, all apparent successor in interest for water rights concerning return mail have been sent the Notice of Entry of Temporary Preliminary Decree and Notice of Availability of the Temporary Preliminary Decree and Water Right Transfer Certificate forms.

This mailing and distribution was made under my direction and control from 03-23-84 to 08-29-84.

---

Dated this 7th day of SEPT., 1984.

James E. Kindle

James E. Kindle, Supervisor  
Records Section, Water Rights Bureau  
Water Resources Division  
Department of Natural Resources and  
Conservation  
State of Montana

attachments

- 1.) Original Affidavit of Service
- 2.) Copies of return mail envelopes

State of Montana )  
                          : ss.  
County of Lewis & Clark)

On this 7th day of Sept, 1984, before me, a Notary Public in and for said state, personally appeared James E. Kindle, known to me to be a Supervisor for the Water Resources Division of the Department of Natural Resources and Conservation, and acknowledged to me that he, in his official capacity, executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal, the day and year in this certificate first above written.



Jim P. Gilman

Notary Public for the State of Montana  
Residing at Helena  
My commission expires 1-21-1987



DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
KALISPELL FIELD OFFICE



TED SCHWEDER, GOVERNOR

P.O. BOX 888

STATE OF MONTANA

(406) 752-2288

March 15, 1984

KALISPELL, MONTANA 59901

Regarding: Water Right(s) No. 76C-W-034262-00

Richard G. Walters  
Box 235  
Kalispell, MT 59901

Dear Mr. Walters:

Water Right documents have been returned to us because the U.S. Postal Service could not deliver them. Further research on our part shows that you are still the recorded owner, but your address was not updated in our records.

Please fill out the enclosed Change of Address form with your correct mailing address and return to this office.

Upon receipt of this address change, we will update our records. You will then receive any and all documents pertaining to the water rights you claimed. The enclosed Notice of Entry of Preliminary Decree and Notice of Availability is for your immediate information concerning adjudication proceedings in your area. Please be aware of specific deadlines that are set in this notice.

If you are not the present owner(s), or if you are aware of any other errors on your claims, please forward that information also for our records.

Please contact this office at (406) 752-2288 if you need further information. Thank you for your cooperation.

Yours truly,

Handwritten signature of Judy Jeniker in cursive.

Judy Jeniker  
Water Right Specialist  
Water Rights Bureau

Enclosures: Change of Address Form  
Notice of Entry of Temporary Preliminary Decree and Notice of Availability

DEPARTMENT OF NATURAL  
RESOURCES & CONSERVATION  
STATE OF MONTANA  
NATURAL RESOURCES BUILDING  
32 NORTH BRIDGE  
HELENA, MONTANA 59620

HELENA MONTANA  
RECEIVED  
MAR 1 1984

NOT DELIVERABLE  
AS ADDRESSED  
PLEASE REWRITE TO FORWARD

RECEIVED  
MAR 0 1 1984  
MONT. DEPT. OF NATURAL  
RESOURCES & CONSERVATION

76C W034202

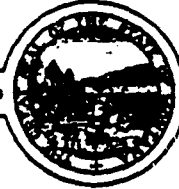
NO MAIL Bot  
C-14  
Hd

WALTERS RICHARD G  
215 W SPRINGCREEK DR MT 59101  
KALISPELL





DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
KALISPELL FIELD OFFICE



TED SCHWEDEN, GOVERNOR

DA 702 288

STATE OF MONTANA

(406) 752-2288

March 15, 1984

KALISPELL, MONTANA 59503

Regarding: Water Right(s) No. 76C-W-103285-00  
W-103286-00, W-103287-00

Duncan L. & Christy L. Mariner  
1355 Kinghorn Road  
Pocatello, ID 83201

Dear Duncan & Christy:

Water Right documents have been returned to us because the U.S. Postal Service could not deliver them. Further research on our part shows that you are still the recorded owner, but your address was not updated in our records.

Please fill out the enclosed Change of Address form with your correct mailing address and return to this office.

Upon receipt of this address change, we will update our records. You will then receive any and all documents pertaining to the water rights you claimed. The enclosed Notice of Entry of Preliminary Decree and Notice of Availability is for your immediate information concerning adjudication proceedings in your area. Please be aware of specific deadlines that are set in this notice.

If you are not the present owner(s), or if you are aware of any other errors on your claims, please forward that information also for our records.

Please contact this office at (406) 752-2288 if you need further information. Thank you for your cooperation.

Yours truly,

Handwritten signature of Judy Jeniker in cursive.

Judy Jeniker  
Water Right Specialist  
Water Rights Bureau

Enclosures: Change of Address Form  
Notice of Entry of Temporary Preliminary Decree and Notice of Availability

76CW103285

CHANGE OF ADDRESS FORM

WATER RIGHT(S) NO. 76-W-103285-00, W-103286-00, W-103287-00

PRESENT OWNER(S): Duncan L., Christy L. Mariner  
1355 Kinghorn Rd.  
Pocatello, Id. 83201

OLD ADDRESS: (marion)  
mailing address: 8425 East Prairie Rd  
Marion, MT 59925  
(marion)  
then: 956 W. Center, Pocatello, Id. 83204

NEW ADDRESS:  
mailing address: \_\_\_\_\_  
Same as under, "Present owners"

Duncan L. & Christy L. Mariner  
1355 Kinghorn Road  
Pocatello, ID 83201

REMARKS:

Christy L. Mariner  
Duncan L. Mariner  
\_\_\_\_\_  
Signature(s)

March 21, 84  
Date Wednesday

Return to:

Water Rights Bureau  
P.O. Box 860  
Kalispell, MT 59903

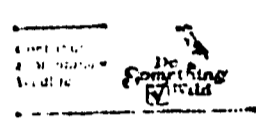
RECEIVED

MAR 21 1984

MONTANA D.N.R.C.  
KALISPELL FIELD OFFICE



DEPARTMENT OF NATURAL  
RESOURCES & CONSERVATION  
— STATE OF MONTANA —  
NATURAL RESOURCES BUILDING  
32 SOUTH EWING  
HELENA, MONTANA 59620



76C  
W103285

RECEIVED  
MAR 01 1984  
MONT. DEPT. OF NATURAL  
RESOURCES & CONSERVATION

New address  
1355 KINBORN RD  
POCATELLO ID 83201

MAR 1 1984  
5425 EAST WINDY RD  
MARION OR 97136

MOVED  
FOR ADDRESS CHANGE



DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
KALISPELL FIELD OFFICE



TED SCHWINDER, GOVERNOR

(406) 752-2288

STATE OF MONTANA

PO BOX 660

KALISPELL, MONTANA 59503

March 15, 1984

Regarding: Water Right(s) No. 76C-W-128846-00

Bersham Energy & Mineral, Inc.  
12189 Kolston Road  
Suite 200A  
Arvada, CA 80004

Dear Gentlemen:

Water Right documents have been returned to us because the U.S. Postal Service could not deliver them. Further research on our part shows that you are still the recorded owner, but your address was not updated in our records.

Please fill out the enclosed Change of Address form with your correct mailing address and return to this office.

Upon receipt of this address change, we will update our records. You will then receive any and all documents pertaining to the water rights you claimed. The enclosed Notice of Entry of Preliminary Decree and Notice of Availability is for your immediate information concerning adjudication proceedings in your area. Please be aware of specific deadlines that are set in this notice.

If you are not the present owner(s), or if you are aware of any other errors on your claims, please forward that information also for our records.

Please contact this office at (406) 752-2288 if you need further information.  
Thank you for your cooperation.

Yours truly,

Handwritten signature of Judy Jeniker in cursive.

Judy Jeniker  
Water Right Specialist  
Water Rights Bureau

Enclosures: Change of Address Form  
Notice of Entry of Temporary Preliminary Decree and Notice of Availability

CHANGE OF ADDRESS FORM

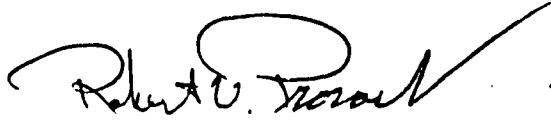
WATER RIGHT(S) NO. No. 76C-W-128846-00

PRESENT OWNER(S): Champion Energy Corp. (formerly Berchem Energy & Minerals)  
789 Sherman St.  
Suite 604 - Denver, Co. 80203  
Attention: Robert V. Provost - President

OLD ADDRESS:  
mailing address: 12189 Ralston Road  
Suite 200 A  
Arvada, CO. 80004

NEW ADDRESS:  
mailing address: 789 Sherman Street  
Suite 600  
Denver, CO. 80203

REMARKS: This property is under litigation at present



Robert V Provost

President

Champion Energy Corp.  
Signature(s)

March 23, 1984  
Date


Return to:  
Water Rights Bureau  
P.O. Box 860  
Kalispell, MT 59903

**RECEIVED**

MAR 26 1984

MONTANA D.N.R.C.  
KALISPELL FIELD OFFICE

DEPARTMENT OF NATURAL  
RESOURCES & CONSERVATION  
STATE OF MONTANA  
NATURAL RESOURCES BUILDING  
C/O DEPARTMENT  
HELENA, MONTANA 59620

Contribute  
to Montana's  
Wildlife  


POSTNET  
FEB 02 1984  
MONT  
3082012

RECEIVED  
MAR 06 1984  
MONT. DEPT. OF NATURAL  
RESOURCES & CONSERVATION

76i-w128846-00

BER 25X 43021071 03/02/84

RETURN TO SENDER  
NOT DELIVERABLE AS ADDRESSED  
FORWARDING ORDER EXPIRED

BENSCHAM ENERGY & MINERALS INC  
1025 PRIMROSE ST  
HELENA MONT 59509



76C

AFFIDAVIT OF SERVICE

STATE OF MONTANA }  
                          } ss.  
County of Flathead }

LINDA COLTER, an employee of the Montana Department of Natural Resources and Conservation, being duly sworn on oath, deposes and says that on MARCH 21, 1984, he/she deposited in the United States mail, FIRST CLASS mail, Notice of Entry of Temporary Preliminary Decree and Notice of Availability for the LOWER CLARK FORK Decree, an Address Change form and a letter of inquiry concerning water right ownership address changes to the following persons or agencies:

76C C014453

GEORGE & DEBORAH LIPPERT  
ROUTE 3, Box 890  
LIBBY, MT 59923

Department of Natural Resources and Conservation

by Linda Colter

STATE OF MONTANA }  
                          } ss.  
County of Flathead }

On this 21 day of MARCH, 1984, before me, a Notary Public in and for said state, personally appeared LINDA COLTER, known to me to be the GENERAL OFFICE CLERK of the Department executed this instrument or the persons who executed the instrument on behalf of said Department, and acknowledged to me that such Department executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Robert A. Nelson  
Notary Public for the State of Montana  
Residing at Helena, Montana  
My Commission expires 12/31/85

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
KALISPELL FIELD OFFICE



TED SCHWINDEN, GOVERNOR

P.O. BOX 860

STATE OF MONTANA

(406) 752-2288

KALISPELL, MONTANA 59903

March 21, 1984

Regarding: Water Right(s) No. C-14435

George and Deborah Lippert  
Route 3, Box 890  
Libby, MT 59923

Dear Mr. and Mrs. Lippert:

Water Right documents have been returned to us because the U.S. Postal Service could not deliver them. Further research on our part shows that you are still the recorded owner, but your address was not updated in our records.

Please fill out the enclosed Change of Address form with your correct mailing address and return to this office.

Upon receipt of this address change, we will update our records. You will then receive any and all documents pertaining to the water rights you claimed. The enclosed Notice of Entry of Preliminary Decree and Notice of Availability is for your immediate information concerning adjudication proceedings in your area. Please be aware of specific deadlines that are set in this notice.

If you are not the present owner(s), or if you are aware of any other errors on your claims, please forward that information also for our records.

Please contact this office at (406) 752-2288 if you need further information. Thank you for your cooperation.

Yours truly,

Al Russell  
Technician  
Water Rights Bureau

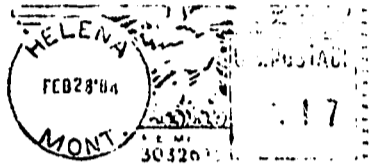
Enclosures: Change of Address Form  
Notice of Entry of Temporary Preliminary Decree and Notice of Availability



DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION  
STATE OF MONTANA  
32 SOUTH E WING  
HELENA, MONTANA 59620

Contribute  
to Montana's  
Wildlife  
Do Nothing  
Wild

NOT DELIVERABLE  
AS ADDRESSED  
UNABLE TO FORWARD



LIPPERT  
STAR RT 1  
LIBBY

GEORGE C

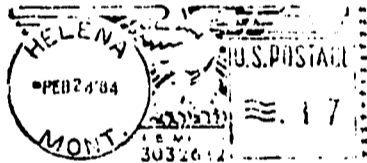
MT 59923

Moved, list no ad  
 No such address  
 Moved, not in ward  
 Address unknown  
HC 61 2/29/84



DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION  
STATE OF MONTANA  
32 SOUTH E WING  
HELENA, MONTANA 59620

Contribute  
to Montana's  
Wildlife  
Do Nothing  
Wild



NOT DELIVERABLE  
AS ADDRESSED  
UNABLE TO FORWARD

LIPPERT  
STAR RT 1  
LIBBY

DEBORAH L

MT 59923

Moved, list no ad  
 No such address  
 Moved, not in ward  
 Address unknown  
HC 61 2/29/84

76C

AFFIDAVIT OF SERVICE

STATE OF MONTANA }  
                          } ss.  
County of Flathead }

LINDA COLTER, an employee of the Montana Department of Natural Resources and Conservation, being duly sworn on oath, deposes and says that on MARCH 21, 1984, he/she deposited in the United States mail, FIRST CLASS mail, Notice of Entry of Temporary Preliminary Decree and Notice of Availability for the LOWER CLARK FORK Decree, an Address Change form and a letter of inquiry concerning water right ownership address changes to the following persons or agencies:

76C C027814

Albert C. Davis  
% Pierre Williams & Lyn Rocheleau  
10050 Lost Prairie Road  
Marion, MT 59925

Department of Natural Resources and Conservation

by Linda Colter

STATE OF MONTANA }  
                          } ss.  
County of Flathead }

On this 21 day of MARCH, 1984, before me, a Notary Public in and for said state, personally appeared LINDA COLTER, known to me to be the GENERAL OFFICE CLERK of the Department executed this instrument or the persons who executed the instrument on behalf of said Department, and acknowledged to me that such Department executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Albert C. Davis  
Notary Public for the State of Montana  
Residing at Marion, MT, Montana  
My Commission expires 10/1/85

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
KALISPELL FIELD OFFICE



TED SCHWINDEN, GOVERNOR

P.O. BOX 860

STATE OF MONTANA

(406) 752-2288

March 21, 1984

KALISPELL, MONTANA 59903

Regarding: Water Right(s) No. C-27814

Albert C. Davis  
% Pierre Williams & Lyn Rocheleau  
10050 Lost Prairie Road  
Marion, MT 59925

Dear Mr. Davis:

Water Right documents have been returned to us because the U.S. Postal Service could not deliver them. Further research on our part shows that you are still the recorded owner, but your address was not updated in our records.

Please fill out the enclosed Change of Address form with your correct mailing address and return to this office.

Upon receipt of this address change, we will update our records. You will then receive any and all documents pertaining to the water rights you claimed. The enclosed Notice of Entry of Preliminary Decree and Notice of Availability is for your immediate information concerning adjudication proceedings in your area. Please be aware of specific deadlines that are set in this notice.

If you are not the present owner(s), or if you are aware of any other errors on your claims, please forward that information also for our records.

Please contact this office at (406) 752-2288 if you need further information. Thank you for your cooperation.

Yours truly,

*Al Russell*

Al Russell  
Technician  
Water Rights Bureau

Enclosures: Change of Address Form  
Notice of Entry of Temporary Preliminary Decree and Notice of Availability

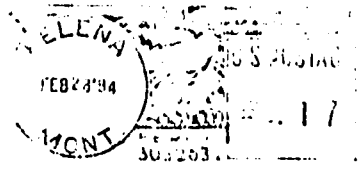


DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION  
— STATE OF MONTANA —  
12 SOUTH HILL WING  
HELENA MONTANA 59620

Postage  
paid in  
advance



REGISTERED MAIL



REASON FOR RETURN  
 Unclaimed \_\_\_\_\_  
 Addressee Not Known \_\_\_\_\_  
 Incorrect Address \_\_\_\_\_  
 No such street \_\_\_\_\_ number \_\_\_\_\_  
 No such office in state \_\_\_\_\_  
 Postage remain in this envelope

DAVIS  
STAR AT  
BARTON

ALBERT C

MT 59625

MOVED  
FORWARDING ADDRESS EXPIRED

BASIN 76C

**MISCELLANEOUS  
CORRESPONDENCE,  
WATER COURT**

August 27, 1984

IN THE WATER COURTS OF THE STATE OF MONTANA

CLARK FORK DIVISION - FISHER RIVER BASIN

\*\*\*\*\*

IN THE MATTER OF THE ADJUDICATION )  
OF THE EXISTING RIGHTS TO THE USE )  
OF ALL THE WATER, BOTH SURFACE AND )  
UNDERGROUND, WITHIN THE FISHER )  
RIVER DRAINAGE AREA, INCLUDING ALL )  
TRIBUTARIES OF THE FISHER RIVER IN )  
LINCOLN AND FLATHEAD COUNTIES, )  
MONTANA. )

O R D E R

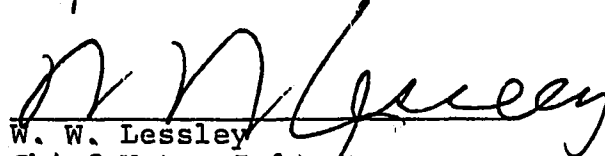
DESIGNATING THE DNRC TO MAIL NOTICES OF  
OBJECTION AND REQUEST FOR PRELIMINARY HEARING

ORDERED that the Department of Natural Resources and  
Conservation send by mail to each person and their successor in  
interest, if known, who was named in the Temporary Preliminary  
Decree in the Fisher River Basin (Basin #76C), a copy of the  
Notice of Objection and Request for Preliminary Hearing.

ORDERED that the Department of Natural Resources and Con-  
servation shall make a general certificate of mailing certifying  
that a copy of the Notice has been placed in the United States  
Mail, postage prepaid, and addressed to each party to be served  
by this Order.

FINALLY IT IS ORDERED that the original certificate of  
mailing be filed with the Montana State Water Courts.

DATED this 27<sup>th</sup> day of August, 1984.

  
W. W. Lessley  
Chief Water Judge  
Clark Fork Division



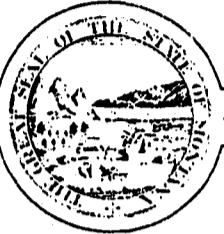
BASIN

76C

**CERTIFICATE OF MAILING**  
**NOTICE OF OBJECTION**  
**AND REQUEST FOR**  
**PRELIMINARY HEARING**

8-30-84

DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION  
WATER RESOURCES DIVISION



TED SCHWINDEN, GOVERNOR

32 SOUTH FILING

STATE OF MONTANA

(406) 444-6603 ADMINISTRATOR  
(406) 444-6646 ENGINEERING BUREAU  
(406) 444-6666 WATER DEVELOPMENT BUREAU  
(406) 444-6601 WATER MANAGEMENT BUREAU  
(406) 444-6610 WATER RIGHTS BUREAU

HELENA, MONTANA 59603

September 30, 1984

Ms. Chris Jenson  
Water Courts  
Box 879  
Bozeman, MT 59715

Dear Chris:

Enclosed is the certificate of mailing for the hearing notice for the Fisher River Basin (Basin 76C). This mailing was completed August 30, 1984.

Sincerely,

*Jim*

Jim Kindle  
Records Section Supervisor  
Water Rights Bureau

Enclosure  
JK/jg

FISHER RIVER BASIN (Basin 76C)

CERTIFICATE OF MAILING

The Notice of Objection and Request for Preliminary Hearing  
on the Fisher River Basin Preliminary Decree (Basin 76c)

\*\*\*\*\*

State of Montana )  
County of Lewis and Clark ) ss:

I, JAMES E. KINDLE, Records Supervisor for the Water Resources  
Division of the Department of Natural Resources and Conservation of the State  
of Montana, hereby certify that:

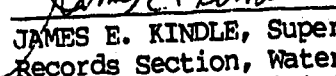
A. The Notice of Objection and Request for Preliminary Hearing for  
each person filing a claim for the Fisher River Basin (Basin 76c) has been  
placed in the United States Mail, postage prepaid and addressed to each party  
as per the records of the Water Rights Bureau, Department of Natural Resources  
and Conservation, February 28, 1984, and updated records of August 30, 1984.

B. The Notice of Objection and Request for Preliminary Hearing for  
the Fisher River Basin (Basin 76c) has been placed in the United States Mail,  
postage prepaid and addressed to each party as per the records of the Water  
Rights Bureau, Department of Natural Resources and Conservation, February 28,  
1984, and updated records of August 30, 1984, for (1) all parties in the Fisher  
River issued permits for water use in that basin pursuant to 85-2-301 MCA 1978  
or their successor in interest, if know; (2) all parties who have applied for  
permits for use of water in the Fisher River Basin pursuant to 85-2-301 MCA  
1978; (3) all parties who have been granted a reservation in the Fisher River  
Basin pursuant to 85-2-316 MCA 1978; (4) all parties in the Fisher River Basin  
who have received certificates of water rights pursuant to 85-2-306 MCA 1978  
for wells under 100 gallons per minute; (5) all federal land management

agencies in the Clark Fork Water Division; (6) all Indian Tribes in the Clark Fork Water Division; (7) all neighboring states of the Clark Fork Water Division; (8) the County Clerk of Court and Clerk and Recorder of Lincoln County, Montana; (9) any other persons who have requested service of notice from the Water Judge.

This mailing and distribution was made under my direction and control on August 30, 1984.

Dated this 5<sup>th</sup> day of SEPTEMBER, 1984.

  
\_\_\_\_\_  
JAMES E. KINDLE, Supervisor  
Records Section, Water Rights Bureau  
Water Resources Division  
Dept. of Natural Resources and  
Conservation  
State of Montana

State of Montana )  
: ss.  
County of Lewis & Clark)

On this 5<sup>th</sup> day of Sept, 1984, before me, a Notary Public in and for said state, personally appeared James E. Kindle, known to me to be a Supervisor for the Water Resources Division of the Department of Natural Resources and Conservation, and acknowledges to me that he, in his official capacity, executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal, the day and year in this certificate first above written.

James P. Gilman  
Notary Public for the State of Montana  
Residing at Helena  
My commission expires 1-21-1987



MONTANA WATER COURTS

STATE OF MONTANA

August 28, 1984

WATER JUDGES:

Upper Missouri River Basin  
Chief Judge W. W. Lesley  
P.O. Box 879  
Bozeman, MT 59715

Lower Missouri River Basin  
Judge Bernard W. Thomas  
P.O. Box 938  
Chinook, MT 59523

Clark Fork River Basin  
Judge Robert M. Hoiler  
Lincoln County Courthouse  
Libby, MT 59923

Yellowstone River Basin  
Judge Roy C. Rodeghiero  
P.O. Box 448  
Roundup, MT 59072

Jim Kindle  
Records Section  
Department of Natural Resources  
32 South Ewing  
Helena, MT 59620

Re: Basins 76B, 76C, 76D and 76N

Dear Jim:

Enclosed is the material for the next step in the adjudication of the above-named Basins.

After the Temporary Preliminary Decrees were issued, people had 90 days to make objections. We are now sending out notices that objections were made. One is enclosed for each Basin. Persons whose claims were objected to will get specific notice of those objections.

As you can see from the general notices, your office is listed as one of the places where people can see the list of all objections that were made. It doesn't go into great detail, just stating the basis of the objection. An example might be a priority date. People can call or write us and we will send a copy of the entire objection.

If an individual wants to be involved in a hearing, they must send the Court a Notice of Intent to Appear form by October 5, 1984. Those forms are available here or at Clerk of Court offices in the counties within the Basin.

Please give us a call if you have questions. Thanks for all of your help!

Sincerely,

  
Suzanne Nellen  
Water Master

  
Timothy Sullivan  
Water Master

ASN/caj/TJS  
encls.

"... to expedite and facilitate the adjudication of existing water rights."  
CH. 697 L. 1979

IN THE WATER COURTS OF THE STATE OF MONTANA

CLARK FORK DIVISION - FISHER RIVER BASIN

\*\*\*\*\*

IN THE MATTER OF THE ADJUDICATION )  
OF THE EXISTING RIGHTS TO THE USE )  
OF ALL THE WATER, BOTH SURFACE AND )  
UNDERGROUND, WITHIN THE FISHER )  
RIVER DRAINAGE AREA, INCLUDING ALL )  
TRIBUTARIES OF THE FISHER RIVER IN )  
LINCOLN AND FLATHEAD COUNTIES, )  
MONTANA. )

O R D E R

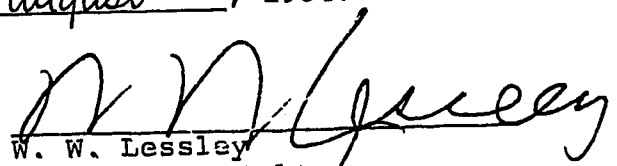
DESIGNATING THE DNRC TO MAIL NOTICES OF  
OBJECTION AND REQUEST FOR PRELIMINARY HEARING

ORDERED that the Department of Natural Resources and  
Conservation send by mail to each person and their successor in  
interest, if known, who was named in the Temporary Preliminary  
Decree in the Fisher River Basin (Basin #76C), a copy of the  
Notice of Objection and Request for Preliminary Hearing.

ORDERED that the Department of Natural Resources and Con-  
servation shall make a general certificate of mailing certifying  
that a copy of the Notice has been placed in the United States  
Mail, postage prepaid, and addressed to each party to be served  
by this Order.

FINALLY IT IS ORDERED that the original certificate of  
mailing be filed with the Montana State Water Courts.

DATED this 27<sup>th</sup> day of August, 1984.

  
W. W. Lessley  
Chief Water Judge  
Clark Fork Division



NOTICE TO INTERESTED PARTIES

Basin #76C

All Federal Land Management Agencies in the Clark Fork Division

Area Director  
U.S.D.A. Forest Service  
Federal Building  
Missoula, MT 59807

Director  
Bureau of Land Management  
P.O. Box 36800  
Billings, MT 59107

Division Engineer  
U.S. Army Corps of Engineers  
P.O. Box 103  
Downtown Station  
Omaha, NE 68101

Regional Director  
Bureau of Reclamation  
316 N. 26th Street  
Room 3035  
Billings, MT 59101

Soil Conservation Service  
10 West Babcock  
Room 443, Federal Building  
Bozeman, MT 59715

All Neighboring States of the Clark Fork Division

Director  
Department of Water Resources  
State Office, 450 West State Street  
Boise, ID 83720

All Indian Tribes in the Clark Fork Water Division

Mr. Tom Pablo  
Tribal Chairman  
Salish-Kootenai Tribes  
Pablo, MT 59855

Dr. Alonzo Spang  
Superintendent  
P.O. Box A  
Ronan, MT 59864

County Officials

Mr. John Van  
Clerk of the Court  
P.O. Box 897  
Kalispell, MT 59903

Mrs. Iris Hindman  
Clerk and Recorder  
Flathead County Courthouse  
Kalispell, MT 59901

Mr. Elliott Holder  
Clerk of the Court  
Lincoln County Courthouse  
Libby, MT 59932

Ms. Janet Siegel  
Clerk and Recorder  
Lincoln County Courthouse  
Libby, MT 59923

Other Interested Parties

Department of Natural Resources  
Field Office  
P.O. Box 860  
Kalispell, MT 59903

John C. Chaffin  
Dept. of Interior  
SOL/DER/6045  
18th and C Streets NW  
Washington, D.C. 20240



Pat Barry  
Indian Resource Section  
U.S. Dept. of Justice  
10th and Pennsylvania Ave. NW  
Washington, D.C. 20530

U.S. Attorney General  
Dept. of Justice Bldg.  
Washington, D.C. 20530

Field Solicitor  
Room 5931  
Federal Building  
Billings, MT 59103

G. Steven Brown  
Attorney at Law  
1313 11th Avenue  
Helena, MT 59601

Ted Doney  
Attorney at Law  
314 N. Last Chance Gulch  
Helena, MT 59601

Sherry Matteucci  
Crowley Law Firm  
P.O. Box 2529  
Billings, MT 59103

James Goetz  
35 North Grand  
Bozeman, MT 59715

Gerald A. Troy  
1201 NorWest Center  
175 N. 27th  
Billings, MT 59101

John R. Hill, Jr.  
U.S. Dept. of Justice  
1961 Stout Street  
Drawer 3607  
Denver, CO 80294

Regional Director  
U.S. Fish and Wildlife Service  
P.O. Box 25486  
Denver Federal Center  
Denver, CO 80225

U.S. Attorney  
Federal Building  
Missoula, MT 59801

Aaron Hostyk  
U.S. Army Engineer District Omaha  
6014 U.S. Post Office & Courthouse  
Omaha, NE 68102

Tom Luebbin  
Attorney at Law  
P.O. Box 25686  
Albuquerque, NM 87125

HKM Associates  
Ralph Saunders  
P.O. Box 31318  
Billings, MT 59107

Swanberg, Koby, Swanberg & Matteucci  
Attorneys  
P.O. Box 2567  
Great Falls, MT 59403

Daniel Decker  
P.O. Box 278  
Pablo, MT 59855

Lawrence Jakub  
General Counsel  
P.O. Box 7669  
Missoula, MT 59807

Gene Phillips  
1 Main  
Kalispell, MT 59901

Roger and Joan Johnson  
Star Route 1  
Libby, MT 59923

BASIN 76C

**NOTICE OF OBJECTION  
AND REQUEST FOR  
PRELIMINARY HEARING**

8-30-84

IN THE WATER COURTS OF THE STATE OF MONTANA  
CLARK FORK DIVISION - FISHER RIVER BASIN

\* \* \* \* \*

NOTICE OF OBJECTION AND REQUEST FOR PRELIMINARY HEARING ON THE  
FISHER RIVER TEMPORARY PRELIMINARY DECREE

THIS IS NOTICE THAT OBJECTIONS HAVE BEEN FILED AND HEARINGS  
HAVE BEEN REQUESTED ON SEVERAL OF THE WATER RIGHTS ISSUED IN THE  
FISHER RIVER TEMPORARY PRELIMINARY DECREE.

WHAT HAPPENS NEXT?

A hearing will be held on those water rights that have been  
objected to. You are notified that an individual water right may  
be altered as a result of a hearing requested by another party.  
You are encouraged to review all objections to determine if you  
have an interest in appearing and participating in any future  
hearing.

HOW TO APPEAR AND PARTICIPATE IN HEARINGS ON OBJECTIONS

To participate in any hearing on objections filed in this  
Basin, you MUST file a Notice of Intent to Appear. THAT NOTICE  
MUST BE ON THE FORMS PROVIDED BY THE WATER COURTS AND PURSUANT TO  
WATER COURT RULE #8.

ALL NOTICES TO APPEAR MUST BE FILED AND RECEIVED BY THE  
5th DAY OF October, 1984.

Notices to Appear must be sent to the Water Courts, P.O. Box  
879, Bozeman, MT 59715.

The failure to file a Notice may, at the discretion of the  
Water Judge or Water Master, result in the exclusion of the party  
at further proceedings or in the continuance of the hearing if the  
party failing to file appears at the hearing. THOSE PARTIES WHO  
FILED THE ORIGINAL OBJECTION DO NOT NEED TO FILE A NOTICE OF  
INTENT TO APPEAR AND PARTICIPATE.

WHERE TO REVIEW THE OBJECTION

A listing of the objections is available for review at:

1. Water Courts Office, P.O. Box 879, 601 Haggerty Lane,  
Bozeman, Montana 59715
2. Department of Natural Resources and Conservation, Water Rights  
Bureau, 32 South Ewing, Helena, MT 59620
3. Department of Natural Resources and Conservation, Field  
Office, 3220 Hiway 93 S, P.O. Box 860, Kalispell, MT 59903
4. Clerk of Court, Flathead County Courthouse, P.O. Box 897,  
Kalispell, MT 59903
5. Clerk and Recorder, Flathead County Courthouse, Kalispell, MT  
59901
6. Clerk of Court, Lincoln County Courthouse, Libby, MT 59923
7. Clerk and Recorder, Lincoln County Courthouse, Libby, MT 59923

A copy of the objection in its entirety can be obtained from  
the Water Courts, P.O. Box 879, Bozeman, MT 59715; phone 587-4364.  
If you have other questions, you may call the Water Courts.

(Over Please)

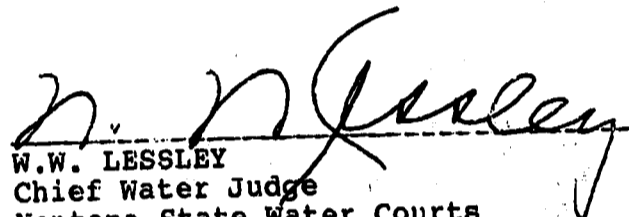
WHAT HAPPENS AFTER?

The Court shall notify those parties who filed an objection or Notice to Appear in a particular preliminary hearing before the time any proceedings are set by the Water Courts.

THE WATER COURT RULES AND FORMS ARE AVAILABLE AT THE OFFICES LISTED BELOW:

1. Water Courts Office, P.O. Box 879, 601 Haggerty Lane, Bozeman, MT 59715
2. Clerk of the Court, Flathead County Courthouse, P.O. Box 897, Kalispell, MT 59903
3. Clerk of Court, Lincoln County Courthouse, Libby, MT 59923

DATED this 30th Day of August, 1984.

  
W.W. LESSLEY  
Chief Water Judge  
Montana State Water Courts  
P.O. Box 879  
Bozeman, MT 59715

OBJECTIONS TO THE FISHER RIVER TEMPORARY PRELIMINARY DECREE

76C

<u>Water Right Number</u>	<u>Source</u>	<u>Name of Party Objecting</u>	<u>Party Right Issued to in Decree</u>	<u>Nature of Objection</u>
		United States of America		Decree Language
		Confederated Salish & Kootenai Tribes		Adjudication Proceedings
	Well	Burlington Northern Railroad		Claim not submitted/request accepted late
115780	Sipes Creek	USDA Forest Service	Champion International Corp.	Point of Diversion
115810	Pleasant Valley Creek	USDA Forest Service	Champion International Corp.	Place of Use, Point of Diversion
116385	Pleasant Valley (Fisher River)	USDA Forest Service	Champion International Corp.	Place of Use
116386	Deer Creek	USDA Forest Service	Champion International Corp.	Place of Use
116387	Sipes Creek	USDA Forest Service	Champion International Corp.	Place of Use
116388	Island Creek	USDA Forest Service	Champion International Corp.	Place of Use
116389	Tensaw Creek	USDA Forest Service	Champion International Corp.	Place of Use
116390	Coniff Creek	USDA Forest Service	Champion International Corp.	Place of Use
116391	Markus Creek	USDA Forest Service	Champion International Corp.	Place of Use
116392	Pleasant Valley Creek	USDA Forest Service	Champion International Corp.	Place of Use
134974	Ferguson Creek	Dept. Nat. Resources & Conservation	Lowell L. Novy	Volume or Flow Rate
134977	McGinnis Creek	Dept. Nat. Resources & Conservation	Lowell L. Novy	Volume or Flow Rate
Suppl. to 134974				
141458	Pleasant Valley (Fisher River)	Dept. Nat. Resources & Conservation	1031 Inc.	Volume or Flow Rate
141459	UP Fisher River	Dept. Nat. Resources & Conservation	1031 Inc.	Volume or Flow Rate
Suppl. to 141458				
141467	Pleasant Valley (Fisher River)	Ann M. Schwartz	Ann M. Schwartz	Place of Use

<u>Water Right Number</u>	<u>Source</u>	<u>Name of Party Objecting</u>	<u>Party Right Issued to in Decree</u>	<u>Nature of Objection</u>
141468	Hammond Creek	Ann M. Schwartz	Ann M. Schwartz	Place of Use
141475	Hammond Creek	Ann M. Schwartz	Ann M. Schwartz	Place of Use
141574	Spring, Tributary of Little Weed Creek	J. Gail Patton	Big Meadows Grazing Association	Purpose of Right
141578	Island Creek	J. Gail Patton	Big Meadows Grazing Association	Means of Diversion
141585	UT Pleasant Valley (Fisher River)	J. Gail Patton	Big Meadows Grazing Association	Acres Irrigated

THESE OBJECTIONS TO THE FISHER RIVER PRELIMINARY DECREE DO NOT CONTAIN ALL OF THE INFORMATION FILED BY AN OBJECTING PARTY. TO OBTAIN A COPY OF THE ENTIRE OBJECTION, CONTACT THE WATER COURTS AT P.O. BOX 879, BOZEMAN, MT. 59715; (406) 586-4364









08/22/84 19/22  
1031 INC

*Shelley, Harvey K + Ethel G Turner Rt 4, Box 202 Poplar Ave, Liberty MT 59023*

NAME VARIATION CHECK ON NEW APP & SB76 OWNERS - BASIN 76C  
BOX 835

WHITEFISH

PAGE

MT







08/28/84  
BOMEN

19/02

ELUISE

of

3041 W 91ST AVE

3041 W 91ST AVE

PRELIMINARY DECREE - TRANSFERRED OWNERS TO BE NOTICED - BASIN /6C

ANCHORAGE

PAGE

1

*Amended* **CERTIFICATE**  
**OF MAILING**  
**NOTICE OF OBJECTION**  
**AND REQUEST FOR**  
**PRELIMINARY HEARING**

BASIN **76C**

**FILMED**

JAN 15 1986

BY \_\_\_\_\_

DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION



TED SCHWINDEN, GOVERNOR

1520 EAST SIXTH AVENUE

STATE OF MONTANA

DIRECTOR'S OFFICE (406) 444-6690

HELENA, MONTANA 59620

January 13, 1986

Ms. Chris Jenson  
Water Courts  
Box 879  
Bozeman, MT 59715

Dear Chris:

Enclosed is the amended certificate of mailing for the Notice of Objection and request for preliminary hearing for the Temporary Preliminary Decree for the Fisher River Basin (Basin 76C). This mailing was conducted from August 30, 1985 to January 13, 1986.

Sincerely,

*Jim*

Jim Kindle  
Records Section Supervisor  
Water Rights Bureau

Enclosure  
JK/jg

CENTRALIZED SERVICES  
DIVISION  
(406) 444-6730

CONSERVATION DISTRICTS  
DIVISION  
(406) 444-6667

ENERGY  
DIVISION  
(406) 444-6697

OIL AND GAS  
DIVISION  
(406) 444-6675

WATER RESOURCES  
DIVISION  
(406) 444-6601





2. all parties who have applied for permits for the use of water in the Fisher River Basin pursuant to 85-2-301, MCA, 1978;

3. all parties who have been granted a reservation in the Fisher River Basin pursuant to 85-2-316, MCA, 1978;

4. all parties in the Fisher River Basin who have received certificates of water rights pursuant to 85-2-306, MCA, 1978, for wells under 100 gallons per minute; the following has been sent:

a. owner address changes only. Based on research, all parties have been sent the Notice of Objection and Request for Preliminary Hearing for the Temporary Preliminary Decree;

b. transferred owners. Based on research, all apparent successors in interest for water rights concerning return mail have been sent the Notice of Objection and Request for Preliminary Hearing for the Temporary Preliminary Decree and Water Right Transfer Certificate forms.

This mailing and distribution was made under my direction and control from August 30, 1984 to January 13, 1986.

Original documents concerning return mail, envelopes, research, correspondence, field office confirmation and field office certification of mailing can be found in original files and microfilm files.

Dated this 13<sup>th</sup> day of JANUARY 1986.

*James E. Kindle*

JAMES E. KINDLE, Supervisor  
Records Section, Water Rights Bureau  
Water Resources Division  
Dept. of Natural Resources and  
Conservation  
State of Montana

attachment.

Log of noticed water right owners in the basin

State of Montana )  
 : ss.  
County of Lewis & Clark)

On this 13<sup>th</sup> day of JANUARY 1956, before me, a Notary Public in and for said state, personally appeared James E. Kindle, known to me to be a Supervisor for the Water Resources Division of the Department of Natural Resources and Conservation, and acknowledges to me that he, in his official capacity, executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal, the day and year in this certificate first above written.

John P. Gilman  
Notary Public for the State of Montana  
Residing at Helena  
My commission expires 1-21-1957

ATTACHMENT TO THE AMENDED CERTIFICATE OF MAILING FOR THE NOTICE OF  
OBJECTION AND REQUEST FOR PRELIMINARY HEARING

BASIN 76C

FOR THE NAME VARIATION LIST, SEE THE CERTIFICATE OF MAILING FOR THE  
NOTICE OF OBJECTION AND REQUEST FOR PRELIMINARY HEARING.

DIFFERENCES BETWEEN THE FOLLOWING RETURN MAIL LIST AND THE ONE WITH THE  
AMENDED CERTIFICATE OF MAILING FOR THE TEMP. AND/OR PRE. DECREE INDICATE  
THE RETURN MAIL FOR THE OBJECTION NOTICE.







