

BASIN

76I

**ORDER AND
WATER MASTER
REPORT**

IN THE WATER COURTS OF THE STATE OF MONTANA

CLARK FORK DIVISION

MIDDLE FORK FLATHEAD 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 MIDDLE FORK FLATHEAD RIVER DRAINAGE AREA INCLUDING ALL TRIBUTARIES OF THE MIDDLE FORK FLATHEAD RIVER IN FLATHEAD COUNTY, MONTANA.

STATE OF MONTANA Water Courts I hereby certify that the instrument to which the certificate is affixed is a true, correct and prepared copy of the original filed 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 2nd day of August 1984.

ORDER

Carol Moore Clerk of the Water Courts

After having reviewed the Water Master's Report of existing rights in the Middle Fork Flathead 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 Middle Fork Flathead River Basin be adopted as the Temporary Preliminary Decree for that Basin pursuant to Section 85-2-231(3) MCA 1978.

DATED this 31st day of July, 1984

Signature of Robert M. Holter

ROBERT M. HOLTER Water Judge Clark Fork Division

IN THE WATER COURTS OF THE STATE OF MONTANA

CLARK FORK DIVISION

MIDDLE FORK OF THE FLATHEAD 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 MIDDLE FORK)
OF THE FLATHEAD RIVER DRAINAGE AREA,)
INCLUDING ALL TRIBUTARIES OF THE)
MIDDLE FORK OF THE FLATHEAD RIVER IN)
FLATHEAD COUNTY, MONTANA.)

REPORT OF THE WATER MASTER ON THE
MIDDLE FORK OF THE FLATHEAD RIVER BASIN

This Report is submitted to the Honorable Robert M. Holter,
Water Judge of the Clark Fork Division, by A. Suzanne Nellen,
Water Master for the Middle Fork of the Flathead 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 - Middle Fork of the Flathead River

The Middle Fork of the Flathead River is sometimes called
Montana's "wildest river." It is a designated component of the
National Wild and Scenic River System. The river has its
headwaters in the primitive Bob Marshall Wilderness. It then

flows north through the Great Bear Wilderness while bordering the southern portion of Glacier Park..

The Basin consists of an area of rugged and remote mountainous terrain, spectacular scenery, extensive forest, abundant wildlife and deep snows.

The Bob Marshall Wilderness is one of the largest and most famous wildernesses. The Great Bear Wilderness is the newest area of the Glacier-Bob Marshall Wilderness complex. It obtained its name from the grizzlies which inhabit the area and was designated a wilderness in 1978. Fifty miles of the Middle Fork flows through this area offering river floaters a challenging and exciting float trip. Also, the presence of the Forest Service's Schaefer Airstrip allows planes to land for numerous reasons, including fishing, hunting, day outings, charter flights and just the excitement of using a mountain strip.

Glacier, to the north, enjoys the reputation as one of the world's outstanding wilderness parks. It is renowned for its unequalled combination of wildlife, alpine tundra peaks, glaciers, lakes and rugged landscape. More than 40 million people have visited this outstanding wilderness park since its designation.

The main tributaries to the Middle Fork of the Flathead River consist of Schaefer Creek, Ole Creek, Park Creek, Coal Creek, Nyack Creek, Lincoln Creek and Lake McDonald.

There were 200 water claims filed in this Basin. The primary uses consisted of domestic, recreation, fish and

wildlife, industrial and power generation.

The boundaries of this Basin are outlined on the attached map.

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 existing 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 Middle Fork of the Flathead 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 by 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:

Climatic Area	Flood Systems (diversion ditch) Volumes (AF/A)	Sprinkler & Pumped Diversion Systems Volumes (AF/A)	Water Spreading Systems, Sub-irrigation and Natural Overflow Volumes (AF/A)
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 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 was 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 Middle Fork of the Flathead River Basin, claims for recreational, power generation, fish and wildlife and commercial use were submitted.

The Court finds that no individual nor Department filed any valid instream claims for fish, 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 are 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 have been used by the Water Court to aid in calculating flow rate, volume and other elements of a water right. These standards are guidelines only and can be modified to reflect an individual's own circumstances upon objection.

16. Claimed Federal Reserved Water Rights

The determination of water rights in the South Fork of the Flathead River Basin shall be subject to the contents of any future compact negotiated by the Montana Reserved Water Rights

Compact Commission and the United States of America which will determine reserved water rights of the United States Forest Service. Should no compact be approved in accordance with Title 85, Part 2, Chapter 7, Montana Code Annotated (1983) or applicable law, this Preliminary Decree is subject to the determination, in accordance with State procedure, of water rights claims of the United States of America on behalf of the United States Forest Service. The general adjudication of water rights is to cover rights to the use of water which would be protected under the law as it existed prior to July 1, 1973, subject to the livestock and domestic uses exempted in 85-2-222 Montana Code Annotated (1983).

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 claimant. These claims are "alphabetized" and

stored in the archives of the Department of Natural Resources and Conservation by 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 Judge makes the following:

CONCLUSIONS OF LAW

1.

This Report meets the requirements for a Preliminary Decree as required by 85-2-321 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.

6.

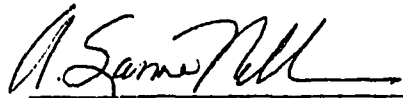
Should the reserved water rights claims of the United States of America on behalf of the United States Forest Service be determined by a compact approved in accordance with Title 85, Part 2, Chapter 7, Montana Code Annotated (1983), or approved in accordance with applicable law, objections to the Preliminary Decree may be made by the United States of America, the Department of Natural Resources and Conservation, a person named in this Decree, or any other person for good cause shown.

Should no compact be approved, the claim of the United States of America on behalf of the United States Forest Service will be determined by this Court in accordance with State procedure.

No Final Decree will be issued on the Middle Fork of the Flathead River Basin until each person who has filed a claim of

existing right and the United States of America on behalf of the United States Forest Service has been notified of the determination of all water right claims in the Basin, including the reserved water rights of the United States Forest Service, and any proper objections to those determinations have been heard.

DATED this 31st day of July, 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

MIDDLE FORK OF THE FLATHEAD 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 MIDDLE FORK)
OF THE FLATHEAD RIVER DRAINAGE)
AREA, INCLUDING ALL TRIBUTARIES OF)
THE MIDDLE FORK OF THE FLATHEAD)
RIVER IN FLATHEAD COUNTY, MONTANA.)
_____)

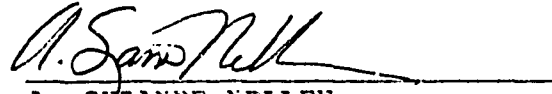
MEMORANDUM

Early in our State's history (March 12, 1885) we were concerned about measurement of Montana water.

85-5-302 MCA, whose genesis was a statute of 1905, is still our guiding law. It states ". . . shall be required to have suitable headgates at the point wherein a ditch taps a stream and shall also, at some suitable place on the ditch and as near the head thereof as practicable, place and maintain a proper measuring box, weir or other appliance for the measurement of water flowing in such ditch."

Now, as we move into the present and future of water and its management, measurement of that water is most important.

DATED this 31st day of July, 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, MIDDLE FORK OF THE FLATHEAD 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 MIDDLE FORK)
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INCLUDING ALL TRIBUTARIES OF THE)
MIDDLE FORK OF THE FLATHEAD RIVER)
IN FLATHEAD COUNTY, 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. Rodighiero. 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 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.

As of now, final decrees have been issued in three Basins.

The Water Courts in 1984 will adjudicate at least sixteen Basins; there is a real possibility to adjudicate 20 Basins.

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. 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.

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, 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.

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 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 and 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.

All pertinent case law in talking of state adjudication programs speak of a "state-wide unified adjudication" of water.

As stated, our Federal District Court of Montana, (Chief Judge James F. Battin and Judge Paul G. Hatfield), have characterized Montana's adjudication of water with these words:

"It is clear that the adjudication contemplated by the Bill is both comprehensive and efficient."

And the 9th Circuit granted a stay of Federal actions as preferable to dismissal. The Court clearly states:

"Moreover the question of adequacy of the State proceedings is one best decided by the State Courts in the first instance."

Further, the McCarran Amendment as interpreted in Colorado River allows and encourages a comprehensive water adjudication to quantify Indian water rights.

And Justice Brennan said:

"... 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. In the cases before us, assuming that the state adjudications are adequate to quantify the rights at issue in the federal suits, and taking into account the McCarran Amendment policies we have just discussed, the expertise and administrative machinery available to the 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."

What of our general adjudication of Montana water? Is it comprehensive? Is it effective? Clearly SB76 (C. 697) is comprehensive. Its mandate from the Legislature is to adjudicate all the water resources. It seeks and will quantify all of Montana's water. The water of individuals, municipal corporations, other corporate entitles, Indian water rights, and other Federal reserved rights in Montana - all of this to the end that statewide we will have certainty as to our water - where it is, who owns it, what it is used for, how long it is used, the source. In fact, the caption item of the water right issued by the Water Courts best shows its comprehensive character of over 200,000 individual and corporate water claims and unnumbered Indian rights and Federal reserved rights. Here is a caption of the water right issued:

CERTIFICATE OF WATER RIGHT NO. W-1005050-00

OWNER:

PRIORITY DATE:

FLOW RATE:

VOLUME:

SOURCE:

PURPOSE:

PERIOD OF USE:

POINT OF DIVERSION AND MEANS OF DIVERSION:

PLACE OF USE:

GENERAL REMARKS:

Comprehensive is the key description of the Water Courts plan.

Long before actual gathering of the thousands of water claims, the Court with the help of the Department of Natural Resources and Conservation prepared an Atlas of Water Resources by Hydrologic Basins. This inventory of surface water resources consists of drainage basin maps showing location and relation to each other.

From the three major Continental Basins, a division was made within the State of six major drainage basins based on the streams which flow out of the State and do not reenter: the Kootenai, Clark Fork of the Columbia, St. Mary, Missouri, Yellowstone and Little Missouri. The Belle Fourche drainage of the Cheyenne River in South Dakota extends into a small area of the southeast corner of Montana.

Then the six major drainage basins were divided into 15 sub-major drainage basins consisting of the Upper Clark Fork, Lower Clark Fork; Flathead and Kootenai River Basins in the Columbia River drainage; the Upper Missouri tributaries; Missouri-Smith, Missouri-Sun-Marias; Missouri-Musselshell; Milk; and Missouri-Fork Peck Basins in the Missouri River drainage; the Upper Yellowstone; Middle Yellowstone; and Lower Yellowstone

River Basins in the Yellowstone drainage; the St. Mary River Basin in the Hudson Bay drainage; and the Little Missouri River Basin.

Then again the 15 sub-major basins were divided into 85 minor drainage basins representing the minor tributaries within the State. On a statewide plan of 85 basins, the Court began its statewide adjudication. All of these are based on the work of the Office of Water Data Coordination; U.S. Department of the Interior; Geological Survey Atlas of stream gaging stations. Slight modifications clearly do not significantly change any of the OWDC basins.

The Atlas includes twelve maps showing the 15 sub-major drainage basins with two of these maps showing more than one of the drainage basins on one map page. The maps show culture in black, power lines in grey, and streams and stream names in blue. The major, sub-major, and minor drainage basin boundary lines are shown in three significant widths of red lines. Existing and proposed flood control projects are located by red stars with open stars representing potential projects while closed stars designate existing projects. Blue triangles represent U.S.G.S. stream discharge gaging stations with righted triangles representing stations active as of January 1, 1970, and inverted triangles representing those stations, used in the past, but now discontinued. Green areas on the maps represent presently irrigated land according to the county-wide surveys being conducted by the water resources survey division, Montana Water Resources Board.

The last two maps in the Atlas are prepared by the Montana Water Resources Board staff from information supplied by cooperating agencies.

The first is one prepared through a joint effort of the Water Board and the Montana Fish and Game Department. Shown in green are the fishing access sites, state parks and monuments, and state recreation areas maintained by the Fish and Game Department throughout the State. An index to this map provides the proper names of each of these sites as of January 1, 1970.

The last map in the Atlas shows mountain precipitation by colored isohyet lines representing increments of annual precipitation above 20 inches. This map was prepared in cooperation with the Soil Conservation Service and the National Weather Service.

This detailed information should make clear the detailed planning of our comprehensive, statewide program.

The unification of our statewide plan of state court adjudication of water rights is evident in our approach toward Indian water rights and Federal reserved 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.

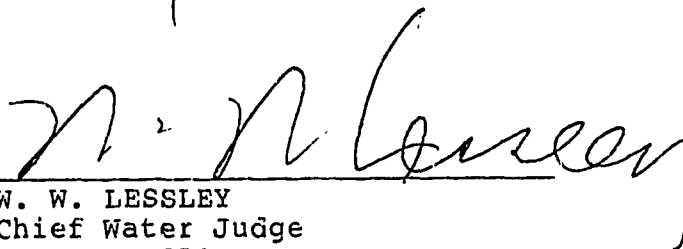
All of this procedure is considered by the Water Courts because in the words of the law, ". . . the water and water rights within each water division are interrelated, it is the intent of the legislature to conduct unified proceedings for the

general adjudication of existing water rights. . ."

And so the Water Courts Rule of Court Number 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 1 day of Aug, 1984.



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

BASIN 76I

NOTICE OF ENTRY OF
Temporary
PRELIMINARY DECREE AND
NOTICE OF AVAILABILITY

IN THE WATER COURTS OF THE STATE OF MONTANA
CLARK FORK DIVISION - MIDDLE FORK FLATHEAD RIVER BASIN (761)
* * * * *

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 Middle Fork Flathead 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 that document.

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 Middle Fork Flathead 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. See the general Findings of Fact and Conclusions of Law for further explanation of your right.

A water right in the Temporary Preliminary Decree remains unchanged and will be so entered in the Final Decree if it is not objected to during the objection period. However, if determinations of Indian and Federal reserved water rights present circumstances affecting that water right, additional objections may be filed.

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 13th DAY OF November, 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 13th day of November, 1984. USE THE FORM FURNISHED BY THE WATER COURTS AND FOLLOW WATER COURT RULE #7.

If an extension is granted, it applies to all within this Basin. A copy of the extension may be seen at the Clerk of Court offices in Flathead County.

WHERE YOU CAN SEE OR GET THE TEMPORARY PRELIMINARY DECREE (OR FINDINGS OF FACT AND CONCLUSIONS OF LAW) FOR THE MIDDLE FORK FLATHEAD RIVER BASIN

See it at:

(Over Please)

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, 3220 Hiway 93 S., Kalispell, MT 59903
4. Clerk of the Court, Flathead County, Kalispell MT 59725
5. Clerk and Recorder, Flathead County, Kalispell MT 59725

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, 3220 Hiway 93 S., Kalispell, MT 59903
4. Clerk of the Court, Flathead County, Kalispell, MT 59903

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.

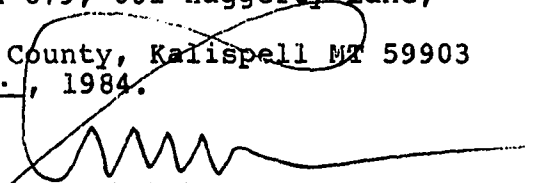
Any questions? Call the Water Courts Office at (406) 586-4364.

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 Court, Flathead County, Kalispell MT 59903
- DATED this 9th day of Aug., 1984.


ROBERT M. HOLTER
Water Judge
Clark Fork Division

BASIN 76 I

**CERTIFICATE
OF MAILING**

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
WATER RESOURCES DIVISION



TED SCHWINDEN, GOVERNOR

32 SOUTH EWING

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

August 13, 1984

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

Dear Chris:

Enclosed is the certificate of mailing for the Middle Fork Flathead River Basin (Basin 761). This mailing was completed August 9, 1984.

Sincerely,

Jim

Jim Kindle
Records Section Supervisor
Water Rights Bureau

Enclosure
JK/jg

MIDDLE FORK FLATHEAD RIVER BASIN (Basin 76I)

CERTIFICATE OF MAILING

The Notice of Entry of Temporary Preliminary Decree and Notice of Availability
for the Middle Fork Flathead River Basin (Basin 76I)

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 Entry of Temporary Preliminary Decree, Notice of
Availability, and abstracts showing dispositions of each person filing a claim
for the Middle Fork Flathead River Basin (Basin 76I) 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, August 9, 1984.

B. The Notice of Entry of Temporary Preliminary Decree and Notice of
Availability for the Middle Fork Flathead River Basin (Basin 76I) 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, August 9, 1984 for (1) all parties in the Middle Fork
Flathead 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 Middle Fork Flathead River Basin
pursuant to 85-2-301 MCA 1978; (3) all parties who have been granted a
reservation in the Middle Fork Flathead River Basin pursuant to 85-2-316 MCA

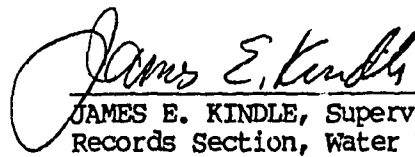
1978; (4) all parties in the Middle Fork Flathead River Basin who have received certificates of water rights pursuant to 85-2-306 MCA 1978 for wells under 100 gallons per minute; (5) all federal land management agencies in the Clark Fork Water Division; (6) all Indian Tribes in the Clark Fork Water Division; (7) all neighboring states of the Clark Fork Water Division; (8) the County Clerk of Court and Clerk and Recorder of Flathead County, 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 County entire copies of the Temporary Preliminary Decree for the Middle Fork Flathead River Basin and indexes thereto.

D. The Department of Natural Resources and Conservation sent to the Clerk of Court of Flathead County (Kalispell, MT) microfilm copies of prima facia claims and Department records for all claims submitted in the Middle Fork Flathead River Basin.

This mailing and distribution was made under my direction and control on August 9, 1984.

Dated this 13th day of August, 1984.



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

A

TEMPORARY PRELIMINARY DECREE ON MIDDLE FORK OF THE FLATHEAD RIVER BASIN
BASIN 761

**** OWNER LIST ****

ALDERSON 101 E FRONT ST MISSOULA	RICHARD VT	L 4136
AMBROGINI BOX 620 ESSEX	MARY VT	E 59916
AMBROGINI BOX 626 ESSEX	MELVIN VT	V 59916
H & W ASSOC % JAMES N HANNAH 230 SIXTH AVE SE CUT BANK	VT	59427
BAUMGARTNER BOX 593 CUT BANK	ROBERT VT	J 59427
BELTON CHALETS INC BOX 188 WEST GLACIER	VT	59936
BENGTSON BOX 300 WEST GLACIER	SHARON VT	R 59936
BENGTSON BOX 380 WEST GLACIER	THOMAS VT	R 59936
BEREK 1130 BIRCH GROVE DR KALISPELL	MIKE VT	J 59901
BEREK 1130 BIRCH GROVE KALISPELL	SHARRY VT	L 59901
BORST BOX 692 ESSEX	DENVER VT	M 59916

TEMPORARY PRELIMINARY DECREE ON MIDDLE FORK OF THE FLATHEAD RIVER BASIN
BASIN 761

**** OWNER LIST ****

BRANCH PO BOX 760 SHELBY	JERRY MT	L 59474
BRANCH PO BOX 760 SHELBY	SYLVIA MT	L 59474
BRANNON PO BOX 655 SHELBY	DOPIE MT	59474
BRANNON PO BOX 655 SHELBY	JEROME MT	59474
BREWER DRAWER T LAKE SIDE	JACQUELINE MT	C 59422
BROWN 148 MOUNTAIN VIEW BLVD CUT BANK	DONALD MT	4 59427
BROWN 148 MOUNTAIN VIEW BLVD CUT BANK	MARGARET MT	A 59427
HURKS PO BOX 6 WEST GLACIER	JEAN MT	B 59956
BURLINGTON NORTHERN RAILROAD CO 1ST NW BANK BLDG 10TH FLOOR SUITE 1003 BILLINGS	MT	59101
CATHCART 3732 CURTIS ST SAN DIEGO	JEANNE CA	B 92106
CHRISTENOT 3513 9TH AVE S GREAT FALLS	KENNETH MT	L 59408

TEMPORARY PRELIMINARY DECREE ON MIDDLE FORK OF THE FLATHEAD RIVER BASIN
BASIN 701

*** OWNER LIST ***

CHRISTENOT 3513 9TH AVE S GREAT FALLS	RUTH MT	I 59405
COX 14 BEECHWOOD WATCHUNG	PHYLLIS NJ	A 07060
CRAIG 243 SWAN RETREAT BIGFORK	CARL MT	L 59911
CRAIG 243 SWAN RETREAT BIGFORK	PAULENE MT	A 59911
DALIMATA BOX 368 WEST GLACIER	JOHN MT	J 59934
DAVIS 224 N 4TH AVE CLAYTON	HALLIE NM	M 58415
DENNYS UNDERPASS INC BOX 642 ESSEX		MT 59916
DOW 1621 PINE DR HAVRE	GARY MT	E 59501
DOW 1621 PINE DR HAVRE	MARTHA MT	A 59501
DOVALBY 27115 TRAVIS LN PALOS VERDES PENN	SALLY CA	C 90274
ETSMAN 925 S 300 W COLUMBUS	CAROL IN	 47701

TEMPORARY PRELIMINARY DECREE ON MIDDLE FORK OF THE FLATHEAD RIVER BASIN
BASIN 761

**** OWNER LIST ****

EUDY 537 6 AVE HAVRE	CLARENCE MT	E 59501
EUDY 537 6 AVE HAVRE	GRETCHEN MT	D 59501
EVENSON PO BOX 234 WEST GLACIER	FLAVIS MT	P 59936
EVENSON PO BOX 234 WEST GLACIER	PATTEE MT	E 59936
FIRST NATIONAL MONTANA 101 E FRONT ST MISSOULA	PARK TRUSTEE MT	
FISHER BOX 550 ESSEX	CAROL MT	L 59916
FORD LAKE McDONALD	DONALD MT	H 59936
FRANSON 229 10TH AVE N SHELBY	GUNNAR MT	L 59474
GLACIER VIEW GOLF INC BOX 546 KALISPELL		MT 59901
GLADER BOX 221 WEST GLACIER	JOHN MT	P 59936
GULBRANSON BOX 673 ESSEX	WILBUR MT	G 59916

TEMPORARY PRELIMINARY DECREE ON MIDDLE FORK OF THE FLATHEAD RIVER BASIN
BASIN 751

**** OWNER LIST ****

HAHN 709 2ND AVE SW GREAT FALLS	CLEG VT	R 59434
HAHN 709 2ND AVE SW GREAT FALLS	ERWIN VT	R 59434
HARRINGTON PO BOX 1 SHELBY	WOODROW VT	F 59474
HARRIS 229 10TH AVE N SHELBY	O OPEVE VT	R 59474
HATALSAN PO BOX 68 LAKE McDONALD	JOHN VT	M 59421
HATALSAN PO BOX 68 LAKE McDONALD	VIRGINIA VT	R 59421
HILT RR 1 BOX 158 FAIRFIELD	WILLIAM VT	L 59436
HOAG BOX 242 WEST GLACIER	JOHN VT	T 59436
HOAG BOX 242 WEST GLACIER	RESINE VT	A 59436
HOLTERMAN BOX 72 WEST GLACIER	JACK VT	H 59436
HOLUM RT 2 BOX 36 DUTTON	MARY VT	E 59435

TEMPORARY PRELIMINARY DECREE ON MIDDLE FORK OF THE FLATHEAD RIVER BASIN
 BASIN 741

**** OWNER LIST ****

HUMMEL 1735 E FT LOWELL SUITE 7 TUCSON	DON	AZ	85714
JOHNSON 3232 DOVE COURT GREAT FALLS	AUDREY	VT	59494
JOHNSON 3232 DOVE COURT GREAT FALLS	NORMAN	VT	59494
KAVANAGH 400 CHAIRE BLVD SHELBY	JOHN	VT	59474
KELLENBECK PO BOX 292 CORAM	FRANK	VT	59915
KELLENBECK 10253 RIDGEVIEW DR GRASS VALLEY	ROBERT	CA	95945
KELLY 1048 2ND AVE E KALISPELL	HELEN	VT	59901
KELLY 1048 2ND AVE E KALISPELL	JOAN	VT	59901
KEYES 123 4TH AVE SE CUT BANK	DOROTHY	VT	59427
KEYES 123 4TH AVE SE CUT BANK	EARL	VT	59427
KIMMET BOX 1101 CUT BANK	GEORGE	VT	59427

TEMPORARY PRELIMINARY DECREE ON MIDDLE FORK OF THE FLATHEAD RIVER BASIN
BASIN 751

**** OWNER LIST ****

KIMMET BOX 1101 CUT BANK	LOIS	MT	H 59427
KING 408 GALENA SHELBY	REN	MT	F 59474
KOEPKE BOX 605 CUT BANK	RUTH	MT	59427
KOEPKE BOX 605 CUT BANK	THEODORE	MT	H 59427
LANGEL RUDYARD	EVELYN	MT	59540
LANGEL RUDYARD	THEO	MT	D 59540
LAPALM PO BOX 8 WEST GLACIER	NN	MT	J 59936
LINGLE DRAWER V SHELBY	DEL	MT	L 59474
LITTLEJOHN 211 10TH AVE N SHELBY	GERALD	MT	E 59474
MACARTHUR 7505 BROMPTON CT HOUSTON	GLORIA	TX	H 77025
MCFADDEN 1021 BRENTWOOD DR EVANSVILLE	SHARON	IN	47715

TEMPORARY PRELIMINARY DECREE ON MIDDLE FORK OF THE FLATHEAD RIVER BASIN
 BASIN 701

**** OWNER LIST ****

MCLIFF FRED
 407 SHERIDAN AVE
 SHELBY MT 59474

MEDLICOTT ALYS C
 2618 E POWELL
 EVANSVILLE IN 47714

MENDERHALL ANNA L
 BOX 50
 EAST GLACIER PARK VT 59434

MENDERHALL CHARLES P
 BOX 50
 EAST GLACIER PARK VT 59434

MENDERHALL CHARLES P
 335 SIRJOEK LN
 KALISPELL MT 59901

MILLER DOUGLAS E
 9715 MULLAN RD KONA RANCH
 MISSOULA MT 59802

MILLER MARGUERITTE L
 9715 MULLAN RD KONA RANCH
 MISSOULA MT 59802

MOLINE GERALD H
 219 1ST ST NW
 CUT BANK MT 59427

MONTANA STATE OF BOARD OF LAND COMMISSIONERS
 FORESTRY DIVISION
 2705 SPURRIN RD
 MISSOULA MT 59801

MONTANA STATE OF DEPT OF FISH AND GAME
 1420 E 6TH AVE
 HELENA MT 59602

MONTANA STATE OF DEPT OF HIGHWAYS
 2701 PROSPECT
 HELENA MT 59601

TEMPORARY PRELIMINARY DECREE ON MIDDLE FORK OF THE FLATHEAD RIVER BASIN
 BASIN 761

*** OWNER LIST ***

NELSON BOX 57 WEST GLACIER	ANY VT	 59935
NELSON BOX 325 WEST GLACIER	DOUGLAS VT	 59936
NELSON 219 1ST ST NW CLT BANK	IRENE VT	 59427
NELSON 305 BARRON PEARL	JAMES VT	 59208
NELSON BOX 57 WEST GLACIER	MERRILL VT	 59935
NELSON PO BOX 50 WEST GLACIER	MERRILL VT	 59935
OLSON PO BOX 115 VAUGHN	SWAN VT	 59474
PADLA WATER COMMISSION 1275 FLORENCE COLUMBIA FALLS	 VT	 59912
PARIS BOX 546 KALISPELL	HUGH VT	 59931
PARKER PO BOX 7 SHELBY	JAMES VT	 59474
PARKS 7505 BADDMPTON CT HOUSTON	ELIN TX	 77085

TEMPORARY PRELIMINARY DECREE ON MIDDLE FORK OF THE FLATHEAD RIVER BASIN
BASIN 701

**** OWNER LIST ****

PATTIE BOX 030 ESSEX	VERNA	VT	59416	Y
PINNACLE WATER A SN 311 5TH AVE S SHELBY		MT	59474	
PRICE 2029 SHERIDAN RICHLAND	SUSAN	WA	99357	Y
RENSEL BOX 186 WEST GLACIER	RICHARD	MT	599360186	R
RENSEL BOX 186 WEST GLACIER	SHARON	MT	599360186	R
RICE 20 PROSPECT DR GREAT FALLS	JOHN	MT	59405	S
RICE 20 PROSPECT DR GREAT FALLS	MARY	MT	59415	R
RIECKE ROUTE 1 RUTHVEN	GILSON	IA	51353	D
RIVER BEND MOTEL WEST GLACIER		MT	59436	
ROSE 5713 WASHINGTON AVE EVANSVILLE	ALFRED	IN	47715	
ROSE 5713 WASHINGTON AVE EVANSVILLE	ALFRED	IN	47715	Y

TEMPORARY PRELIMINARY DECREE ON MIDDLE FORK OF THE FLATHEAD RIVER BASIN
BASIN 761

**** OWNER LIST ****

ROSE 5713 WASHINGTON AVE EVANSVILLE	BERNICE TN	47715
ROSE 43 WOODLAND AVE BRONXVILLE	BYRON NY	10708
ROSE 5713 WASHINGTON AVE EVANSVILLE	JEANE IN	47715
RYAN 27115 TRAVIS LN PALOS VERDES PENN	MICHAEL CA	90274
SAND 212 12TH AVE S SHELBY	JEANNETTE MT	59474
SAND 212 12TH AVE S SHELBY	RALPH MT	59474
SARGENT 712 46TH ST S GREAT FALLS	JUDITH MT	59405
SCHOKNECHT 545 6TH AVE EAST KALISPELL	DOROTHY MT	59901
SCHOKNECHT 545 6TH AVE EAST KALISPELL	MARK MT	59901
SCHULTZ RT 2 BOX 36 DUTTON	BETTY MT	59455
SPELEY BOX 457 SHELBY	ANNABELLE MT	59474

TEMPORARY PRELIMINARY DECREE ON MIDDLE FORK OF THE FLATHEAD RIVER BASIN
BASIN 761

**** OWNER LIST ****

SNAVELY 9725 MULLAN RD MISSOULA	BONNIE MT	G 59802
SNAVELY 9725 MULLAN RD MISSOULA	MICHAEL MT	R 59802
STEWART BOX 205 WEST GLACIER	DORA MT	R 59935
STEWART BOX 206 WEST GLACIER	GLEN MT	R 59936
SULLENS PO BOX 685 ESSEX	RONALD MT	G 59915
SWANBERG 704 CHEROKEE DR HENDERSON	MARGARET KY	X 42420
SWANK 121 3RD AVE SW CUT BANK	MARY MT	T 59427
TATTLE PO BOX 54 GREAT FALLS	STANLEY MT	W 59403
THEEFS 7524 W ARDMORE CHICAGO	EDWARD IL	J 60651
THEEFS 7524 W ARDMORE CHICAGO	MARY IL	J 60651
TOSCHECK BOX 25 CUT BANK	ARTHUR MT	R 59427

TEMPORARY PRELIMINARY DECREE ON MIDDLE FORK OF THE FLATHEAD RIVER BASIN
BASIN 701

**** OWNER LIST ****

US DEPT OF AGRICULTURE FOREST SERVICE
PO BOX 7569
MISSOULA MT 59807

US DEPT OF INTERIOR NATIONAL PARK SERVICE
GLACIER NATIONAL PARK
WEST GLACIER MT 59436

WEST GLACIER MERC
BOX 398
WEST GLACIER MT 59436

WEST GLACIER WATER USERS
WEST GLACIER MT 59436

WOLERY BETTY ANN
712 46TH ST S
GREAT FALLS MT 59405

WORLEY DON
PO BOX 124
EAST GLACIER PARK MT 59434

WORLEY SHARON
PO BOX 124
EAST GLACIER PARK MT 59434

WYRICK WILLIAM J
DRAWER A
EAST GLACIER MT 59434

B

MIDDLE FORK FLATHEAD RIVER BASIN #76I

NOTICE TO INTERESTED PARTIES

(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 38600
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

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

(6)
All Neighboring States of the Clark Fork 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

John Van
Flathead County Clerk of Court
P.O. Box 897
Kalispell, MT. 59903

Iris Hindman
Clerk and Recorder
Flathead County Courthouse
Kalispell, MT. 59903

(9)

Other Interested Parties

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

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

Field Solicitor
Room 5931
Federal Building
Billings, MT. 59103

G. Steven Brown
Attorney for Mt. Dept. of
Fish, Wildlife and Parks
1313 11th Ave.
Helena, MT. 59601

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

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

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

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
Corps of Engineers
6014 U.S. Post Office & Courthouse
Omaha, NE 68102

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

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

Michael E. Zimmerman
40 East Broadway
Butte, MT. 59107

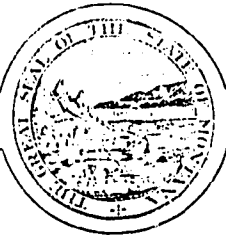
Swanberg, Coby, Swanberg and
Matteucci
P.O. Box 2567
Great Falls, MT 59403

BASIN 76 I

**MISCELLANEOUS
CORRESPONDENCE,
WATER COURT**

June 21, 1984

DEPARTMENT OF LAND, WATER RESOURCES
AND CONSERVATION
WATER RESOURCES DIVISION



TED SCHWINDEN GOVERNOR

325 SOUTH WING

STATE OF MONTANA

HELENA, MONTANA 59520

(406) 449-2872 ADMINISTRATOR
(406) 449-2864 ENGINEERING BUREAU
(406) 449-3760 WATER DEVELOPMENT BUREAU
(406) 449-2872 WATER MANAGEMENT BUREAU
(406) 449-3962 WATER RIGHTS BUREAU

June 21, 1984

Chris Jensen
Water Courts
PO Box 879
Bozeman, MT 59715

Dear Chris,

Enclosed are the review copies of the
Temporary Preliminary Decrees on Basins 76I,
76J and 76K. Please have the Water Master let
me know of any needed changes.

Sincerely,

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

Jim Kindle
Records Supervisor
Water Rights Bureau

JK:jg
Enclosure

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
WATER RESOURCES DIVISION

Jim G. [Signature]
Sue N. [Signature]



TED SCHWINDEN, GOVERNOR

32 SOUTH FILING

STATE OF MONTANA

(406) 444-6601 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

May 30, 1984

Scott Brown
Compact Commission Program Manager
DNRC/Water Resources Division

Dear Scott:

As you can see from the attached schedule entitled Progress Report Preliminary Decree Issuance, we will soon be issuing temporary preliminary decrees in several basins which may include National Park Service claims. As you know, the Park Service originally filed their claims in the statewide water rights adjudication program. These claims were then turned over to the Reserved Water Rights Compact Commission at the request and agreement of both the Commission and Water Court.

Since the claims were originally delivered to the Department as part of the adjudication program, they were processed and made part of our computer data base. Before we issue several of the up and coming decrees, we must take some affirmative steps addressing the Park Service claim. Before completing any action, I wanted to inform the Compact Commission staff, primarily you, of our schedule and plans to decide how these claims should be handled in our data base.

If you examine the attached schedule, you will find that the Madison River Basin 41E will be issued June 25, 1984 and the Middle Fork of the Flathead River will be issued by July 11, 1984. It will be these two basins which will require our immediate attention when dealing with National Park Service claims.

I, acting as a representative of the adjudication staff, would appreciate knowing if the Commission may be concerned with our actions and if our actions may be precluding some decisions being made in negotiation. Thank you.

Sincerely,

Michael McLane
Adjudication Program Manager
Water Rights Bureau

m/pg
Enclosure
cc: Peter Stanley
Larry Holman
Jim Kindle

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
WATER RESOURCES DIVISION



TFD SCHWINDEN, GOVERNOR

37 SOUTH EWING

STATE OF MONTANA

(406) 444-6601 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

TO: Jim Kindle, Supervisor, Records Section
FROM: Michael McLane, Adjudication Program Manager *MM*
DATE: June 15, 1984
SUBJECT: Adjudication Program Water Right Filings for the National Park Service

As you know Chief Water Judge W.W. Lessley and the then Reserved Water Right Compact Commission (RWCC) Chairman Henry Loble met on August 23, 1982 and discussed among other things the National Park Service's (NPS) filings. At that meeting it was decided that the NPS filings would be delivered to the RWCC for inclusion in their negotiations on Federal Reserved Water Rights. As a result of that meeting and RWCC staff Program Manager Scott Brown's verbal request, we transmitted hard copy NPS claims to the RWCC in May 1983.

Temporary Preliminary Decrees are to be issued in the near future in basins where NPS claims exist. More specifically the Madison River (41F), Upper Yellowstone River (43B), Middle Fork of the Flathead River (76I), Upper Clark Fork River (76G) and perhaps others. Although we have transmitted the hard copy claims to the RWCC, and the Water Court agreed to hand over those claims for inclusion in negotiations our data base still has NPS claims listed under the "W" designation with other Adjudication claims. We must, before decrees on the Madison River and other impacted basins are issued, suppress NPS claims by changing the ID code to assure that they do not appear in the decree.

To complicate this issue my recent communication with Scott Brown indicates that the RWCC may turn some NPS claims back to us. Attached is a copy of a 6-8-84 memo from Scott Brown discussing that possibility. However, we should not hold up the ID code modifications awaiting future determination from the RWCC. It appears that so few claims may be turned back that we should not hold up coding on the vast majority of claims.

I've discussed the possibility of receiving NPS claims back from RWCC with the Chief Water Judge W.W. Lessley during our May 22, 1984 meeting. At that meeting he instructed me to receive any claim which the RWCC turned back to us as long as they were accompanied by a letter of transmittal. Upon receipt I was to let the NPS and the Water Court know that we had received them.

It appears that some action may develop fairly soon on NPS claims. We will have to wait until the participants decide which action they wish to take. In the mean time we'll have to initiate our coding work on NPS claims at least for the Madison River immediately.

Enclosure
MM/pg

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
WATER RESOURCES DIVISION



TED SCHWINDEN, GOVERNOR

32 SOUTH EWING

STATE OF MONTANA

HELENA, MONTANA 59620

(406) 444-6501 ADMINISTRATOR
(406) 444-6546 ENGINEERING BUREAU
(406) 444-6566 WATER DEVELOPMENT BUREAU
(406) 444-6501 WATER MANAGEMENT BUREAU
(406) 444-6510 WATER RIGHTS BUREAU

June 8, 1984

Michael McLane, Program Manager
Water Rights Bureau
Dept. of Natural Resources
and Conservation
Helena, MT 59620

Dear Mike:

Your recent letter prompted me to contact Field Solicitor Ted Meredith and discuss with him again the Commission's desire to process some of the claims of the National Park Service through the Water Court.

Last December, the Commission's special counsel, Mr. Roth, communicated to Mr. Meredith and other Interior officials the idea of processing all of the claims for the Grant Kohrs National Historic Site, and similar Park Service claims, through the normal court proceedings.

Fourteen separate claims were submitted on behalf of the Kohrs Ranch. Nine claims are for stock water, three claims are for irrigation water (totaling approx. 80 ac-ft), and two claims are for domestic water. All but four of those claims predate 1891 and the documentation for all 14 claims appears to be solid. Since the site was not established as a federal reservation until 1972, and it is probable that the Park Service now possesses the first appropriative rights in the area, it is in Interior's best interests to claim them as appropriative rights.

With regard to Glacier National Park, which was established in 1909 and for which 105 separate claims were submitted, 26 of them were claimed as appropriative rights. Sixteen of those 26 claims are for domestic water, which we believe may be associated with privately-owned dwellings within the park's boundaries. Curiously, four of those claims have a priority date of 1961. The ten remaining appropriative rights claims are associated with

commerce, recreation, fire protection and multiple purposes, which could be construed as necessary purposes. Therefore, those 10 claims are more likely to remain in the hands of the Commission.

You indicated in your letter that a decree is expected for the Middle Fork Flathead River by July 11. Although many or all of the 26 appropriative rights claims may eventually be determined to be reserved rights claims after all, it is conceivable that some of them may have been submitted on behalf of individuals who have retained title to land within the park. I am concerned about the possibility of those claims falling through the cracks. We should ascertain, as soon as possible, whether or not any of those claims were submitted on behalf of private land owners. If that is the case, the Water Court should receive those claims and process them with other appropriative claims. I have called this matter to Mr. Meredith's attention, as some of the claims in question are located within the Middle Fork Flathead River Basin.

Thirty two claims were submitted on behalf of Yellowstone National Park. Your letter indicates that a temporary preliminary decree for the Madison River Basin will be issued June 25. Some of the claims for Yellowstone Park are in the Madison River Basin; however, because all 32 claims are clearly claims for reserved water rights, we would expect to process all of them in the negotiations.

A total of 10 claims was submitted on behalf of the Bighorn Canyon National Recreation Area. Two claims are for instream flows on Deadman Creek and Davis Creek. The remaining eight claims are for irrigation, domestic and recreational water uses. As in the case of Glacier Park, it may be determined that many of those claims, perhaps all of them, fit the definition of a reserved water right. But, because this recreation area was not established until 1966, some of the claims predate the reservation. Probably a few of them, particularly the five claims for domestic water and the single claim for irrigation water, will be placed into the hands of the Water Court.

Incidentally, three claims for the Bighorn Recreation Area list their priority date as "pre-1973" and two other claims, both for domestic water, fail to identify a priority date. We called this matter to the attention of Park Service officials nearly a year ago, but we have received no explanation.

The single claim for the Custer National Battlefield, which was established in 1886, is a reserved water right claim and will probably be processed in the negotiations.

Finally, three claims were submitted on behalf of the Big Hole National Battlefield--two reserved water rights claims and one appropriative right claim. The form used by the National Park Service in claiming the appropriative right would appear to

be an error in judgment, as the use is associated with maintaining the grounds. With that minor change in mind, we would expect to process all three claims for this site in the negotiations.

Conclusions

1. Some National Park Service claims clearly belong in the hands of the Water Court. They include all 14 Kohrs Ranch claims and any of the 26 appropriative rights claims that have been submitted on behalf of private land owners within Glacier Park. This action must be carried out before July 1, 1984.
2. Some or all of the eight appropriative claims associated with the Bighorn Canyon Recreation Area may belong in the hands of the Water Court. Discussions should be undertaken with Interior officials as soon as possible to sort out which of those claims will retain their priority date of first use or which will carry a priority date associated with the establishment of the reservation. Those which retain a priority date as of first use should be processed by the Water Court. While the schedule for issuing preliminary decrees does not indicate that the same degree of urgency exists here, as exists in the case of Glacier Park, it seems logical to sort all of the claims by July 1 and notify the Water Court at once.
3. All of the claims for Yellowstone National Park, Custer National Battlefield and Big Hole National Battlefield are expected to be processed in the negotiations.

I will keep you advised of meetings scheduled with Interior officials. I think it would be useful if you were able to be present when we sort the claims with them.

Sincerely,

Julie Frickel for
Scott Brown

c: Gordon McOmber
Urban Roth
Peter Stanley
W.W. Lessley
Ted Meredith



MONTANA WATER COURTS
STATE OF MONTANA

RECEIVED

JUN 28 1984

MONTANA DEPT OF NATURAL
RESOURCES & CONSERVATION

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

June 27, 1984

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

Re: National Park Claims in Basin 76I

Dear Jim:

Pursuant to our conversation of June 27, 1984,
I have sent Judy and Dick the U.S. Dept. of Interior
National Park Claims.

Judy will verify these claims and then immedi-
ately mail them to you. As I indicated in the
conversation, Judge Lesley requested these claims
be issued in the Temporary Preliminary Decree of
76I.

Should any problems arise concerning this,
please contact me.

Yours truly,

Suzanne Nellen
Suzanne Nellen
Water Master

SN/caj



MONTANA WATER COURTS

STATE OF MONTANA

WATER JUDGES:

Upper Missouri River Basin
Chief Judge W. W. Little
PO Box 979
Bozeman, MT 59715

Lower Missouri River Basin
Judge Bradford W. Thomas
PO Box 908
Cheney, MT 59623

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

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

June 28, 1984

RECEIVED
JUL 1 1984
MONTANA DEPARTMENT OF
NATURAL RESOURCES & CONSERVATION

Judy Jeniker
DNRC
Box 860
Kalispell, MT. 59903

RE: Basin 76I & 76J

Dear Judy:

Pursuant to our conversation of June 27, 1984 I would like to confirm the problems that exist in the above mentioned Basins.

You had stated that Basin 76I, Claim #141823, had a problem with its remarks section. The remark reads in the review Preliminary Decree; "The Court finds this claim to be duplicated by Certificate #CP , therefore, no new water rights certificates will be issued." It should read, "The Court finds this claim to be duplicated by Certificate #C-042595-00."

Then in the Review Preliminary Decree of 76J, you stated that the volume was inaccurate. The volume indicated on the review copy is 31,011.37 acre feet per year. The volume should have read 7,515,800 acre feet per year.

Should any of these corrections cause problems, please contact me. I am sending a copy of this letter to Jim Kindle.

Page 2

Judy, thank you very much for your assistance
on these Basins and for your immediate response
on the verification for Basin 76I.

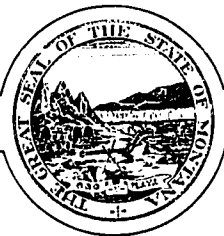
Have a wonderful vacation.

Yours truly,



Suzanne

SN/jl
CC:



MONTANA WATER COURTS
STATE OF MONTANA

WATER JUDGES:

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

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

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

July 5, 1984

RECEIVED

JUL 06 1984

MONTANA DEPT. OF NATURAL
RESOURCES & CONSERVATION

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

RE: Madison River Basin
76J and 76I

Dear Jim:

I have reviewed Book 1 and 2 of the Madison River review copy. Besides Rusty's corrections, the only problem that arose was on claim #094373. For some reason the Remarks title should be up one paragraph. Otherwise, everything else looks fine.

As indicated in a prior letter, claim #134910 in Basin 76J had a problem with its volume. No other problems existed in that Basin.

In Basin 76I, as indicated in our prior conversation, claim #141823 had a certificate number problem. I also became aware of two other claims that had problems. Claim #142599 should have the title Remarks across from the GA01 remark. Claim #163892 should have a certificate number in the place of certificate #CONTANA DE.

If there are any problems concerning these changes, please contact me. I see no further changes prior to the issuance of the Preliminary Decree on Basins 76I and 76J.

Page 2

Thank you for your time and consideration.

Sincerely,

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

Suzanne Nellen
Water Master

SN/jl



MONTANA WATER COURTS

STATE OF MONTANA

RECEIVED

JUL 16 1984

MONT. DEPT. of NATURAL
RESOURCES & CONSERVATION

July 13, 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. 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
Department of Natural Resources
32 South Ewing
Helena, MT. 59620

Dear Jim:

Enclosed please find Orders designating the Department of Natural Resources to mail the Notices of Availability for Swan River Basin, SouthFork Flathead River Basin, and Middle Fork Flathead River Basin.

If you have any questions, please call.

Sincerely,

A handwritten signature in cursive script that reads "Chris Jensen".

Chris Jensen
Clerk

CJ/jl
ENC.

IN THE WATER COURTS OF THE STATE OF MONTANA

CLARK FORK DIVISION

MIDDLE FORK FLATHEAD 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 MIDDLE)
FORK FLATHEAD RIVER DRAINAGE AREA)
INCLUDING ALL TRIBUTARIES OF THE)
MIDDLE FORK FLATHEAD RIVER IN)
FLATHEAD COUNTY, MONTANA.)

O R D E R

DESIGNATING THE DNRC TO MAIL NOTICE OF
AVAILABILITY OF THE TEMPORARY 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 Middle Fork Flathead River Basin (76I), a copy of the Notice
of Availability of the Temporary 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 Middle Fork Flathead 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
Middle Fork Flathead River Basin pursuant to 85-2-301 MCA 1978;
(3) all parties who have been granted a reservation in the

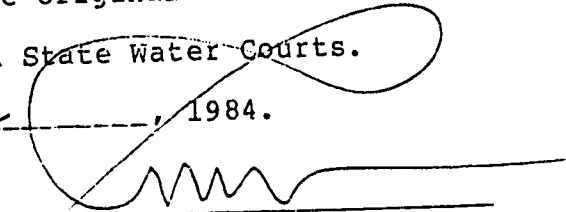
Middle Fork Flathead River Basin pursuant to 85-2-316 MCA 1978;
(4) all parties in the Middle Fork Flathead River Basin who have received certificates of water rights pursuant to 85-2-306 MCA 1978 for wells under 100 gallons per minute; (5) all federal land management agencies in the Clark Fork Water 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 Flathead, County, 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 Middle Fork Flathead River Basin, including the Daily Inter Lake at Kalispell, Montana, including any advertisement which may bring the Notice of Availability to the attention of the public.

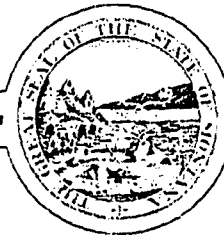
ORDERED that the Department shall make a general certificate of mailing certifying that a copy of notice has been placed in the United States Mail, postage prepaid and addressed to each party required by this Order to be served notice of the Temporary Preliminary Decree.

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

DATED this 29th day of June, 1984.


ROBERT M. HOLTER
Water Judge
Clark Fork Division

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
WATER RESOURCES DIVISION



TED SCHWINDEN, GOVERNOR

J. SOUTH EWING

STATE OF MONTANA

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

July 16, 1984

HELENA, MONTANA 59620

Suzanne Nellen
Water Master
Montana Water Court
PO Box 879
Bozeman, MT 59714

RE: Corrections to basin 76I and 76J

Attached are corrections to brief abstracts in Basins 76I and 76J with accompanying decree abstracts. Missing from this group are corrections to the following claims numbers:

76I W162322-00 (correction for section needed)
76I W162323-00 (correction for remarks needed)

Also attached are decree abstracts that were coded correctly but were garbled because of a computer programming problem:

76I W141823-00 (duplicate remark problem)
76I W163892-00 (duplicate remark problem)
76J W134910-00 (volume problem)

The placing of the word "remark" when accompanying a gray area remark has not yet been made but will be done so tomorrow when Jack Zanto, our computer programmer, recompiles the decree programs:

76I W142599-00
41F W094373-00

An extra set of all decree abstracts has been made for the field offices and are so marked and enclosed.

Sincerely,

JIM

Jim Kindle
Records Supervisor
Water Rights Bureau

Enclosure

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
WATER RESOURCES DIVISION



TED SCHWINDEN, GOVERNOR

37 SOUTH EWING

STATE OF MONTANA

(406) 444-6601 ADMINISTRATOR
(406) 444-6640 ENGINEERING BUREAU
(406) 444-6668 WATER DEVELOPMENT BUREAU
(406) 444-6601 WATER MANAGEMENT BUREAU
(406) 444-6610 WATER RIGHTS BUREAU

July 20, 1984 HELENA, MONTANA 59620

Suzanne Nellen
Water Master
Montana Water Court
PO Box 879
Bozeman, MT 59715

RE: Corrections to basin 76I

Attached are corrections to brief abstracts in Basins 76I
with accompanying decree abstracts the following claims numbers:

76I W162322-00 (correction for section needed)
76I W162323-00 (correction for remarks needed)

An extra set of all decree abstracts has been made for the
field offices and are so marked and enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read "JSJK".

Jim Kindle
Records Supervisor
Water Rights Bureau

Enclosure

RECEIVED

JUL 25 1984

MONTANA DEPT. OF NATURAL
RESOURCES & CONSERVATION



MONTANA WATER COURTS

STATE OF MONTANA

WATER JUDGES:

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

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

July 24, 1984

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

RE: 76I Flathead River
Middle Fork Basin

Dear Jim:

The following claims require corrections. Judy has spoken to me about these claims and this is a confirmation letter requesting that the claims be corrected.

✓ Claim #162319; the volume indicates 6 acre feet per year. The volume should be corrected to 10 acre feet per year. Also, delete the CL01 remark.

Claim #162318; leave the CL01 remark.

Claim #162320; leave the CL01 remark.

✓ Claim #162321; delete the CL01 remark.

✓ Claim #162322; delete the CL01 remark.

✓ Claim #162323; add 1.28 CFS to Flow Rate and 200 acre feet per year to volume.

Thank you for all the assistance on these basins, Jim, and please contact me if you have any problems with the above changes.

Yours truly,

Handwritten signature of Suzanne Nellen in cursive.

Suzanne Nellen
Water Master

SN/jl

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

MONTANA DEPARTMENT OF NATURAL RESOURCES & CONSERVATION **DNRC**
Memorandum

To: JIM KINDLE From: JUDY JENIKER Date: 7-24-84

JIM KINDLE:

ATTACHED IS A COPY OF SUZANNE'S LETTER
AND COPIES OF THE BRIEF ABSTRACTS WITH
CORRECTIONS TO BE MADE FOR OUR 76I DECREE.

ANY QUESTION, HOLLER!!

HAVE A GOOD DAY.

Judy J

RECEIVED

JUL 25 1984

MONTANA DEPT. OF NATURAL
RESOURCES & CONSERVATION



MONTANA WATER COURTS
STATE OF MONTANA

WATER JUDGES:

Upper Missouri River Basin
Chief Judge W. W. Lessley
PO Box 1568
Bozeman, MT 59715

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

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

Yellowstone River Basin
Judge Jack D. Shanstrom
PO Box 1568
Bozeman, MT 59715

July 18, 1984

COPY

RECEIVED

JUL 2 1984

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

Judy Jeniker, Adj Spec.
Kalispell Field Office
P.O. Box 860
Kalispell, MT 59903

RE: Basin 76J and 76I

Dear Judy,

Enclosed is a copy of the Temporary Preliminary Decree on Basin 76I. Also, I am enclosing the programming errors that have been corrected on specific abstracts.

Pursuant to our conversation. I will contact Jim Kindle in reference to Claim numbers 162319, 162321, 162322, and 162323.

Judy, I am also enclosing the letter I received from Jim in reference to the enclosed Temporary Preliminary Decrees.

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

Yours truly,

Suzanne Nellen,
Water Master

SN/cm
encls.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

07/12/84

ABSTRACT OF CLAIM FOR EXISTING WATER RIGHTS

CLAIM ID: 701-4100019-00 PRIORITY DATE: 00:00 09/28/1909 TYPE OF RIGHT: USE CLAIM RECEIVED: 04/29/02 FEE PAID: 50

TYPE VOLUME: 5 MAX RATE: 000.00 G (NEEP) (UK) MAX VOLUME: 10.00 AF/YEAR (UK) MAX ACRES: 3.00

OWNER: (M) G US DEPT OF INTERIOR NATIONAL PARK SERVICE

GLACIER NATIONAL PARK

WEST GLACIER

MT 59630

LOCUS: LV 01 JACKSON CREEK LOT BLK QTR SEC FWP RGE CO

USE: LV 01 3.00 ACRES PERIOD OF USE 19559999997 (CK) NO. RESIDUALS 40

PARCELS: 001 3.00 LOT BLK QTR SEC SEC 1WP RGE CO

002 0.00 NW 23 33N 18W FL

TOTAL 3.00 S2SW 14 33N 18W FL

REMARKS: ~~GET THE FURNISHING IS UNRECOVERED. THE LOCAL LAND DESCRIPTION~~

REFERS TO STANDS & FEASIBILITY CHECK - MAX RATE: 000.00 G MAX VOLUME: 0.00 AF/YEAR PER. OF USE: 19559999997

*URGENT - 10/10
in Vol
Delete CLO*

*Change program to claim
10 AF 14
Delete CLO*

*98
7-24-84*

07/10/84

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

ABSTRACT OF CLAIM FOR EXISTING WATER RIGHTS

CLAIM ID 761 -A-161221-00 PRIORITY DATE: 00:00 05/26/1909 TYPE OF RIGHT: USE CLAIM RECEIVED: 04/29/82 FEE PAID: \$0
TYPE CODE: S MAX RATE: 900.00 S MAX VOLUME: 35.00 AF/YEAR (CK) MAX ACRES: 0.00

CYBERS: (4) C US DEPT OF INTERIOR NATIONAL PARK SERVICE
GLACIER NATIONAL PARK

WEST GLACIER MT 59926

GROUPS: TV 01 JACKSON CFTTK LCT BLK QTR SEC SEC TWP RGE CO MEANS DIRS-HS
SANE 23 33N 18W FL

USFS: 04 02 0.00 ACRES PARCEL OF USE 000199999991 (CK)

PARCELS: 001 0.00 LCT BLK QTR SEC SEC TWP RGE CO
002 0.00 SPSM 14 33N 18W FL
TOTAL 0.00 NEWM 23 33N 18W FL

REMARKS: ~~AT 01 THE TOWNSHIP IS UNSUBDIVIDED. THE LEGAL LAND DESCRIPTION~~
~~IN PLACE OF USE HAS BEEN ESTABLISHED.~~

REFER STANDARDS & FEASIBILITY CHECK - MAX RATE: 800.00 S MAX VOLUME: 35.00 AF/YEAR PPR OF USE: 000199999991

0101
98
9-24-84

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
 ABSTRACT OF CLAIM FOR EXISTING WATER RIGHTS

07/12/84

CLAIM ID 701 -4-182323-00 PRIORITY DATE: 00:00 05/11/1954 TYPE OF RIGHT: FILED CLAIM RECEIVED: 04/29/82 FEE PAID: \$0
 TYPE CODE: G MAX RATE: 1.28 C 0.00-00 AF/YEAR ***** MAX ACRES: 0.00
 CARNERS: (M) C US DEPT OF INTERIOR NATIONAL PARK SERVICE
 WEST GLACIER M1 55930

SOURCES: 01 01 ROJIDENO SPRING
 L01 BLK Q1R SEC SEC TWP RGE CO
 SEENE 28 22N 19W FL MEANS DIVRS-5B

USE: M0 01 0.00 ACRES PERIOD OF USE 195999999997 (DR)

PARCELS:	ACRES	L01 BLK	Q1R SEC	SEC	TWP	RGE	CO
001	0.00	21	24	22N	19W	FL	
002	0.00	22	23	22N	19W	FL	
003	0.00	23	24	22N	19W	FL	
004	0.00	24	25	22N	19W	FL	
005	0.00	25	26	22N	19W	FL	
006	0.00	26	27	22N	19W	FL	
007	0.00	27	28	22N	19W	FL	
TOTAL	0.00						

OK
 OF INFORMATION AND ATTACHMENTS SHE CREATIVE
 OF CLAIM FORMED OVER TO RESERVE DEPT CONTACT COMMISSION

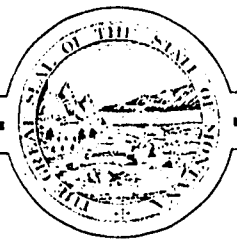
REGULATORY STANDARDS & FEASIBILITY CHECK - MAX RATE: 0.00 MAX VOLUME: 0.00 AF/YEAR PLK. OF USE: 195999999997
 THESE ARE OR MORE STANDARDS NOT CHECKED FOR FLOW USE: FLOW VOLUME PER. OF USE FEASIBILITY

MAX RATE = 0
 W PAT DUBLET
 WARY

REMOVE
 REMOVE

Please change flow
 & volume RM01 & RM02
 Delete
 7-24-84

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
WATER RESOURCES DIVISION



TED SCHWINDEN, GOVERNOR

37 SOUTH EWING

STATE OF MONTANA

(406) 444-6603 ADMINISTRATOR
(406) 444-6646 ENGINEERING BUREAU
(406) 444-6668 WATER DEVELOPMENT BUREAU
(406) 444-6661 WATER MANAGEMENT BUREAU
(406) 444-6610 WATER RIGHTS BUREAU

August 8, 1984

HELENA, MONTANA 59620

Suzanne Nellen
Water Master
Montana Water Courts
PO Box 879
Bozeman, MT 59715

RE: Corrections to basin 76I, letter dated July 24, 1984

Attached are corrections to brief abstracts in Basins 76I
with accompanying decree abstracts the following claims numbers:

76I W162319-00 (correction for volume and deletion of
CL01 remark needed)

76I W162321-00 (correction for deletion of CL01 remark
needed)

76I W162322-00 (correction for deletion of CL 01 remark
needed)

76I W162323-00 (correction for flow and volume needed)

An extra set of all decree abstracts has been made for the
field offices and are so marked and enclosed.

Sincerely,

Jim Kindle
Records Supervisor
Water Rights Bureau

Enclosure

BASIN

76 I

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

Dec. 28, 1984

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
WATER RESOURCES DIVISION



TED SCHWINDEN, GOVERNOR

32 SOUTH FWING

STATE OF MONTANA

HELENA, MONTANA 59620

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

February 13, 1985

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

Dear Chris:

Enclosed is the certificate of mailing for the Notice of Objection and Request for Preliminary Hearing for the Middle Fork Flathead River Basin (Basin 76I). This mailing was conducted December 28, 1984.

Sincerely,

JIM

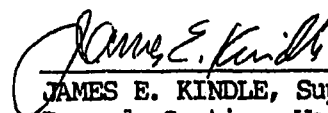
Jim Kindle
Records Section Supervisor
Water Rights Bureau

Enclosure
JK/jg

85-2-316, MCA, 1978; (4) all parties in the Middle Fork Flathead 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 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 December 28, 1984.

Dated this 13th day of FEBRUARY 1985.

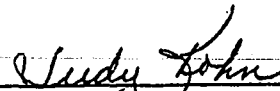


JAMES E. KINDLE, Supervisor
Records Section, Water Rights Bureau
Water Resources Division
Dept. of Natural Resources and
Conservation
State of Montana

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

On this 13th day of February 1985, 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.



Notary Public for the State of Montana
Residing at Montana City
My commission expires 3-1-85

IN THE WATER COURTS OF THE STATE OF MONTANA
CLARK FORK DIVISION - MIDDLE FORK FLATHEAD 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 MIDDLE FORK)
FLATHEAD RIVER DRAINAGE AREA,)
INCLUDING ALL TRIBUTARIES OF THE)
MIDDLE FORK FLATHEAD RIVER IN)
FLATHEAD COUNTY, MONTANA.)

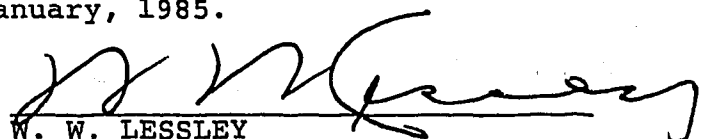
ORDER
DESIGNATING THE DNRC TO MAIL NOTICES OF OBJECTION
AND REQUEST FOR PRELIMINARY HEARING

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 Middle Fork Flathead River Basin (#76I), a copy of the Notice of Objection and Request for Preliminary Hearing.

ORDERED that the Department of Natural Resources and Conservation 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 11th day of January, 1985.


W. W. LESSLEY
Chief Water Judge
Montana State Water Courts

NOTICE TO INTERESTED PARTIES

76I

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

Bureau of Indian Affairs
Flathead Agency
P.O. Box A
Pablo, MT 59855

County Officials

John Van
Clerk of Court
Flathead County Courthouse
Kalispell, MT 59901

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

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

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

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

Field Solicitor
Room 5931
Federal Building
Billings, MT 59103

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

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

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

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

Lester Loble II
Attorney
P.O. Box 176
Helena, MT 59624

Dr. S.L. Ponce
National Park Service
Federal Bldg., Room 343
301 S. Howes Street
Fort Collins, CO 80521

Daniel F. Decker
Box 278
Pablo, MT 59855

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

Michael Zimmerman
Montana Power Co.
40 E. Broadway
Butte, MT 59701

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 Luebben
Attorney
P.O. Box 25686
Albuquerque, NM 87125

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

Tom K. Hopgood
Loble & Pauley, P.C.
P.O. Box 176
Helena, MT 59624

Vern House
Extension Economics
210 Linfield Hall, MSU
Bozeman, MT 59717

Mike Whittington
National Park Service
301 S. Howes Street
Fort Collins, CO 80521

David C. Moon
Attorney
P.O. Box 1288
Bozeman, MT 59715

James H. Goetz
35 N. Grand
Bozeman, MT 59715

Tim D. Hall
DNRC
32 South Ewing
Helena, MT 59620

Lawrence Jakub
Box 7669
Missoula, MT 59807

IN THE WATER COURTS OF THE STATE OF MONTANA
CLARK FORK DIVISION - MIDDLE FORK FLATHEAD RIVER BASIN (76I)

NOTICE THAT OBJECTIONS HAVE BEEN FILED AND THOSE OBJECTORS
HAVE REQUESTED PRELIMINARY HEARINGS

This is notice that objections have been filed and hearings have been requested on several of the water rights issued in the Middle Fork Flathead River Temporary Preliminary Decree. If your water right was objected to by another party, you will receive a special notice of that objection attached to this sheet.

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.

WE SUGGEST YOU LOOK AT ALL OF THE OBJECTIONS FILED IN THE MIDDLE FORK FLATHEAD RIVER BASIN. THEN YOU CAN DECIDE WHETHER YOU WANT TO APPEAR AND TAKE PART IN ANY HEARINGS. SEE BELOW WHERE YOU CAN SEE THE LIST OF OBJECTIONS FOR YOUR BASIN.

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. These forms can be found at the offices listed on page 2.

ALL NOTICES TO APPEAR MUST BE FILED AND RECEIVED BY THE 1st DAY OF February, 1985.

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 SEE THE LIST OF OBJECTIONS

A listing of all of the objections is available for review at:

1. Water Courts Office, P.O. Box 879, Bozeman, MT 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 Highway 93 S., Kalispell, MT 59903
4. Clerk of Court, Flathead County Courthouse, Kalispell, MT 59901
5. Clerk and Recorder, Flathead County Courthouse, Kalispell, MT 59903

A copy of any specific objection in its entirety can be obtained from the Water Courts, P.O. Box 879, Bozeman, MT 59715; phone 586-4364.

(Over Please)

If you have other questions, you may call the Water Courts.

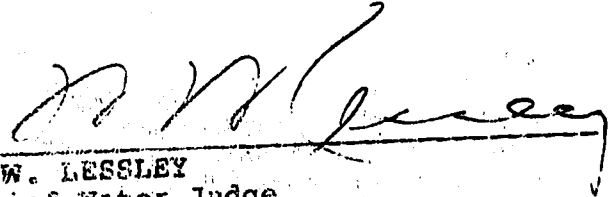
WHAT HAPPENS AFTER?

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, Bozeman, MT 59715
2. Clerk of Court, Flathead County Courthouse, Kalispell, MT 59901

DATED this 28th day of December, 1984.


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

AMENDED

OBJECTIONS TO THE MIDDLE FORK OF THE FLATHEAD RIVER TEMPORARY PRELIMINARY DECREE

761

<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>
039868	Well	Montana Water Court	Richard R. and Sharon K. Rensel	Acres Irrigated
124176	Lake McDonald	Montana Water Court	John T. Hoag	Acres Irrigated
124177	Lake McDonald	Montana Water Court	Regine A. Hoag	Acres Irrigated
124178	Lake McDonald	Montana Water Court	Gloria G. Macarthur and Elin G. Parks	Acres Irrigated
134916	Bear Creek	Montana Water Court	William J. Wyrick	Acres Irrigated
134931	Giefer Creek	Montana Water Court	Lois H. and George A. Kimmet	Acres Irrigated
134939	Deerlick Creek	Montana Water Court	John J. Dalimata	Acres Irrigated
142599	Skimamah Creek	Montana Water Court	Burlington Northern Railroad Co.	Flow Rate
162305	Kelly Creek	Montana Water Court	U.S. Dept. of Interior National Park Service	Flow Rate and Volume
162306	Spring, tributary of Lake McDonald	Montana Water Court	U.S. Dept. of Interior National Park Service	Flow Rate and Volume
162315	Well	Montana Water Court	U.S. Dept. of Interior National Park Service	Flow Rate and Volume

OBJECTIONS TO THE MIDDLE FORK OF THE FLATHEAD RIVER TEMPORARY PRELIMINARY DECREE

761

<u>Water Right Number</u>	<u>Source</u>	<u>Name of Party Objecting</u>	<u>United States of America</u>	<u>Party Right Issued to in Decree</u>	<u>Nature of Objection</u>
034243	Kelly Cr.	Confederated Salish & Kootenai Tribes	Joan M. Kelly	Jean Burks, et al.	Indian Reserved Rights; Received 11-29-84
034244	Kelly Cr.	Joan M. Kelly	Joan M. Kelly	Jean Burks, et al.	To the issuance of the Temporary Preliminary Decree
035718	Kelly Cr.	Joan M. Kelly	Joan M. Kelly	Carol Eisman, et al.	Priority date and volume or flow rate; received 11-26-84
035719	Kelly Cr.	Joan M. Kelly	Joan M. Kelly	Carol Eisman, et al.	Priority date and volume or flow rate; received 11-26-84
035740	Kelly Cr.	Joan M. Kelly	Joan M. Kelly	Alys Medicott, Phyllis Cox and Susan Price	Ownership, priority date, period of use and volume or flow rate; received 11-26-84
035741	Kelly Cr.	Joan M. Kelly	Joan M. Kelly	Alys Medicott, Phyllis Cox and Susan Price	Ownership, priority date, period of use and volume or flow rate; received 11-26-84
039614	Kelly Cr.	Joan M. Kelly	Joan M. Kelly	Merrilli Nelson, et al.	Ownership, priority date, period of use and volume or flow rate; received 11-26-84
039615	Kelly Cr.	Joan M. Kelly	Joan M. Kelly	Merrilli Nelson, et al.	Ownership, priority date, period of use and volume or flow rate; received 11-26-84
039868	Well	Mt. Dept. of Natural Resources and Conservation	Richard Rensel	USDA Forest Service	Acres irrigated
051537	Middle Fork, Flathead River	USDA Forest Service	USDA Forest Service	USDA Forest Service	Volume or flow rate

THESE OBJECTIONS TO THE MIDDLE FORK OF THE FLATHEAD RIVER TEMPORARY PRELIMINARY DECREE DO NOT CONTAIN ALL OF THE INFORMATION FILED BY AN OBJECTING PARTY. TO OBTAIN A COPY OF AN OBJECTION IN ITS ENTIRETY, CONTACT THE WATER COURTS AT P.O. BOX 879, BOZEMAN, MONTANA 59715, (406) 586-4364.

<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>
051546	Essex Cr.	USDA Forest Service	USDA Forest Service	Point of diversion
051547	Essex Cr.	USDA Forest Service	USDA Forest Service	Point of diversion
051548	Essex Cr.	USDA Forest Service	USDA Forest Service	Point of diversion
051549	Essex Cr.	USDA Forest Service	USDA Forest Service	Point of diversion
051550	Essex Cr.	USDA Forest Service	USDA Forest Service	Point of diversion
051551	Essex Cr.	USDA Forest Service	USDA Forest Service	Point of diversion
051552	Essex Cr.	USDA Forest Service	USDA Forest Service	Point of diversion
051553	Essex Cr.	USDA Forest Service	USDA Forest Service	Point of diversion
051554	Essex Cr.	USDA Forest Service	USDA Forest Service	Point of diversion
051555	Essex Cr.	USDA Forest Service	USDA Forest Service	State assigned number to claim but did not appear in Decree
051573	Well	USDA Forest Service	USDA Forest Service	State assigned number to claim but did not appear in Decree
051575	Sekokini Sp.	USDA Forest Service	USDA Forest Service	Ownership, priority date and volume or flow rate; received 11-26-84
103229	Kelly Cr.	Joan M. Kelly	Douglas & Marguerite Miller	Ownership, priority date, period of use and volume or flow rate; received 11-26-84
103230	Kelly Cr.	Joan M. Kelly	Douglas & Marguerite Miller	Acres irrigated
110839	Well	Mt. Dept. of Natural Resources and Conservation	Carol L. Fisher and Verna M. Pattie	Acres irrigated
134931	Giefer Cr.	Mt. Dept. of Natural Resources and Conservation	Lois H. & George A. Kimmel	Volume or flow rate; received 11-26-84
134933	Kelly Cr.	Joan M. Kelly	Joan Kelly and Helen Kelly	Volume or flow rate; received 11-26-84
134934	Kelly Cr.	Joan M. Kelly	Joan Kelly and Helen Kelly	Volume or flow rate
142599	Skiumah Cr.	Mt. Dept. of Natural Resources and Conservation	Burlington Northern Railroad Company	Priority date
169313	Well	USDA Forest Service	USDA Forest Service	Priority date

07/31/84 18/11
WORLEY
WORLEY
WORLEY
WYRICK
YUMAS

DON
SHARON
SHARON
MILLIAM
DANIEL
KATHRYN

K
C
C
J
A
F

NAME VARIATION CHECK ON NEW APP 8-5876 OWNERS - BASIN 761

PO BOX 124
PO BOX 124
PO BOX 124
DRAWER A
BOX 43
BOX 43

EAST GLACIER PARK
EAST GLACIER PARK
EAST GLACIER PARK
EAST GLACIER PARK
WEST GLACIER

PAGE

5
MT
MT
MT
MT
MT

12/15/80 20/37

NAME VARIATION CHECK ON NEWSPR 65874 OWNERS - BASIN 261

PAGE

MORLEY
MORLEY
MORLEY
WYRIE
YUHAS

DOV
LUN
SHARON
WILLIAM
DANIEL
KATHRYN

K
C
J
A
F

P O BOX 124
P O BOX 124
P O BOX 124
DRAWER A
BOX 43
BOX 43

EAST GLACIER PARK
EAST GLACIER PARK
EAST GLACIER PARK
WEST GLACIER

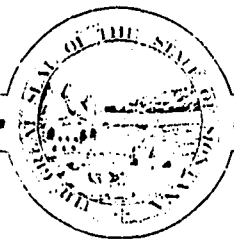
TOTAL NUMBER OF OWNERS = 239

Cook James R 4217 Clinton Boise ID
Burt, Clifford + Shirley PO Box 1331 Astoria
Ross Evelyn E PO Box 205 West Glacier

BASIN 76 I

**AMENDED CERTIFICATE
OF MAILING
PRELIMINARY DECREE**

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
WATER RESOURCES DIVISION



TED SCHWINTER, GOVERNOR

32 SOUTH EWING

STATE OF MONTANA

(406) 444-6601 ADMINISTRATOR
(406) 444-6646 ENGINEERING BUREAU
(406) 444-6688 WATER DEVELOPMENT BUREAU
(406) 444-6600 WATER MANAGEMENT BUREAU
(406) 444-6610 WATER RIGHTS BUREAU

HELENA, MONTANA 59620

March 4, 1985

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

Dear Chris:

Enclosed is the amended certificate of mailing for the Notice of Entry and Availability for the Middle Fork of the Flathead River Basin (Basin 761). This mailing was conducted from 8-9-84 to 12-28-84.

Sincerely,

Jim

Jim Kindle
Records Section Supervisor
Water Rights Bureau

Enclosure
JK/jg

MIDDLE FORK FLATHEAD RIVER BASIN (Basin 761)

AMENDED CERTIFICATE OF MAILING

Notice of Entry of Temporary Preliminary Decree and
Notice of Availability for the Middle Fork Flathead River Basin (Basin 761)

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 all return mail for the Notice of Entry of Temporary Preliminary Decree and Notice of Availability for the Middle Fork Flathead River Basin (Basin 761) 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.

D. For post July 1, 1973 water rights;

1. all parties in the Middle Fork Flathead River issued permits for water use in that Basin pursuant to 85-2-301, MCA, 1978, or their successor in interest;

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

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

4. all parties in the Middle Fork Flathead 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 Entry of Temporary Preliminary Decree and Notice of Availability of the Temporary Preliminary Decree;

b. 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 9-9-84 to 12-28-84.

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 4th day of MARCH 1985.

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 cases in the basin

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

On this 4th day of March, 1985, 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.

Judy L. L.
Notary Public for the State of Montana
Residing at Montana City, MT
My commission expires 3-1-88

ATTACHMENT TO THE AMENDED CERTIFICATE OF MAILING FOR THE TEMPORARY
AND/OR PRELIMINARY DECREE FOR

BASIN 76 I

FOR RETURN MAIL LIST, SEE THE NAME VARIATION LIST GENERATED AT THE
TIME OF THE TEMP. AND/OR PRE. DECREE MAILING WHICH IS ATTACHED TO
THE CERTIFICATE OF MAILING FOR THE NOTICE OF OBJECTION AND REQUEST
FOR PRELIMINARY HEARING.

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

BASIN

76I

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) 444-6699

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 Middle Fork of the Flathead River Basin (Basin 76I). This mailing was conducted December 28, 1984 to January 13, 1986.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jim".

Jim Kindle
Records Section Supervisor
Water Rights Bureau

Enclosure
JK/jg

CENTRALIZED SERVICES
DIVISION
(406) 444-6100

CONSERVATION DISTRICTS
DIVISION
(406) 444-6667

ENERGY
DIVISION
(406) 444-6697

OIL AND GAS
DIVISION
(406) 444-6675

WATER RESOURCES
DIVISION
(406) 444-6601

MIDDLE FORK OF THE FLATHEAD RIVER BASIN (Basin 76I)

AMENDED CERTIFICATE OF MAILING

Notice of Objection and Request for Preliminary Hearing for the
Temporary Preliminary Decree for the Middle Fork of the Flathead River Basin
(Basin 76I)

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 Objection and
Request for Preliminary Hearing for the Temporary Preliminary Decree for the
Middle Fork of the Flathead River Basin (Basin 76I) 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 in
the Middle Fork of the Flathead River Basin have been sent the Notice of
Objection and Request for Preliminary Hearing for the Temporary Preliminary
Decree.

2. transferred owners. Based on research, all apparent successors in
interest in the Middle Fork of the Flathead River Basin 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.

B. For post July 1, 1973 water rights;

1. all parties in the Middle Fork of the Flathead River Basin

issued permits for water use in that Basin pursuant to 85-2-301, MCA, 1978 or their successor in interest;

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

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

4. all parties in the Middle Fork of the Flathead 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:

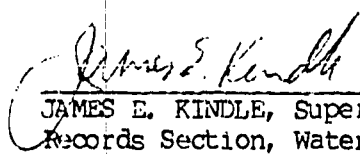
a. owner address changes only. Based on research, all parties have been sent the Notice of Objection and Request for Preliminary Hearing for the Temporary Preliminary Decree;

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 December 20, 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 13th day of JANUARY 1986.



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 13th day of JANUARY 1986, 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. Olson
Notary Public for the State of Montana
Residing at Helena
My commission expires 1-21-1987

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

BASIN 76 I

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.

07/31/84 18/11
KORLEY
KORLEY
KORLEY
MYRICK
YUHAS

DON
SHARON
SHARON
MILLIAM
DANIEL
KATHRYN

K C C J A E

NAME VARIATION CHECK ON NEW APP. & S976 OWNERS - BASIN 761

PO BOX 124
PO BOX 124
PO BOX 124
DRAWER A
BOX 43
BOX 43

EAST GLACIER PARK
EAST GLACIER PARK
EAST GLACIER PARK
WEST GLACIER

PAGE

5
MT
MT
MT
MT
MT