

BASIN

76J

**ORDER AND
WATER MASTER
REPORT**

IN THE WATER COURTS OF THE STATE OF MONTANA

CLARK FORK DIVISION

SOUTH 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 SOUTH FORK FLATHEAD RIVER DRAINAGE AREA INCLUDING ALL TRIBUTARIES OF THE SOUTH FORK FLATHEAD RIVER IN FLATHEAD, POWELL, MISSOULA AND LEWIS AND CLARK COUNTIES, MONTANA.

STATE OF MONTANA Water Courts

I hereby certify that the instrument to which the certificate is affixed is a true, correct and compared copy of the original on file in the office of the Clerk of the Water Courts.

Witness my hand and the seal of the Water Courts of the State of Montana this

31 day of July, 1984

Joseph Laskey Clerk of the Water Courts

ORDER

After having reviewed the Water Master's Report of existing rights in the South 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 South 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.

ROBERT M. HOLTER Water Judge Clark Fork Division

IN THE WATER COURTS OF THE STATE OF MONTANA

CLARK FORK DIVISION

SOUTH 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 SOUTH FORK)
OF THE FLATHEAD RIVER DRAINAGE AREA,)
INCLUDING ALL TRIBUTARIES OF THE)
SOUTH FORK OF THE FLATHEAD RIVER IN)
FLATHEAD, POWELL, MISSOULA AND LEWIS)
AND CLARK COUNTIES, MONTANA.)

REPORT OF THE WATER MASTER ON THE
SOUTH 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 South 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 - South Fork of the Flathead River

The South Fork of the Flathead River is one of Montana's
most primitive and inaccessible rivers. The River originates in
the Bob Marshall Wilderness and weaves its way northward, acting
as a main travel route through the western section of the

wilderness. This portion of the Flathead is a designated component of the National Wild and Scenic River System.

The South Fork flows north into the Hungry Horse Reservoir. The Hungry Horse Dam is one of the world's largest and highest dams.

The terrain of the Basin consists of deep valleys which cut through the mountains in a very complex system. Except for the higher mountain ranges and some cultivated valley bottoms, the area is heavily forested. The impressive country is unique among wildernesses. The Bob Marshall is one of the Nation's earliest wild areas to be set aside as an official wilderness area.

The area offers outstanding opportunities for solitude and an unrivaled wilderness experience. Among many of its features are several rare wildlife species including the cutthroat trout, the Nation's largest non-park grizzly population outside of Alaska, elk, bighorn sheep, mountain goats, black bear, mule and whitetail deer, moose and the mountain lion.

The main tributaries of the South Fork of the Flathead River are Young Creek, Danaher Creek, Gordon Creek, White River, Little Salmon Creek, Spotted Bear Creek and Sullivan Creek.

Approximately 124 water claims were filed in this Basin. The primary water uses in the Basin consist of domestic, recreation, fish, wildlife and commercial. The boundaries of this Basin are outlined in 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 South 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 South Fork of the Flathead River Basin, claims for recreational, power generation, navigation, 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.

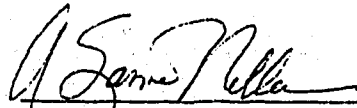
Should the reserved water rights claims of the United States of America on behalf of the United States Forest Service be determined by a compact approved in accordance with Title 85, Part 2, Chapter 7, Montana Code Annotated (1983), or approved in accordance with applicable law, objections to the Preliminary 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.

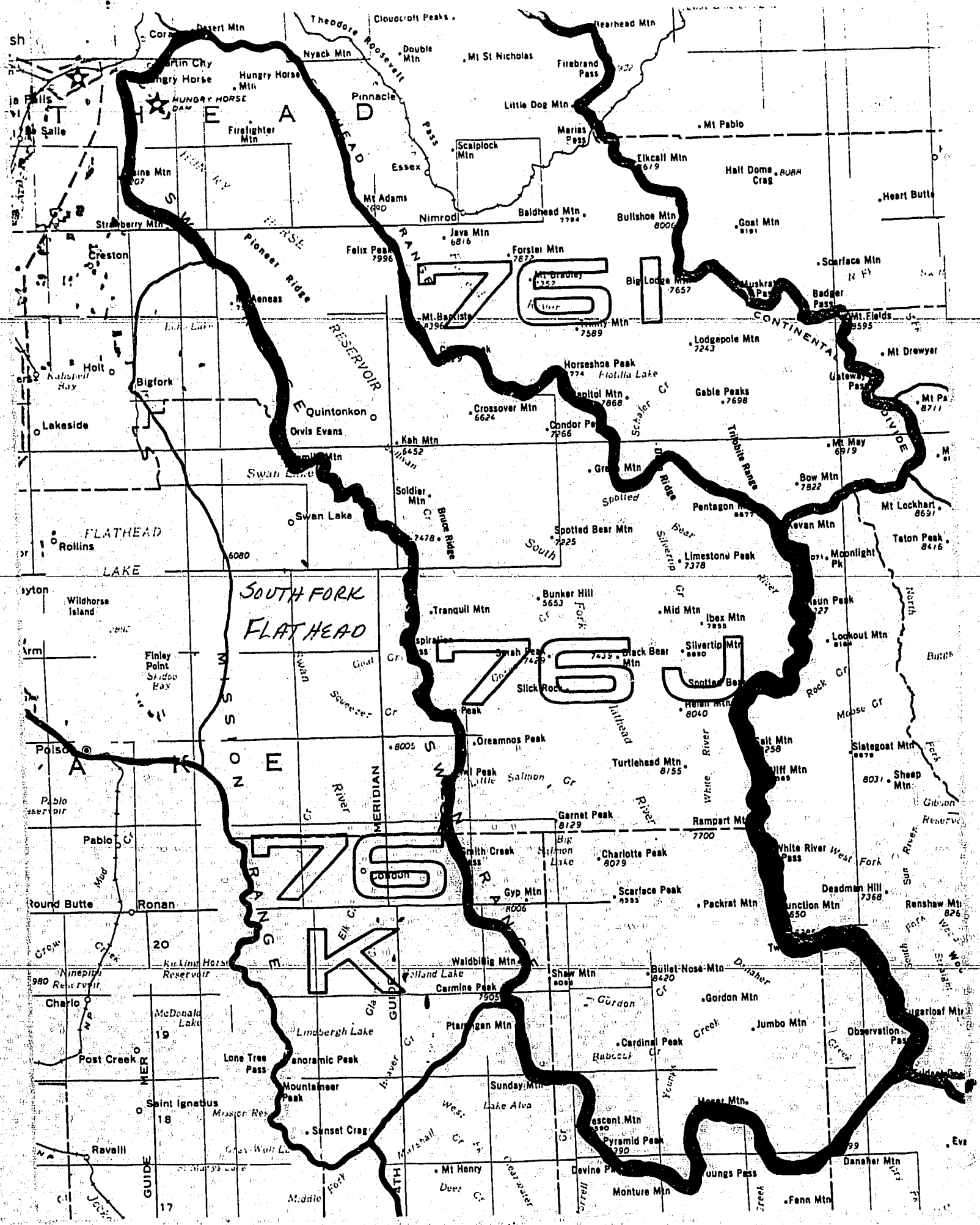
No Final Decree will be issued on the South Fork of the Flathead River Basin until each person who has filed a claim of

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

SOUTH 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 SOUTH FORK)
OF THE FLATHEAD RIVER DRAINAGE)
AREA, INCLUDING ALL TRIBUTARIES)
OF THE SOUTH FORK OF THE FLATHEAD)
RIVER IN FLATHEAD, POWER, MISSOULA)
AND LEWIS AND CLARK COUNTIES,)
MONTANA.)

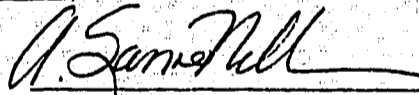
MEMORANDUM

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 13 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, SOUTH 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 SOUTH FORK)
OF THE FLATHEAD RIVER DRAINAGE AREA,)
INCLUDING ALL TRIBUTARIES OF THE)
SOUTH FORK OF THE FLATHEAD RIVER IN)
FLATHEAD, POWELL, MISSOULA AND LEWIS)
AND CLARK COUNTIES, MONTANA.)

MEMORANDUM

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

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

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

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

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

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

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

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

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

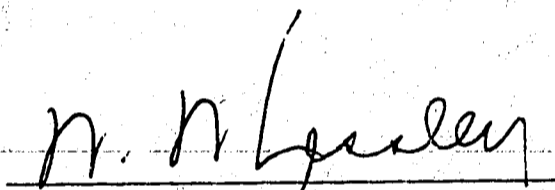
All of this procedure is considered by the Water Courts because in the words of the law, ". . . the water and water rights within each water division are interrelated, it is the intent of the legislature to conduct unified proceedings for the

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 13 day of July, 1984.



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

BASIN

76J

NOTICE OF ENTRY OF
Temporary
PRELIMINARY DECREE AND
NOTICE OF AVAILABILITY

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

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 South 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 South 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, Powell, Missoula and Lewis and Clark counties.

WHERE YOU CAN SEE OR GET THE TEMPORARY PRELIMINARY DECREE (OR FINDINGS OF FACT AND CONCLUSIONS OF LAW) FOR THE SOUTH 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 59901
5. Clerk and Recorder, Flathead County, Kalispell, MT 59901
6. Clerk of the Court, Powell County, Deer Lodge MT 59722
7. Clerk and Recorder, Powell County, Deer Lodge MT 59722
8. Clerk of the Court, Missoula County, Missoula MT 59801
9. Clerk and Recorder, Missoula County, Missoula MT 59801
10. Clerk of the Court, Lewis & Clark County Helena MT 59601
11. Clerk and Recorder, Lewis & Clark County Helena MT 59601

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 59901

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
3. Clerk of the Court, Powell County, Deer Lodge MT 59722
4. Clerk of the Court, Missoula County, Missoula MT 59801
5. Clerk of the Court, Lewis & Clark County Helena MT 59601

DATED this 9th day of Aug., 1984.

ROBERT M. HOLTER
Water Judge
Clark Fork Division

BASIN 76J

**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 South Fork
Flathead River Basin (Basin 76J). This mailing was completed
August 9, 1984.

Sincerely,

Jim
Jim Kindle
Records Section Supervisor
Water Rights Bureau

Enclosure
JK/jg

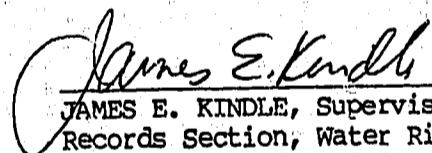
rights pursuant to 85-2-306 MCA 1978 for wells under 100 gallons per minute; (5) all federal land management agencies in the Clark Fork Water Division; (6) all Indian Tribes in the Clark Fork Water Division; (7) all neighboring states of the Clark Fork Water Division; (8) the County Clerk of Court and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

C. The Department of Natural Resources and Conservation sent to the Clerk of Court and Clerk and Recorder of Flathead, Powell, Missoula and Lewis & Clark Counties entire copies of the Temporary Preliminary Decree for the South 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 South 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.

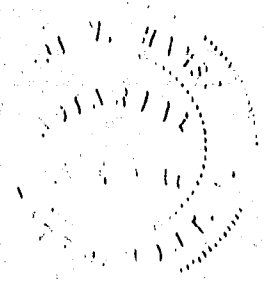


JAMES E. KINDLE, Supervisor
Records Section, Water Rights Bureau
Water Resources Division
Dept. of Natural Resources and
Conservation
State of Montana

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

On this 13th day of August, 1984, before me, a Notary Public in and for said state, personally appeared James E. Kindle, known to me to be a Supervisor for the Water Resources Division of the Department of Natural Resources and Conservation, and acknowledges to me that he, in his official capacity, executed the same.

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



[Signature]
Notary Public for the State of Montana
Residing at Notary Public for the State of Montana
My commission expires October 20, 1985

TEMPORARY PRELIMINARY DECREE OF SOUTH FORK OF THE FLATHEAD RIVER BASIN
BASIN 76J

**** OWNER LIST ****

COMBINED HUNGRY HORSE WATER CO INC
BOX 832
KALISPELL MT 59901

MONTANA, STATE OF DEPT OF FISH WLDLFE & PARK
1420 E 6TH AVE
HELENA MT 59620

US DEPT OF AGRICULTURE FOREST SERVICE
PO BOX 7669
MISSOULA MT 59807

US DEPT OF INTERIOR BUREAU OF RECLAMATION
FEDERAL BLDG & US COURTHOUSE
BOX 043 550 W FORT ST
BOISE ID 83724

B-1-4

07/31/64 18/12

EDSALL
EDSALL
JOHNSON
JOHNSON
MANGAM
TURNER
US DEPT OF AGRICULTURE
ESTHER
RICHARD
DEVONE
LARRY
DAVID
FLORANCE
CITY
HAROLD
FOREST SERVICE

PRELIMINARY DECREE - NEW APP OWNERS TO BE NOTICED - BASIN 76J

BOX 205
PO BOX 295
10371 4TH AVE W
BOX 5
PO BOX 152
FLATHHEAD NATIONAL FOREST

PO BOX 147

HUNGRY HORSE
HUNGRY HORSE
KALISPELL
KALISPELL
HUNGRY HORSE
HUNGRY HORSE
CORAM
CORAM
KALISPELL

PAGE

1

AT
VT
VT
VT
VT
VT
VT

B

SOUTH FORK FLATHEAD RIVER BASIN #76J

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

Soil 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
Flathead County Court House
Kalispell, MT. 59901

Iris Hindman
Clerk and Recorder
Flathead County Court House
Kalispell, MT. 59901

Mary Ann McKee
Powell County Clerk of Court
Powell County Court House
Deer Lodge, MT. 59722

Arthur L. Jennings
Clerk and Recorder
Powell County Court House
Deer Lodge, MT. 59722

Bonnie Henri
Missoula County Clerk of Court
Missoula County Court House
Missoula, MT. 59801

Fern Hart
Clerk and Recorder
Missoula County Court House
Missoula, MT. 59801

Clara Gilreath
Lewis & Clark Clerk of Court
Lewis & Clark County Court House
Helena, MT. 59623

Sue Bartlett
Clerk and Recorder
Lewis & Clark County Court House
Helena, MT. 59623

(9)
Other Interested Parties

Department of Natural Resources
Kalispell Field Office
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. Department 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

U.S. Attorney
Federal Building
Missoula, MT. 59801

Field Solicitor
Room 5931
Federal Building
Billings, MT. 59103

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

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

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

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

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

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

Michael E. Zimmerman
40 East Broadway
Butte, MT. 59701

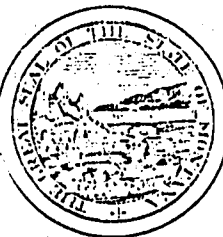
Swanberg, Coby, Swanberg and
Matteucci
P.O. Box 2567
Great Falls, MT 59403

BASIN 76 J

**MISCELLANEOUS
CORRESPONDENCE,
WATER COURT**

June 21, 1984

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
WATER RESOURCES DIVISION



TED SCHWINDEN, GOVERNOR

32 SOUTHWING

STATE OF MONTANA

HELENA, MONTANA 59620

(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,


Jim Kindle
Records Supervisor
Water Rights Bureau

JK:jg
Enclosure



MONTANA WATER COURTS

STATE OF MONTANA

WATER JUDGES:

Upper Missouri River Basin
Chief Judge W. W. Jettley
P.O. Box 879
Billings, MT 59105

Lower Missouri River Basin
Judge Edward W. Thomas
P.O. Box 936
Chandler, MT 59823

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

Yellowstone River Basin
Judge Roy C. Rodephero
P.O. Box 446
Roundup, MT 59072

June 28, 1984

RECEIVED
JUL 13 1984
MONT. DEPT. 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 761.

Have a wonderful vacation.

Yours truly,



Suzanne

SN/jl
CC:



MONTANA WATER COURTS

STATE OF MONTANA

July 5, 1984

RECEIVED

JUL 06 1984

MONTANA DEPT. OF NATURAL
RESOURCES & CONSERVATION

WATER JUDGES:

Upper Missouri River Basin
Chief Judge W W Lesley
P.O. Box 875
Butte, 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

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.

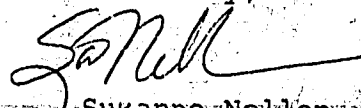
As indicated in a prior letter, claim #134910 in Basin 76J had a problem with its volume. No other problems existed in that Basin.

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.

Thank you for your time and consideration.

Sincerely,



Suzanne Nellen
Water Master

SN/jl



MONTANA WATER COURTS

STATE OF MONTANA

RECEIVED

JUL 16 1984

July 13, 1984

WATER JUDGES:

Upper Missouri River Basin
Chief Judge W. W. Lessley
P.O. Box 579
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. Miller
Lincoln County Courthouse
Lobby, MT 59523

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

MONT. DEPT. of NATURAL
RESOURCES & CONSERVATION

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, South Fork Flathead River Basin, and Middle Fork Flathead River Basin.

If you have any questions, please call.

Sincerely,

Chris Jensen
Chris Jensen
Clerk

CJ/jl
ENC.

IN THE WATER COURTS OF THE STATE OF MONTANA

CLARK FORK DIVISION
SOUTH 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 SOUTH)
FORK FLATHEAD RIVER DRAINAGE AREA)
INCLUDING ALL TRIBUTARIES OF THE)
SOUTH FORK FLATHEAD RIVER IN)
FLATHEAD, POWELL, MISSOULA AND)
LEWIS AND CLARK COUNTIES, 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 South Fork Flathead River Basin (76J), 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 South 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
South Fork Flathead River Basin pursuant to 85-2-301 MCA 1978;
(3) all parties who have been granted a reservation in the
South Fork Flathead River Basin pursuant to 85-2-316 MCA 1978;

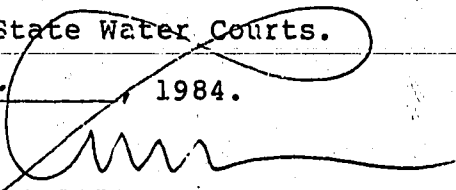
(4) all parties in the South Fork Flathead River Basin who have received certificates of water rights pursuant to 85-2-306 MCA 1978 for wells under 100 gallons per minute; (5) all federal land management agencies in the Clark Fork Water Division; (6) all neighboring states of the Clark Fork Water Division;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

ORDERED that the Montana State Water Courts publish the Notice of Availability in newspapers of general circulation in the South Fork Flathead River Basin, including the Daily Inter Lake at Kalispell; the Silver State Post at Deer Lodge; the Missoulian at Missoula, and the Independent Record at Helena, Montana, including any advertisement which may bring the Notice of Availability to the attention of the public.

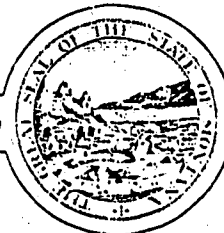
ORDERED that the Department shall make a general certificate of mailing certifying that a copy of notice has been placed in the United States Mail, postage prepaid and addressed to each party required by this Order to be served notice of the Temporary Preliminary Decree.

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

32 SOUTH EWING

STATE OF MONTANA

July 16, 1984

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

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

BASIN

76 J

**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 54 00111 W119

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

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 South Fork Flathead River Basin (Basin 76J). This mailing was conducted December 28, 1985.

Sincerely,

JK

Jim Kindle
Records Section Supervisor
Water Rights Bureau

Enclosure
JK/jg

SOUTH FORK FLATHEAD RIVER BASIN (Basin 76J)

CERTIFICATE OF MAILING

The Notice of Objection and Request for Preliminary Hearing
on the South Fork Flathead River Basin Temporary Preliminary Decree
(Basin 76J)

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

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

A. The Notice of Objection and Request for Preliminary Hearing for
each person filing a claim for the South Fork Flathead River Basin (Basin 76J)
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, December 28, 1984, and updated records of August 9,
1984.

B. The Notice of Objection and Request for Preliminary Hearing for
the South Fork Flathead River Basin (Basin 76J) 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,
December 28, 1984, and updated records of August 9, 1984, for; (1) all parties
in the South 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 South Fork
Flathead River Basin pursuant to 85-2-301, MCA, 1978; (3) all parties who have
been granted a reservation in the South Fork Flathead River Basin pursuant to

85-2-316, MCA, 1978; (4) all parties in the South 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, Powell, Missoula and Lewis and Clark Counties, 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.

Judy John
Notary Public for the State of Montana
Residing at Montana City, MT
My commission expires 5-8-85

IN THE WATER COURTS OF THE STATE OF MONTANA
CLARK FORK DIVISION - SOUTH 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 SOUTH FORK)
FLATHEAD RIVER DRAINAGE AREA,)
INCLUDING ALL TRIBUTARIES OF THE)
SOUTH FORK FLATHEAD RIVER IN)
FLATHEAD, POWELL, MISSOULA AND)
LEWIS AND CLARK COUNTIES, MONTANA.)

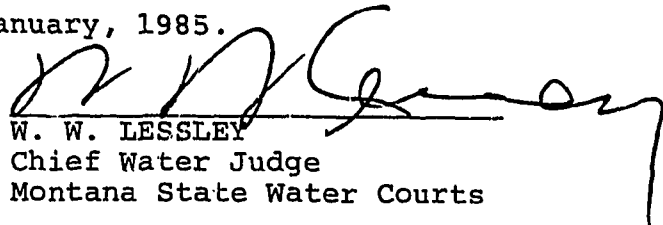
ORDER
DESIGNATING THE DNRC TO MAIL NOTICES OF OBJECTION
AND REQUEST FOR PRELIMINARY HEARING

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 South Fork Flathead River Basin (#76J), 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

76J

All Federal Land Management Agencies in the Clark Fork Division

Area Director
USDA 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 the Court
Flathead County Courthouse
Kalispell, MT 59901

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

Mary Ann McKee
Clerk of the Court
Powell County Courthouse
Deer Lodge, MT 59722

Arthur L. Jennings
Clerk and Recorder
Powell County Courthouse
Deer Lodge, MT 59722

Bonnie J. Henri
Clerk of the Court
Missoula County Courthouse
Missoula, MT 59801

Fern Hart
Clerk and Recorder
Missoula County Courthouse
Missoula, MT 59801

Clara Gilreath
Clerk of the Court
Lewis & Clark County Courthouse
Helena, MT 59601

Sue Bartlett
Clerk and Recorder
Lewis & Clark County Courthouse
Helena, MT 59601

Other Interested Parties

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

John C. Chaffin
U.S. Dept. of Justice
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 Fed. Center
Denver, CO 80225

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

U.S. Attorney
Federal Building
Missoula, MT 59801

Field Solicitor
Room 5931
Federal Building
Billings, MT 59103

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

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

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

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

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

Sherry Matteucci
Crowley Law Firm
P.O. Box 2569
Billings, MT 59103

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

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

Vern House
Extension Economics
210 Linfield Hall, MSU
Bozeman, MT 59715

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

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

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

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

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

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

Lawrence Jakub
Box 7669
Missoula, MT 59807

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

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

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

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

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 South 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 SOUTH 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
6. Clerk of Court, Powell County Courthouse, Deer Lodge, MT 59722
7. Clerk and Recorder, Powell County Courthouse, Deer Lodge, MT 59722
8. Clerk of Court, Missoula County Courthouse, Missoula, MT 59801

(Over Please)

9. Clerk and Recorder, Missoula County Courthouse, Missoula, MT 59801
10. Clerk of the Court, Lewis and Clark County Courthouse, Helena, MT 59601
11. Clerk and Recorder, Lewis and Clark County Courthouse, Helena, MT 59601

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.

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

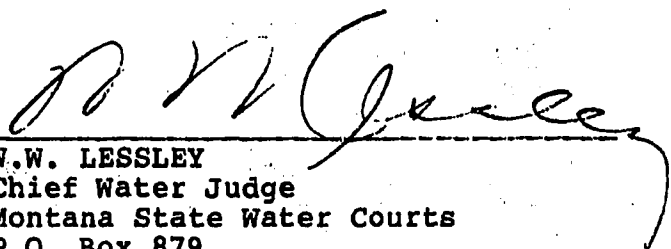
WHAT HAPPENS AFTER?

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
3. Clerk of Court, Powell County Courthouse, Deer Lodge, MT 59722
4. Clerk of Court, Missoula County Courthouse, Missoula, MT 59801
5. Clerk of Court, Lewis and Clark County Courthouse, Helena, MT 59601

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 SOUTH FORK OF THE FLATHHEAD RIVER TEMPORARY PRELIMINARY DECREE

76J

<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>
134905	Flathhead River South Fork	Montana Water Court	U.S. Dept. of Interior Bureau of Reclamation	Flow Rate and Volume
134909	Flathhead River South Fork	Montana Water Court	U.S. Dept. of Interior Bureau of Reclamation	Flow Rate and Volume
134910	Flathhead River South Fork	Montana Water Court	U.S. Dept. of Interior Bureau of Reclamation	Flow Rate and Volume
134912	Flathhead River South Fork	Montana Water Court	U.S. Dept. of Interior Bureau of Reclamation	Flow Rate and Volume

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

<u>Water Right Number</u>	<u>Source</u>	<u>Name of Party Objecting</u> United States of America	<u>Party Right Issued to in Decree</u> 76J	<u>Nature of Objection</u> Indian Reserved Rights; received 11-29-84 To the issuance of the Temporary Preliminary Decree Place of use, source and point of diversion Source Place of use Priority date Place of use, source and point of diversion Priority date, place of use, point of diversion and volume or flow rate Place of use, point of diversion and volume or flow rate Place of use and point of diversion Place of use and point of diversion Place of use and point of diversion Volume or flow rate Volume or flow rate Volume or flow rate
051605	Youngs Cr.	Confederated Salish & Kootenai Tribes USDA Forest Service	USDA Forest Service	
051611	Slick Cr.	USDA Forest Service	USDA Forest Service	
051616	South Fork, Flathead River	USDA Forest Service	USDA Forest Service	
051620	Meadow Cr.	USDA Forest Service	USDA Forest Service	
051637	Well	USDA Forest Service	USDA Forest Service	
051639	Silvertip Cr.	USDA Forest Service	USDA Forest Service	
051650	Well	USDA Forest Service	USDA Forest Service	
051651	Well	USDA Forest Service	USDA Forest Service	
051659	Graves Cr.	USDA Forest Service	USDA Forest Service	
051668	Lion Lake	USDA Forest Service	USDA Forest Service	
051670	Lion Lake	USDA Forest Service	USDA Forest Service	
051673	Hungry Horse Reservoir	USDA Forest Service	USDA Forest Service	
051674	Hungry Horse Reservoir	Mt. Dept. of Natural Resources and Conservation	USDA Forest Service	
051674	Hungry Horse Reservoir	USDA Forest Service	USDA Forest Service	

THESE OBJECTIONS TO THE SOUTH 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>
051675	Mamie Cr.	USDA Forest Service	USDA Forest Service	Place of use and point of diversion
134905	South Fork, Flathead River	USDI - Bureau of Reclamation	USDI - Bureau of Reclamation	Ownership, priority date, purpose of right, period of use, place of use and volume or flow rate
134905	South Fork, Flathead River	Mt. Dept. of Natural Resources	USDI - Bureau of Reclamation	Priority date, purpose of right, place of use and volume or flow rate
134907	South Fork, Flathead River	USDI - Bureau of Reclamation	USDI - Bureau of Reclamation	Ownership, priority date, purpose of right, source and volume or flow rate
134910	South Fork, Flathead River	Mt. Dept. of Natural Resources	USDI - Bureau of Reclamation	Volume or flow rate
134911	South Fork, Flathead River	USDI - Bureau of Reclamation	USDI - Bureau of Reclamation	Ownership, priority date, purpose of right, period of use, place of use, source and volume or flow rate
134912	South Fork, Flathead River	Mt. Dept. of Natural Resources	USDI - Bureau of Reclamation	Priority date, purpose of right, place of use and volume or flow rate

12/18/84 20/18

NAME VARIATION CHECK ON NEW APP & SB76 OWNERS - BASIN 76J

PAGE

COMBINED HUNGRY HORSE WATER CO INC
 EDSELL ESTHER RICHARD
 JOHNSON LARRY DEVONE
 MANGAN DANIEL
 MONTANA STATE OF DEPT OF FISH WLDLFE & PARK
 TURNER HAROLD BETTY
 US DEPT OF AGRICULTURE FOREST SERVICE
 US DEPT OF INTERIOR BUREAU OF RECLAMATION

BOX 832
 BOX 205 265
 1031 4TH AVE W
 1031 4TH AVE W
 BOX 5
 1420 E 6TH AVE
 PO BOX 152
 FLATHEAD NATIONAL FOREST
 PO BOX 7669
 FEDERAL BLDG & US COURTHOUSE
 BOX 043 550 W FORT ST

KALISPELL
 HUNGRY HORSE
 KALISPELL
 HUNGRY HORSE
 HUNGRY HORSE
 HELENA
 CORAM
 KALISPELL
 MISSOULA
 BOISE

MT
 MT
 MT
 MT
 MT
 MT
 MT
 MT
 ID

TOTAL NUMBER OF OWNERS = 13

BASIN 76J

AMENDED CERTIFICATE

OF MAILING

PRELIMINARY DECREE

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
WATER RESOURCES DIVISION



TED SCHWINDEN, GOVERNOR

32 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

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 Temporary Preliminary Decree for the South Fork of the Flathead River Basin (Basin 76J). 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

SOUTH FORK FLATHEAD RIVER BASIN (Basin 76J)

AMENDED CERTIFICATE OF MAILING

Notice of Entry of Temporary Preliminary Decree and
Notice of Availability for the South Fork Flathead River Basin (Basin 76J)

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

I, JAMES E. KINDLE, Records Supervisor for the Water Resources Division of the Department of Natural Resources and Conservation of the State of Montana, hereby certify that all return mail for the Notice of Entry of Temporary Preliminary Decree and Notice of Availability for the South Fork Flathead River Basin (Basin 76J) 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. transfered owners. Based on research, all apparent successors in interest for water rights concerning return mail have been sent the Notice of Entry of Temporary Preliminary Decree and Notice of Availability of the Temporary Preliminary Decree and Water Right Transfer Certificate forms.

B. For post July 1, 1973 water rights;

1. all parties in the South 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 South Fork Flathead River Basin pursuant to 85-2-301, MCA, 1978;

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

4. all parties in the South 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:

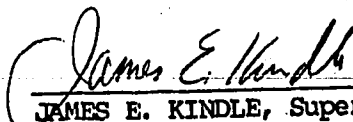
a. owner address changes only. Based on research, all parties have been sent the Notice of Entry of Temporary Preliminary Decree and Notice of Availability of the Temporary Preliminary Decree;

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 8-9-84 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, 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 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 E. Egan
Notary Public for the State of Montana
Residing at Montana City, MT
My commission expires 5-8-88

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

BASIN 76 J

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

BASIN

76J

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

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

Sincerely,

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

Jim Kindle
Records Section Supervisor
Water Rights Bureau

Enclosure
JK/jg

CENTRALIZED SERVICES
DIVISION
(406) 444-6700

CONSERVATION DISTRICTS
DIVISION
(406) 444-6687

ENERGY
DIVISION
(406) 444-6697

OIL AND GAS
DIVISION
(406) 444-6675

WATER RESOURCES
DIVISION
(406) 444-6601

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 South Fork of the Flathead River Basin pursuant to 85-2-301, MCA, 1978;

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

4. all parties in the South 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:

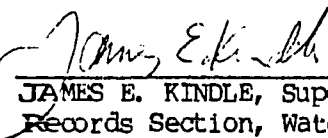
a. owner address changes only. Based on research, all parties have been sent the Notice of Objection and Request for Preliminary Hearing for the Temporary Preliminary Decree;

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 28, 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

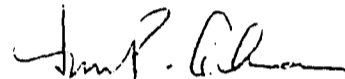
attachment

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.



Notary Public for the State of Montana
Residing at Helena
My commission expires 1-2-1987

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

BASIN 76 J

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.

