PROPOSED AGREEMENT

BETWEEN THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD NATION,

THE UNITED STATES,

ACTING THROUGH THE BUREAU OF INDIAN AFFAIRS

OF THE UNITED STATES DEPARTMENT OF THE INTERIOR,

AND THE FLATHEAD JOINT BOARD OF CONTROL,

OF THE FLATHEAD, MISSION AND JOCKO VALLEY IRRIGATION DISTRICTS.

January 17, 2013

Negotiators for the Confederated Salish and Kootenai Tribes (CSKT), the Flathead Joint Board of Control (FJBC), and the United States have developed a proposed Flathead Indian Irrigation Project Water Use Agreement for consideration by the organizations they represent. The FJBC Board will conduct a vote by its membership on the proposed agreement. FJBC meetings are scheduled on Monday, February 4th at the Arlee Community Center at 1 pm and the Saint Ignatius Senior Center at 6 pm and on Tuesday, February 5th in Hot Springs at the Lone Pine Hall at 1 pm and in Ronan at 6 pm (location to be determined).

Information on the meetings and the election and copies of the proposed agreement are available at the FJBC office 406-745-2090 and the following websites:
Montana: http://www.dnrc.mt.gov/rwrcc/Compacts/CSKT/Default.asp and
CSKT: http://www.cskt.org/tr/nrd_waternegotiations.htm.

For more information contact: Jon Metropoulos, attorney for the Flathead Joint Board of Control, at (406) 442-0285 or Seth Makepeace, Confederated Salish and Kootenai Tribes at (406) 675-2700 ext. 6255.

PROPOSED

Table of Contents

I. PREAMBLE 3

II. PARTIES 3

III. PURPOSE OF THE AGREEMENT 3

IV. EXPLANATORY RECITALS 4

V. DEFINITIONS 6

VI. DISCLAIMERS AND RETENTION OF RIGHTS 10

VII. MUTUAL SUPPORT, DEFENSE AND LIMITED WAIVER OF IMMUNITY 11

VIII. WATER USE SUBJECT TO THIS AGREEMENT 11

IX. PARTIES TO WITHDRAW CLAIMS 15

X. OBLIGATIONS OF THE PARTIES ARISING FROM THIS AGREEMENT 15

XI. SECRETARIAL WATER RIGHTS 18

XII. OPERATIONAL IMPROVEMENTS 18

XIII. REHABILITATION AND BETTERMENT 19

XIV. MONTANA-FUNDED SETTLEMENT IMPLEMENTATION FUND 19

XV. DEFERRAL FOR IMPLEMENTATION OF THE FARM TURNOUT ALLOWANCE (FTA) AND MINIMUM INSTREAM FLOW (MEF) 22

XVI. IMPLEMENTATION OF THE FARM TURNOUT ALLOWANCE (FTA) AND MINIMUM ENFORCEABLE INSTREAM FLOWS (MEF) FOLLOWING DEFERRAL PERIOD 23

XVII. DEFERRAL PERIOD FOR REALIZING REALLOCATED WATER 23

XVIII. REALLOCATED WATER 24

XIX. PUMPING UTILIZING THE FLATHEAD PUMPS 24

XX. LOW COST BLOCK OF POWER 25

XXI. NET POWER REVENUE DISTRIBUTION AUTHORIZED BY THE 1948 ACT 26

XXII. TERM AND EFFECTIVE DATE OF THE AGREEMENT 28

XXIII. WITHDRAWAL FROM THE AGREEMENT 28

XXIV. REEVALUATION BASED ON DATA REVIEW AND AMENDMENTS TO THE AGREEMENT 28

XXV. TERMINATION OF THE AGREEMENT 29

XXVI. DISPUTE RESOLUTION 29

ATTEST: 30

PARTIES' SIGNATURES 30

PROPOSED

I. PREAMBLE

THIS AGREEMENT is entered into pursuant to the Treaty of Hellgate, July 16, 1855, 12 Stat. 975 (1859), numerous Federal enactments relating to the Flathead Indian Reservation and the Flathead Indian Irrigation Project located there, including but not limited to the Act of April 23, 1904, Public Law 58-159, 33 Stat. 302 (1904) (the 1904 Act); the Act of May 29, 1908, Public Law 60-156, 35 Stat. 444 (1908) (the 1908 Act); the Act of May 10, 1926, 44 Stat. 453, 464 (1926); the Act of May 25, 1948, Public Law 80-554, 62 Stat. 269, (1948) (the 1948 Act), Title 85, Chapter 7, Parts 1 through 22, Mont. Code Ann. (2011) and Article VI, Section 1(c) of the Constitution of the Confederated Salish and Kootenai Tribes of the Flathead Nation, which was approved by the Secretary of the Interior on October 28, 1935. This Agreement includes Appendices A, B, and C, which are incorporated by reference as integral to this water use Agreement. The rights of all parties to this Agreement are subject to the limitations of statutory, regulatory, or other legal obligations of the parties.

II. PARTIES

THIS AGREEMENT is entered into by and between the CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD NATION (CSKT), in its own right and on behalf of its enrolled membership, the UNITED STATES OF AMERICA for itself and in its capacity as trustee for the Confederated Salish and Kootenai Tribes, allottees and CSKT Tribal members, acting through the Secretary of the Department of Interior (Department), and THE FLATHEAD JOINT BOARD OF CONTROL (FJBC) of the Flathead, Mission, and Jocko Valley Irrigation Districts (collectively, the Parties).

III. PURPOSE OF THE AGREEMENT

1. This Agreement is entered into as a component of the settlement of the rights to use water for the FIIP and for Instream Flows as portions of the comprehensive settlement of the water rights claims of the CSKT of the Flathead Reservation reflected in the Compact. This Agreement and the Compact to which it is an Appendix also settle the rights of irrigators served by the FIIP and represented by the FJBC to receive irrigation water from the Project.

2. The terms of settlement of the CSKT water rights and that portion of the Federal reserved water rights of the United States pertaining to the Flathead Indian Reservation are contained in a Water Rights Compact entered into between the United States, the State of Montana, acting through the Montana Reserved Water Rights Compact Commission, and

PROPOSED

the CSKT. The Compact will become effective upon ratification by Montana, the United States, and the CSKT. This Agreement will be appended to the Compact.

3. This Agreement and the Compact specify the terms under which the United States and the FJBC agree to withdraw and cease prosecution or defense of all claims to water, whether arising under Federal or State law, held in their names and filed in the Montana General Stream Adjudication, and whatever permits and other rights to the use of water recognized under State law that are held in their names for use on lands served by the FIIP. In exchange for withdrawal of all such water rights and claims, the CSKT commit to the use for irrigation and Incidental Purposes of the water right identified in Article III.C.1.a of the Compact (identified as the FIIP right) to be delivered by the Project Operator pursuant to the terms and limitations of this Agreement, including the Appendices.

4. As set forth in the Compact, the water the CSKT shall make available to serve the FIIP under this Agreement is a portion of the CSKT Federal reserved water right recognized in the Compact with a priority date of July 16, 1855.

5. All Parties enter into this Agreement fully informed of their legal rights and the strengths and weaknesses of their positions for the purpose of authorizing and supporting the use and management of a portion of the CSKT Federal reserved water right on the lands served by the FIIP within the exterior boundaries of the Flathead Indian Reservation, whether or not those waters are diverted outside the Reservation boundaries.

IV. EXPLANATORY RECITALS

WHEREAS, the CSKT have lived on the lands comprising the Flathead Indian Reservation (Reservation) since time immemorial and expect to continue to do so using sustainable resource-based economies;

WHEREAS, pursuant to the Treaty of Hellgate, entered into on July 16, 1855, the United States entered into a permanent settlement with the Confederated Tribes of the Flathead, Kootenay, and Upper Pend d'Oreilles Indians for relinquishment of certain lands, reserving to the CSKT a permanent tribal homeland dedicated to the exclusive use and benefit of said confederated tribes as an Indian reservation, and acknowledging the CSKT dependence upon the government of the United States;

WHEREAS, the CSKT possess hunting and fishing rights in the waters of the Reservation that have associated aboriginal water rights for Instream Flows necessary to sustain the fisheries at a protected level;

WHEREAS, pursuant to the 1904 Act, Congress authorized and directed the allotment of land within the Flathead Reservation to persons with tribal rights on the Reservation, and

PROPOSED

directed the opening for homestead purposes of the remaining unallotted lands, with certain limitations and exceptions;

WHEREAS, pursuant to the 1908 Act, Congress authorized the Secretary to construct the Flathead Indian Irrigation Project (FIIP) to deliver irrigation water to irrigable lands on the Reservation;

WHEREAS, the FIIP was built in such a manner as to intercept numerous natural streams, wetlands, ponds and lakes on the Reservation and to impact the natural hydrology of those bodies through diversion, artificial carriage and storage, inextricably intertwining the FIIP with water bodies on the Reservation;

WHEREAS, the FIIP serves lands owned by the United States, the CSKT, enrolled members of the CSKT, allottees, the State of Montana, and non-tribal members, the owners of which are represented by the Parties to this Agreement;

WHEREAS, the State of Montana Water Court is conducting a general stream adjudication which encompasses water rights on the Reservation, including those related to the FIIP;

WHEREAS, the State of Montana has provided a process for the equitable division and apportionment of waters between the State and its people, and Indian tribes and the Federal government claiming reserved water rights through negotiation;

WHEREAS, the United States and the FJBC have asserted claims to irrigation water distributed by the FIIP;

WHEREAS, there are significant legal disputes among the Parties as to essentially all the water delivered and affected by the FIIP and every characteristic of water rights, including but not limited to their existence, ownership, priority dates and quantity;

WHEREAS, the FIIP remains a Federal Indian Irrigation Project, and title to FIIP rights-of-way and real property remain with the United States;

WHEREAS, the CSKT, FJBC, and the United States differ in their views on operation and maintenance of the FIIP, including maintenance of appropriate Instream Flows, reservoir levels, and quantities of diversions for irrigation water deliveries;

WHEREAS, the uncertain outcome of litigation as well as the cost in time, money and social disruption inherent in adjudicating those legal disputes and implementing the results has inspired the Parties to compromise their legal claims and defenses and enter into this Agreement;

WHEREAS, the Parties have reached an accord on the exercise and management of the water rights for Instream Flow and for use on the FIIP recognized in the Water Rights Compact (Compact) among the CSKT, the State of Montana and the United States, made pursuant to

PROPOSED

Mont. Code Ann. §§ 85-2-702 and 703 settling the reserved and aboriginal water rights of the CSKT and the United States;

WHEREAS, that accord is contained in this Agreement;

WHEREAS, this Agreement is a binding condition on and covenant controlling the exercise of a portion of the Tribes' water rights and the operation of the FIIP and will be appended to the Compact;

NOW THEREFORE, in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

V. DEFINITIONS

These definitions are integral to this Agreement and must be applied and construed by the Parties, and any reviewing authority, in accordance with their substance.

"Adaptive Management" means a structured, iterative process of optimal decision making in the face of uncertainty, with an aim to reducing uncertainty over time via system monitoring. In this way, decision-making aims to simultaneously maximize multiple resource objectives and, either passively or actively, accrues information needed to improve future management.

"Compact" means the negotiated water rights settlement entered into by the CSKT, the State of Montana, and the United States forever settling the CSKT aboriginal and reserved water rights as provided for by Federal law (the McCarran Amendment, 43 USC § 666 (2012)) and Montana law (Mont. Code Ann. §§ 85-2-701-703 (2011)).

"Confederated Salish and Kootenai Tribes" or **"CSKT"** or **"Tribes**" means the federally-recognized Indian Tribe residing on the Flathead Indian Reservation.

"Cooperative Management Entity" or **"CME"** means the management entity for the FIIP pursuant to the Transfer Agreement between the United States Department of the Interior, the CSKT, and the FJBC, dated April 7, 2010.

"Farm Turnout Allowance" or **"FTA"** means the legally enforceable volume of water identified in Appendix A4 for irrigation and Incidental Purposes the Project Operator must deliver to farm turnouts, through diversion and pumping as appropriate, each Irrigation Season on a just and equitable basis during wet, normal, and dry years in the amounts indicated in Appendix A4 and consistent with the order of distribution found in Section 22. The legal status and nature of this right remains controlled by State and Federal law and this Agreement and related documents do not alter that status or nature in any way. The deliverable maximum FTA for all irrigable acres served by the FIIP may reach but may not

PROPOSED

exceed the volumes specified in Appendix A4, except in accordance with other provisions of this Agreement.

"Flathead Joint Board of Control" or **"FJBC"** means the Flathead Joint Board of Control of the Flathead, Mission, and Jocko Valley Irrigation Districts, a local government under Montana law.

"Flathead Indian Irrigation Project" or **"FIIP"** means the irrigation project that was developed by the United States to serve irrigable lands within the Flathead Reservation pursuant to the Flathead Allotment Act of 1904 and amendments thereto. The FIIP is owned by the United States and managed by the Project Operator pursuant to the Transfer Agreement.

"FIIP Manager" means the person or team of persons hired by the Project Operator to operate and manage the FIIP in accordance with its direction, this and other applicable agreements, and applicable law, including the Compact.

"FIIP Service Area" means the areal extent of irrigated lands that are served from the existing network of delivery systems (canals and laterals) of the FIIP.

"FIIP Water Use Right" means, for purposes of this Agreement, that portion of the water right set forth in Article III.C.1.a of the Compact (identified as the FIIP right) that is dedicated to use by the FIIP pursuant to the terms of this Agreement. The maximum deliverable amount of water under the FIIP Water Use Right is defined as the FTA for all irrigable acres served by the FIIP and may reach but may not exceed 1.4 acre-feet per acre per year, provided however, that additional water may be delivered up to a total of 2.0 acre-feet per acre pursuant to the provisions of the Measured Water Use Allowance described in Section 25. See Appendix A4 for more details on the FTA.

"Incidental Purpose(s)" means water delivered through or diverted from FIIP facilities for purposes incidental to irrigation, including but not limited to Rehabilitation and Betterment, and lawn and garden purposes allowed by the FIIP through water service agreement.

"Instream Flow" means the CSKT water right recognized in Article III.C.1.d.ii (the FIIP Nodes) of the Compact that is allocated here in this Agreement to stream flows reserved for fish and wildlife purposes, with a time immemorial priority date.

"Irrigation Districts" means the Flathead Irrigation District, the Mission Irrigation District, and the Jocko Valley Irrigation District, each a local government under Montana law, required to be organized and to represent all fee land owners whose land is served by the FIIP.

"Irrigation Season" means the period in which the FIIP actively delivers irrigation water; i.e. the period between April 15 and September 15 of each year, however, the period can be extended to October 15 at the discretion of the Project Operator.

PROPOSED

"Measured Water Use Allowance" or "MWUA" means an allocation of water that may be delivered to farm turnouts that is greater than the maximum Farm Turnout Allowance. The Measured Water Use Allowance is intended to address variability in the FIIP irrigation distribution works and soil and climate variability that exists across the acres that are served by the FIIP. The conditions on the use of this allowance are defined in Section 25. The legal status and nature of this right is coincident with that of the Farm Turnout Allowance in this Agreement.

"Minimum Enforceable Instream Flow" or **"MEF"** means the schedule of monthly streamflow values that are minimum or floor-level enforceable values of the Instream Flows and that are found in Appendix A1. The MEF values shall be met, unless Natural Flow falls below the MEF values, in which case the MEF values shall equal the Natural Flow. There shall be incremental, or stepped, increases in the MEF values as Operational Improvements and Rehabilitation and Betterment are implemented by the Project Operator. The MEF values shall be fully met once the deferral period criteria outlined in Articles XV, XVI and XVII of this Agreement are achieved. The MEF's are an exercise of the portion of the CSKT's Tribal Water Rights for Instream Flows set forth in Article III.C.1.d.ii of the Compact and have a time immemorial priority date.

"Minimum Reservoir Pool Elevations" means minimum elevations for reservoir levels that are identified in Appendix A of this Agreement and that shall be effective as of the date the ratification of the Compact by the Montana Legislature becomes effective under State law.

"Natural Flow" means the rate of water movement past a specified point on a natural stream from a drainage area for which there have been no effects caused by stream diversion, storage, import, export, return flow, or change in consumptive use caused by man-controlled modification to land use.

"Net Power Revenue" means the revenue derived by the United States, after the deduction of operation and maintenance expenses and the establishment of appropriate reserves, from the distribution and sale of power by the power system (now known as Mission Valley Power) as directed by the 1948 Act.

"Operational Improvement" means improved management of FIIP facilities, including the incorporation of measurement of on-farm deliveries, implementation of water management accounting, management of stockwater deliveries, improved adherence to Instream Flows, dedicated efforts to reduce flows in FIIP waste ways, enhanced efficiencies, and upgraded measurement and management.

"Project Operator" means that entity with the legal authority and responsibility to operate the FIIP, i.e. the CME, a joint CSKT and FJBC entity.

"Reallocated Water" means that portion of any given River Diversion Allowance that becomes unnecessary to deliver the FTA and any applicable MWUA to the lands served by the FIIP after the completion of Operational Improvements and Rehabilitation and

PROPOSED

Betterment. Reallocated Water shall be dedicated first to meet the CSKT Minimum Enforceable Instream Flows and Target Instream Flows, and after those are fulfilled, shall be split equally between the CSKT Instream Flows and irrigation purposes.

"Rehabilitation and Betterment" means the process by which the FIIP infrastructure undergoes major repair, replacement, upgrade and technological improvement of major structures, as referenced in Appendix C, and any project that has significant design and cost considerations that are subsequently agreed to by the Parties.

"River Diversion Allowance" or **"RDA"** means the volume of water identified in Appendix A necessary to be diverted or pumped at the indicated points of diversion for places of use in the areas identified therein to supply the FIIP Water Use Right and which are subject to Adaptive Management identified in Appendix B.

"Secretarial Finding" means the notice that the Secretary shall publish in the Federal Register by March 31, 2020 that all of the following events have occurred: (a) the Compact has been ratified by the CSKT, by the State, and by the United States; (b) Montana has authorized and expended all amounts due under the State legislation approving the Compact; (c) the United States has appropriated and paid to the CSKT and FJBC all amounts then due under the Federal legislation approving the Compact; and (d) the Montana Water Court has approved the proposed decree attached to the Compact and the time for all appeals has expired.

"Secretarial Water Rights" means those interests in irrigation water represented by written statements of historic water use on Reservation land, compiled and published by the United States Department of Interior under authority of a June 27, 1912, letter of the Acting Commissioner of Indian Affairs, C.F. Hauke, entitled "Field-Irrigation, 20512-1912, 16332-1912, McG C, Private Ditches", to document irrigation water use that pre-existed the construction of the Flathead Indian Irrigation Project. The written statements were produced by several three-member committees appointed by the Acting Commissioner of Indian Affairs during the first two decades of the twentieth century. The several committees were comprised of the Flathead Agency Superintendent of the Bureau of Indian Affairs, a Tribal representative selected by the Tribal Council and an Engineer for the United States Reclamation Service.

"Target Instream Flows" or "TIF" means wet and normal year instream flow hydrographs specifically identified by wet and normal years in Appendix A for select points and reaches which are desirable and achievable for Instream Flows, as determined in accordance with Appendix B, and subject to change through Adaptive Management identified in Appendix B. The Target Instream Flows are an element of the CSKT's Instream Flows and have a time immemorial priority date.

"Transfer Agreement" means the agreement by which operation and management of the Flathead Indian Irrigation Project was transferred from the United States to a Cooperative Management Entity comprised of the CSKT and the FJBC. The Transfer Agreement is dated April 7, 2010, and its full title is Agreement Between the United States of America

PROPOSED

Department of the Interior and the Confederated Salish and Kootenai Tribes of the Flathead Nation and The Flathead Joint Board of Control of the Flathead, Mission and Jocko Valley Irrigation Districts, Acting Through a Cooperative Management Entity, to Manage and Operate the Flathead Indian Irrigation Project.

"Water Management Program" means the program to be located in the CSKT Natural Resources Department which will be merged with the existing CSKT Water Management Program and will become responsible for water measurement, Instream Flow monitoring and reporting as this Agreement and the Compact are implemented.

VI. DISCLAIMERS AND RETENTION OF RIGHTS

6. Nothing in this Agreement authorizes any access to private property by any Party nor shall any provision herein be construed to authorize such access. However, nothing in this Agreement shall in any way diminish rights previously created or reserved under Federal or State law.

7. Nothing in this Agreement is intended or shall be construed or argued by any Party to in any way affect, whether by expansion, contraction, limitation or modification, the legal authority, whether legislative, regulatory, or judicial, whether based on inherent sovereign authority or statute, of any Party. Nor does it in any way affect or limit the legal ability or obligation of any Party to fulfill its constitutional, statutory, and regulatory responsibilities or comply with any judicial decisions. Nothing in this Agreement shall be interpreted to require the Department, the CSKT, or the FJBC to implement any action which is not authorized by applicable law or where sufficient funds have not been appropriated for that purpose by Congress or the State of Montana. Nothing in this Agreement or any of the attachments thereto shall be offered for or against a Party, as argument, admission, admission of wrongdoing, liability, or precedent regarding any issue of fact or law in any mediation, arbitration, litigation, or other administrative or legal proceeding, except that this Agreement may be used in any future proceeding to interpret or enforce the terms of this Agreement, consistent with applicable law. The Parties expressly reserve all rights not granted, recognized, or relinquished in this Agreement.

8. Obligations required of any Party in implementing this Agreement which are subject to appropriations or allotment by Congress or the State of Montana shall not become requirements until such appropriations or allotments are made. Nothing in this Agreement shall be interpreted as or constitute a commitment or requirement that the United States obligate or pay funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, or other applicable law. Nothing in this Agreement is intended or shall be construed to commit a Federal official to expend funds not appropriated or allocated for that purpose. To the extent that the expenditure or advance of money or the performance of any obligation of the Department, the FJBC, or the CSKT under this agreement is to be funded by appropriation or allotment of funds by Congress or the Montana Legislature,

PROPOSED

the expenditure, advance, or performance shall be contingent upon the appropriation or allotment of funds that are available for this purpose and the apportionment of such funds by the responsible agency. No breach of this Agreement shall result and no liability shall accrue to the United States, the FJBC, or the CSKT in the event such funds are neither authorized nor appropriated.

VII. MUTUAL SUPPORT, DEFENSE AND LIMITED WAIVER OF IMMUNITY

9. All Parties covenant to take all steps within their lawful authority to support enactment of all Tribal, State and Federal legislation that may be necessary to fully adopt, ratify, or implement this Agreement.

10. All Parties covenant to take all steps within their authority to support judicial approval or other judicial action necessary to fully approve and implement this Agreement.

11. All Parties covenant to take all steps necessary and lawful to defend this Agreement from judicial and legislative challenge that in any way materially impacts the ability of any Party to fulfill its obligations under the Agreement or that materially impacts the execution of the Agreement.

12. Consistent with the sovereign immunity of the Parties, the mutual defense covenant shall apply regardless of the forum and venue in which a challenge is prosecuted, be it judicial or legislative, of international bodies or the Federal, State and Tribal governments.

13. FJBC and the CSKT covenant to waive the defense of sovereign immunity in any forum in which a challenge to this Agreement may be raised for the limited purpose of defending the Agreement except that such waivers of sovereign immunity by the CSKT or the FJBC shall not extend to any action for money damages, costs, or attorneys' fees. Such limited waiver of sovereign immunity shall not include waiver for the purposes of cross-claims, counterclaims, or pendant or ancillary jurisdiction.

VIII. WATER USE SUBJECT TO THIS AGREEMENT

14. The Compact in Article III.C.1.a recognizes a consumptive use Tribal Water Right held by the United States in trust for the CSKT for the water use of irrigators served by the FIIP with a priority date of July 16, 1855. It is the exercise of this right, in conjunction with the portion of the Tribal Water Right recognized in Article III.C.1.d.ii (FIIP Nodes) of the Compact for Instream Flows that is the subject of this Agreement.

15. The FIIP shall serve no more than 130,000 acres with the water right set forth in Article III.C.1.a of the Compact.

PROPOSED

16. The Department, through the Bureau of Indian Affairs, shall continue to be responsible for the formal re-designation of lands to be served irrigation water by the FIIP pursuant to applicable Federal regulations for Indian Irrigation projects.

17. The FJBC shall continue to have all its existing duties and powers provided by State and Federal law, including but not limited to collecting annual operation and maintenance assessments, requesting the State District Court to designate lands held in fee simple status as Irrigation District lands pursuant to Mont. Code Ann. § 85-7-107 (2011), and to otherwise represent the interests of fee landowners served by the FIIP.

18. This Agreement and the Compact to which it is an Appendix also settle the rights of irrigators served by the FIIP and represented by the FJBC to receive irrigation water from the Project. The legal status and nature of those rights remains controlled by State and Federal law and this Agreement and related documents do not alter that status or nature in any way. No party to this Agreement may unilaterally change, amend, or abrogate the water use rights contained herein and in the FIIP abstracts attached to the Compact as Appendix 5. The use and administration of these water use rights are subject to the provisions of the Compact and Law of Administration, except that individuals whose lands are served by the FIIP may petition to remove or add lands to the FIIP in accordance with 25 CFR 171.00 through 171.00 and other applicable BIA policies and procedures and, as applicable, Title 85, Chapter 7, Part 18, Mont. Code Ann.

19. The FIIP water users' right to receive irrigation water delivered by the Project Operator is appurtenant to the land and runs with the land and is fully transferable under applicable law, but this does not include the power to sever this right from the land and there shall be no severance of this right from the designated or re-designated lands served by the FIIP as a result of transfer, sale, or exchange of land. Nothing in this agreement detracts from or adds to, or reduces or enhances, the legally enforceable right of individual irrigators under the Project to receive irrigation water. Nothing in this Agreement alters, diminishes, or enhances applicable operating procedures concerning a FIIP irrigator's ability to transfer or marshal, within a FIIP irrigation system operator's administrative area, irrigation water allocated to that irrigator; provided however, there shall be no water marketing among FIIP irrigators.

20. The FIIP Water Use Right shall be managed by the Project Operator as authorized under Federal, State and Tribal law, the Compact, and the terms and conditions of this Agreement.

21. The Project Operator shall manage the FIIP Water Use Right for use for irrigation and Incidental Purposes. Such management shall include the use of the Flathead Pumps as provided herein. Within the administrative areas identified in Appendix A3 and pursuant to the terms and conditions of this Agreement, the Project Operator retains the authority and discretion to temporarily transfer or reallocate irrigation water among or between FIIP lands as practicable and beneficial for irrigation and Incidental Purposes.

PROPOSED

22. The Project Operator shall deliver available water in a given year in the following order of priority in accordance with this Agreement and its Appendices A and B:

(a) Minimum Enforceable Instream Flows and Minimum Reservoir Pool Elevations, administered at locations and reaches identified in Appendix A;

(b) Farm Turnout Allowances and River Diversion Allowances, which vary depending on the water year and water availability conditions as identified in Appendix A;

(c) Target Instream Flows, administered at locations and reaches identified in Appendix A and as provided in Appendix B;

(d) Maximum Farm Turnout Allowance, the limit of which is as specified in Appendix A4, except in accordance with other provisions of this Agreement; and

(e) Measured Water Use Allowance for those lands where the allowance is applicable as defined in Section 25. If necessary, delivery of the MWUA may limit or delay attainment of TIF at any given Instream Flow location; the Project Operator shall meet the MWUA before full attainment of the TIF flows.

23. As an exercise of the portion of the Tribal Water Right set forth in Article III.C.1.e of the Compact, the Project Operator shall maintain Minimum Reservoir Pool Elevations, as identified in Appendix A. The CSKT recognize that instances will occur where reservoir maintenance and the Bureau of Indian Affairs' annual review of reservoir operations will require deviations from the Minimum Reservoir Pool Elevations. With the exception of emergency conditions, minimum pool deviations shall be coordinated between the Project Operator and CSKT Natural Resources Department.

24. The Parties agree to implement Adaptive Management, as identified in Appendix B, for the purposes of allocating water between Instream Flows and irrigation demands, and water made available through FIIP upgrades as identified in Appendix C.

25. The Measured Water Use Allowance may be delivered to farm turnouts after the deferral period described in Articles XV and XVI based on the following criteria:

(a) Water must be available in a given year after meeting the order of priority set forth in Section 22;

(b) In no instance shall the sum of the Measured Water Use Allowance and the maximum Farm Turnout Allowance exceed 2.0 acre-feet per acre;

(c) The Measured Water Use Allowance may only be applied for after a farm turnout measurement system has been installed and is operating and in no event more than five years after the end of the deferral period;

PROPOSED

(d) The Measured Water Use Allowance shall be available only to those irrigators who have diligently pursued on-farm irrigation system efficiency measures to meet agronomic crop water requirements and who have met the following criteria:

i. Three to five years of on-farm delivery and run-off measurement, at the discretion of the Project Operator, in consultation with the irrigator;

ii. Have met the conditions of an on-farm irrigation efficiency audit; and

iii. The Measured Water Use Allowance for any individual irrigator will be based on the average of the on-farm delivery measurements of the water delivered to that irrigator during the measurement period identified in Section 25(d)i.

(e) The on-farm efficiency audits shall be completed by the Project Operator, or a third party designee acceptable to the Project Operator and the irrigator, and shall include at a minimum the following criteria:

i. On-farm measurement system;

ii. Quantify the number of irrigated acres;

iii. Type of irrigation system;

iv. Uniformity of irrigation application;

v. On-farm surface run-off; and

vi. Soil moisture content.

(f) Within 12 months of the passage of the Compact by the Montana Legislature, the Parties will define the application of criteria for the on-farm efficiency audit in Section 25(e).

i. The Parties may enter into a contract with the Natural Resources Conservation Service or the Bureau of Reclamation to develop recommendations for the application of the criteria.

ii. The Parties will review the recommendations and make a decision to adopt or revise the recommendations.

(g) If the Parties fail to agree upon the criteria in Section 25(f), the Measured Water Use Allowance shall not be implemented until such time as agreement is reached.

PROPOSED

(h) The volume of a MWUA shall be reevaluated by the Project Operator every ten years or at some shorter time period determined by the Project Operator. Based on a reevaluation using the criteria in the on-farm efficiency audit, the Project Operator may modify the MWUA.

(i) If an irrigator fails to meet the efficiency conditions of the audit, access to the Measured Water Use Allowance shall be denied until such time as the efficiency deficiencies are met.

(j) An individual irrigator aggrieved under this Section or any Party to this Agreement may invoke the dispute resolution procedures in Article XXVI of this Agreement.

IX. PARTIES TO WITHDRAW CLAIMS

26. The Montana Water Court operates a process under which any person or entity who has filed a water right claim for use of water subject to the Montana General Stream Adjudication proceedings may terminate a filed claim. The process is generally referred to as the "withdrawal" of a claim and is initiated by filing with Montana Water Court a form captioned "Request to Withdraw Statement of Claim."

27. Within thirty days of the issuance of a final decree from the Montana Water Court recognizing the CSKT's water right found in Article III of the Compact, and the completion of any direct appeals therefrom, or from the expiration of the time for filing any such appeal, the FJBC and the United States will file with the Montana Water Court a "Request to Withdraw Statement of Claim" for every water right statement of claim the FJBC and the United States have of record for the FIIP with the Montana Water Court and covenant to take all steps necessary to satisfy the process for completing the claim withdrawal process.

X. OBLIGATIONS OF THE PARTIES ARISING FROM THIS AGREEMENT

28. Obligations of the CSKT:

(a) Measure water flows and document compliance or non-compliance with flow requirements at locations and stream reaches identified in Appendix A;

(b) Notify the Project Operator verbally if Instream Flows are violated and follow with written notification;

(c) Measure the River Diversion Allowances and document compliance or non-compliance with said allowances at locations identified in Appendix A;

PROPOSED

(d) Notify the Project Operator verbally if River Diversion Allowances are violated and follow with written notification;

(e) Participate in the planning, design, and environmental analysis of proposed FIIP infrastructure improvements;

(f) Participate in Adaptive Management as described in Appendix B;

(g) Analyze hydrologic data and provide annual hydrologic reports;

(h) File and prosecute objections to water rights claims filed with the Montana Water Court that duplicate pre-existing FIIP water rights claims or that claim FIIP water as a private right, whether State or federally based, both on and off the Reservation;

(i) Defend off-Reservation water diversions as quantified in the Compact serving the FIIP in the Montana General Stream Adjudication or other proceedings;

(j) Allocate a portion of the CSKT Water Rights Settlement potentially funded either by the State of Montana, the United States, and including any available local in-kind resources sufficient to implement Operational Improvements and Rehabilitation and Betterment as prioritized in Appendix C. The CSKT guarantees to utilize funds appropriated by Congress for Appendix C projects in the prioritized order that they appear and as defined in the Federal legislation; and

(k) Enter into consensual agreements pursuant to Article III.G.3 of the Compact.

29. Obligations of the Project Operator:

(a) Install water measurement devices to track and maintain compliance with FTA;

(b) Perform water accounting for water delivered through the FIIP;

(c) Ensure FIIP compliance with the MEFs, Target Instream Flows, Minimum Reservoir Pool Elevations, and River Diversion Allowances;

(d) Participate in Adaptive Management as described in Appendix B;

(e) Dedicate Reallocated Water realized by Operational Improvements to the FIIP to Instream Flow use within five (5) years of the appropriation of funds earmarked for Operational Improvements;

(f) Dedicate Reallocated Water realized by Rehabilitation and Betterment to the FIIP to Instream Flow and irrigation uses as provided below, within seven (7) years of

PROPOSED

the appropriation of funds earmarked for Rehabilitation and Betterment, or the target identified through Adaptive Management;

(g) Utilize appropriate portions of the CSKT Water Rights Settlement (funded either by the State of Montana, the United States, or local contribution) for Operational Improvements and Rehabilitation and Betterment as designated in Appendix C;

(h) Defend off-Reservation water diversions as quantified in the Compact serving the FIIP in the Montana General Stream Adjudication or other proceedings;

(i) Manage the FIIP Water Use Right in accordance with this Agreement;

(j) Deliver FTAs in accordance with this Agreement; and

(k) Enter into consensual agreements pursuant to Article III.G.3 of the Compact.

30. Obligations of the FJBC:

(a) Participate in the planning, design, and environmental analysis of proposed FIIP Rehabilitation and Betterment;

(b) Request the State District Court to designate lands held in fee simple status as Irrigation District lands pursuant to Mont. Code Ann. § 85-7-107 (2011);

(c) Defend off-Reservation water diversions as quantified in the Compact serving the FIIP in the Montana General Stream Adjudication or other proceedings;

(d) File and prosecute objections to water rights claims filed with the Montana Water Court that duplicate or claim FIIP water as a private right, whether State or federally based, both on and off of the Reservation;

(e) Participate in Adaptive Management as described in Appendix B;

(f) Notify the Project Operator in writing if the FTAs are violated; and

(g) Enter into consensual agreements pursuant to Article III.G.3 of the Compact.

31. Obligations of the United States:

(a) File and prosecute objections to water rights claims filed with the Montana Water Court that duplicate or claim FIIP water as private rights, whether State or federally based, both on and off the Reservation;

(b) Defend off-Reservation water diversions as quantified in the Compact serving the FIIP in the Montana General Stream Adjudication or other proceedings; and

PROPOSED

retain the responsibility for compliance with applicable Federal laws, including responsibility regarding Endangered Species Act compliance; and

(c) Enter into consensual agreements pursuant to Article III.G.3 of the Compact.

XI. SECRETARIAL WATER RIGHTS

32. Secretarial Water Rights serving trust property:

(a) Served by the FIIP shall be subject to the FTA under existing terms and conditions of delivery as set forth in this Agreement; and

(b) Outside the FIIP boundaries or within FIIP boundaries but not served by the FIIP shall be subject to the terms and conditions of the Secretarial Water Rights findings maintained by the Bureau of Indian Affairs.

33. Secretarial Water Rights serving fee property:

(a) Served by the FIIP shall be subject to the FTA and the Project Operator's terms and conditions of delivery; and

(b) Utilized outside FIIP or within FIIP boundaries but not served by the FIIP shall be as finally adjudicated in the Montana General Stream Adjudication and shall be administered as all other non-FIIP water rights on the Flathead Reservation by the Water Management Board pursuant to the Law of Administration.

XII. OPERATIONAL IMPROVEMENTS

34. The CSKT and FJBC agree that Operational Improvement of the FIIP will occur as a result of this Agreement and associated CSKT water rights settlement (whether funded by the United States, the State of Montana, or local contribution). The Parties agree that Operational Improvements shall be accomplished so as to bring the greatest possible benefit to Tribal natural resources, FIIP management, the FIIP land base, and to the Reservation economy. In furtherance of this goal the following water management activities will be undertaken subject to appropriations:

(a) Installation or upgrade of new or relocated Instream Flow measurement points or streamflow measurement points needed for water management;

(b) Installation or upgrade of new or relocated flow measurement sites at river or water supply diversion headgates;

PROPOSED

(c) Installation or upgrade of new or relocated flow measurement sites at lateral and distribution canal locations;

(d) Installation of on-farm measurement devices;

(e) Implementation of a stockwater mitigation plan;

(f) Installation of automated gate operators at river or water supply diversion headgates where water management will benefit;

(g) Development of water accounting and water operations planning tools;

(h) Enlargement of the size and scope of the existing CSKT Water Management Program in order to monitor and advise on water allocation at FIIP diversion/Instream Flow measurement points and to monitor and advise on the size and frequency of FIIP return flows;

(i) Establishment of water measurement activities by the Project Operator to assure the compliance with the annually established Farm Turnout Allowance; and

(j) Compliance with the agreed upon water allocations contained in Appendix A by all Parties.

XIII. REHABILITATION AND BETTERMENT

35. The CSKT and FJBC agree that significant Rehabilitation and Betterment of the FIIP is necessary to implement this Agreement and the CSKT water rights settlement (whether funded by the United States, the State of Montana, or local contribution). The Parties agree that Rehabilitation and Betterment shall be accomplished so as to bring the greatest possible benefit to Tribal natural resources, FIIP facilities, irrigated agriculture, and to the Reservation economy. Necessary Rehabilitation and Betterment projects are delineated in Appendix C and will be constructed in the order listed, subject to authorization, appropriation of funds, and priority realignment necessitated by settlement negotiations, existing agreements and/or Federal laws or regulations.

36. The CSKT and FJBC agree that realignment of priorities in Appendix C may become necessary and may be accomplished by written agreement of the Parties pursuant to the provisions in Appendix B of this Agreement.

XIV. MONTANA-FUNDED SETTLEMENT IMPLEMENTATION FUND

PROPOSED

37. The CSKT and FJBC agree that there will be additional costs incurred by the Project Operator for pumping and other activities required of it to comply with this Agreement over those experienced in the past, even though the additional costs are difficult to predict at the time of the signing of this Agreement. The CSKT and FJBC intend to seek a financial contribution from the State of Montana to establish a fund to offset those and related costs into the future in order to assure that the resulting benefits of the pumping accrue to Instream Flows and adequate irrigation water supply to irrigators served by the FIIP. The funding is subject to appropriation.

38. The CSKT and FJBC agree that specific additional non-construction projects and activities are necessary to implement this Agreement and that the cost of those immediately necessary projects and activities can and should be implemented with the fund established below. Funding is subject to appropriation.

39. The CSKT and FJBC agree that, if the Montana-Funded Settlement Implementation Fund is funded, it shall be established and utilized as follows:

(a) Funding will be dedicated to the following four general purposes:

i. Water measurement activities conducted by the CSKT and Project Operator;

ii. Improving On-Farm efficiency;

iii. Mitigating the loss of stockwater deliveries from the Project; and

iv. Providing an annual payment to offset pumping costs and related projects.

(b) In the event that the Montana-Funded Settlement Implementation Fund is incrementally or partially funded, the incremental or partial funding shall be apportioned between the four general purposes noted above in the proportions of 40% to (1), 15% to (2), 5% to (3), and 40% to (4) until such time as one or more of these purposes is fully funded. Details of each of the four general purposes are described in the following sections.

(c) Water Measurement Activities

To comply with the terms of this Agreement, both the CSKT and Project Operator will need to implement comprehensive water measurement programs to measure and record farm turnout deliveries, river diversions and Instream Flows. The Project Operator will implement water measurement activities to measure farm turnout deliveries while the CSKT will implement water measurement activities for Instream Flows, return flows, and river diversions, consistent with Section 6. Both parties shall coordinate their measurement activities with each other and will share all collected measurements.

(d) Improving On-Farm Efficiency

PROPOSED

Using funds allocated for this purpose, the Project Operator will assist FIIP irrigators on a cost share basis with improving or modernizing on-farm irrigation systems. The Project Operator may develop criteria for selecting projects to fund that prioritize the conversion of land which may have been designated as extra-duty lands or for the conversion of flood irrigated land to sprinkler irrigation if it so chooses.

(e) Annual Pumping Fund

Consistent with State law, the Project Operator shall invest funds allocated for this purpose according to the Prudent Investor rule to produce an annual income to pay for the costs of power to supply the existing FIIP Flathead River pumps. The goal shall be to invest and reinvest (if necessary) such funds so as to maintain the principal and to generate an annual payment no less than $300,000 per year. If during the first five years following the initiation of funding of this fund by a Montana-Funded Settlement, the annual income payment is less than $300,000 per year, an amount may be withdrawn from the invested principal so that a total payment of up to $300,000 per year is available to pay for pumping power costs. If during any subsequent year, the annual income payment exceeds the power costs for the Flathead River pumps, the annual income payment will be invested or used in the following priorities:

i. A pumping reserve account;

ii. Increasing FIIP project efficiencies through piping of laterals, lining of canals or other measures;

iii. Improve, modernize or otherwise rehabilitate FIIP infrastructure not otherwise funded elsewhere;

iv. Establish a FIIP construction materials fund to purchase construction materials for improving FIIP infrastructure;

v. Conduct mandatory Endangered Species Act mitigation work; and

vi. Conduct fisheries mitigation projects

(f) Fund for mitigating the loss of stockwater deliveries.

Using funds allocated for this purpose, the Project Operator will assist FIIP irrigators on a cost share basis with projects to mitigate the elimination of stockwater deliveries by the Project during the non-irrigation season. The Project Operator shall develop criteria for selecting projects to fund that prioritizes cost effective projects that assist the most irrigators possible.

PROPOSED

(g) In the event the annual payments described in 39(e) above are no longer needed, such as in the event the FIIP is decommissioned, all invested funds shall be dispersed for FIIP removal and landscape rehabilitation.

(h) The Parties recognize that the amount and structure of the State funding is contingent on action of the Montana Legislature. If the Legislature appropriates funds in a manner inconsistent with the structure contemplated by the Parties in this Article of the Agreement, the Parties agree to meet and confer to consider amendments to this Agreement to make it consistent with the actions of the Montana Legislature.

40. The Montana-Funded Settlement Implementation Fund is not intended to subsidize FIIP operation and maintenance assessments.

XV. DEFERRAL FOR IMPLEMENTATION OF THE FARM TURNOUT ALLOWANCE (FTA) AND MINIMUM INSTREAM FLOW (MEF)

41. The implementation of the FTA and MEFs, along with the delivery of the other priorities in Section 22 shall be deferred. During the deferral period the following conditions shall apply:

(a) The annual quota and extra-duty water delivery systems shall be continued as practiced by CME management;

(b) On-farm measurement systems to measure irrigation water delivered under the FIIP shall be installed;

(c) The on-farm efficiency fund established by this Agreement shall prioritize improvements which upgrade irrigation systems from flood irrigation to sprinkler irrigation, and irrigation efficiency improvements to extra-duty water users;

(d) Measurement of FIIP irrigation water delivery by the Project Operator and measurement of on-farm surface water runoff by the CSKT shall occur with the permission of the land owner in accordance with Section 6 when such measurement requires access to private property;

(e) Minimum Reservoir Pool Elevations, identified in Appendix A, shall be effective as of the date the ratification of the Compact by the Montana Legislature becomes effective under State law; and

(f) The coordination process identified in the Adaptive Management Section of Appendix B of this Agreement shall be implemented as of the Effective Date of the Compact.

PROPOSED

XVI. IMPLEMENTATION OF THE FARM TURNOUT ALLOWANCE (FTA) AND MINIMUM ENFORCEABLE INSTREAM FLOWS (MEF) FOLLOWING DEFERRAL PERIOD

42. Following establishment of an on-farm water delivery measurement system, Operational Improvements and Rehabilitation and Betterment projects shall occur.

43. On-farm measurement of delivered irrigation water, Operational Improvements, and Rehabilitation and Betterment shall proceed from the Mission Valley, to the Jocko Irrigation District, and finally to the Camas District.

44. The MEF and TIF shall be implemented incrementally as the Operational Improvements and Rehabilitation and Betterment projects in Section 43 occur, and all reallocated water associated with Operational Improvements and Rehabilitation and Betterment shall be assigned to one or more instream flow locations.

45. The FTA and MWUA shall become effective in administrative areas as the Operational Improvements and Rehabilitation and Betterment projects specified in Section 43 are made. However, the FTA shall be fully applied no later than the expiration of the deferral periods described in Sections 48 through 50. The MWUA shall be applied as set forth in Section 25.

XVII. DEFERRAL PERIOD FOR REALIZING REALLOCATED WATER

46. The Parties agree that the deferral period for implementation of higher Instream Flows resulting from Operational Improvements that yield Reallocated Water, including MEFs, and Target Instream Flows instituted during normal and wet water years, shall continue for five years after funding is appropriated for each specific FIIP Operational Improvement identified in Article XII or other identified actions intended to accomplish an Operational Improvement and create Reallocated Water.

47. The Parties agree that the currently enforced interim Instream Flows as defined in the Operation and Maintenance Guidelines for the FIIP by BIA shall remain in place as minimum Instream Flows to be maintained by the Project Operator until the MEFs identified in Appendix A are triggered.

48. The Parties agree that the deferral period for implementation of FIIP Rehabilitation and Betterment projects contained in Appendix C shall be seven years after funding is appropriated for each separate Rehabilitation and Betterment project.

49. The Parties agree that Reallocated Water resulting from FIIP Rehabilitation and Betterment projects funded by the CSKT water rights settlement, whether contributed by the State of Montana, United States, or the CSKT, shall be dedicated to increased

PROPOSED

enforceable Instream Flow levels through the FIIP water accounting program described in Appendix B.

50. The Parties agree that they will use Adaptive Management as identified in Appendix B to schedule the deferral period for each project undertaken, whether an Operational Improvement or Rehabilitation and Betterment project, although the deferral period shall be no greater than five (5) years for Operational Improvements and seven (7) years for Rehabilitation and Betterment.

XVIII. REALLOCATED WATER

51. The Parties expect both Operational Improvements and Rehabilitation and Betterment, as described above in Sections 34 through 36 and in Appendix C, to result in Reallocated Water. Expansion of the existing CSKT Water Management Program and on-farm measurement activities of the Project Operator, along with other Operational Improvements, are also expected to result in Reallocated Water. The identification of increases in the enforceable levels of the CSKT Instream Flow rights, and the timing for the implementation of those increased enforceable levels are to be implemented in accordance with the deferral period identified in Article XVII above.

52. Reallocated Water resulting from construction of structures identified as Rehabilitation and Betterment projects in Appendix C is anticipated and will be identified and dedicated to increased enforceable Instream Flow levels through the FIIP water accounting process (see Appendix B). Construction of such structures and associated planning processes are subject to the appropriation of funds.

53. Once the MEFs and TIFs are met in any administrative area, saved water that becomes available for reallocation shall be split equally between irrigation and instream flows.

XIX. PUMPING UTILIZING THE FLATHEAD PUMPS

54. The FIIP shall be entitled to pump 65,000 acre-feet annually from the Flathead River utilizing the Flathead Pumps pursuant to the terms of this Agreement.

55. Additional quantities of water may be acquired from the CSKT Flathead System Compact Water pursuant to the terms of Article IV.B.6.c of the Compact.

56. The Parties agree that water made available through utilization of the Flathead Pumps under the terms of this Agreement may be acquired by irrigators in excess of the annual FTA available pursuant to terms and conditions established by the CME.

PROPOSED

XX. LOW COST BLOCK OF POWER

57. The Kerr Project is a hydroelectric generating project located on the Flathead River as authorized by the Federal Energy Regulatory Commission (FERC) pursuant to possessory and generational requirements set forth in a FERC license for the Kerr Project, FERC Project No. 5 (32 FERC ¶ 61,070, July 17, 1985) as amended. The FERC license is currently held by PPL Montana.

58. Ordering Paragraph (C)(1) of the FERC license grants the CSKT a unilateral and exclusive right to acquire the Kerr Project commencing September 5, 2015. The CSKT intends to exercise this right at the earliest opportunity.

59. Article 40(a) of the FERC license provides that until such time as the Kerr Project is conveyed to the CSKT, PPL Montana will make available to the United States for and on behalf of the FIIP, or the Irrigation Districts comprising the same, capacity and energy at the Kerr Project 100 kV bus in the following amounts:

    (a) During all months of the year, up to 7.466 megawatts of capacity at up to 100 percent load factor; and

    (b) During the months of April through October, additional capacity of up to 3.734 megawatts at up to 100 percent load factor.

60. Pursuant to this Agreement, the FIIP, or the Irrigation Districts comprising the same, relinquish all claims to power and energy defined in the FERC license from the date of this Agreement forward through the period when the CSKT is no longer the licensee, except as follows:

    (a) A block of energy consisting of 19,178 Megawatt-Hours, which will be billed at the low cost block rate identified at Article 40 of the License and may be consumed during the period of April 1 through October 31 of any year. This block of energy is derived from the capacity authorized in License Article 40(a).

    (b) Energy over and above that identified in (a) above consisting of an indefinite amount of energy as demanded by the FIIP to run its Flathead Pumping Station from the period of April 1 through October 31 of any year. This power utilized by the Flathead Pumps in excess of 19,178 Megawatt-Hours will be billed at the price which Mission Valley power purchases the power for resale.

61. Article 40(a) of the FERC license sets forth the amounts and methods to be applied to calculate the rate payable for energy taken by the United States for and on behalf of the FIIP, or the Irrigation Districts comprising the same, from the effective date of the license and continuing as adjusted through the period of time when the Kerr Project is conveyed to the CSKT.

PROPOSED

62. Article 40(c) of the FERC license reserves for future resolution the question of whether, from the time the Kerr Project is conveyed to the CSKT until the expiration of the joint license, the CSKT must make any part of the output from the Kerr Project available to the United States, for and on behalf of the FIIP or Irrigation Districts, or if so on what terms and conditions.

63. The CSKT, FJBC and United States agree to jointly and diligently pursue resolution of those questions reserved pursuant to Article 40(c) of the FERC license. Recognizing that the FERC license reserves these questions for future resolution and establishes a process for resolving these issues, the CSKT, FJBC and United States agree that they intend to pursue the following:

    (a) Upon conveyance of the Kerr Project License to the CKST, the CSKT will continue, during the months of April through October, to provide electricity to meet the power demands of the Flathead River pumps including up to 19,178 Megawatt-Hours for the entire period as described in Section 60 (a) and additional power as described in Section 60 (b);

    (b) The CSKT will deliver the energy to the Kerr Project 100kV bus and/or any Mission Valley Power electrical substation; and

    (c) The rate payable to the CSKT for provision of energy, commencing upon conveyance of the Kerr Project to the CSKT, and terminating when the CSKT is no longer the licensee, will continue to be calculated at the rate specified in the Kerr Project License at Article 40(a)(ii) in the FERC License.

64. The FJBC waives and disclaims all future interest in the capacity set forth at Article 40(a)(i) of the FERC license, which provides a right to up to 7.466 megawatts of capacity at up to 100 percent load factor during all months of the year, and forbears bringing any such claim or cause of action in the future.

XXI. NET POWER REVENUE DISTRIBUTION AUTHORIZED BY THE 1948 ACT

65. The 1948 Act, as amended, provides that net revenues from the operation of the Flathead Indian Power Project, now known as Mission Valley Power and operated by the CSKT pursuant to a Self-Determination Agreement with the United States, may be applied to liquidate certain costs and installments associated with the FIIP and the power system. Section 2(b) of the Act defines Net Power Revenue as gross revenues minus both the expenses necessary to operate and maintain the power system, and the funds necessary to provide for the creation and management of appropriate reserves. Section 2(h) contains a list of six specific purposes for which Net Power Revenue can be applied on an annual

PROPOSED

basis. That distribution list, in order of priority, includes priority (6), which is the liquidation of the annual operation and maintenance costs of the irrigation system.

66. The Parties, through the Transfer Agreement, further clarified that Net Power Revenue to be provided for in Section 2(h)(6) of the 1948 Act would be "used only for work on the [Flathead Indian Irrigation] Project that has significant fisheries, water conservation, or water management benefits," and "that if on an annual basis such work does not require the full amount of such net revenues the remainder shall be set aside and accumulated for expenditure for these purposes when needed and for building and maintaining an emergency [operational] reserve."

67. The amount previously paid by the power system and the Mission Valley Power for the liquidation of costs delineated in Section 2(h) totaled approximately $196,900 per year.

68. Mission Valley Power, which is owned by the United States and operated by the CSKT, plans to budget annually for an anticipated amount of $200,000 of Net Power Revenue to be made available in the subsequent year to meet the needs of both the power system and the FIIP. The Parties acknowledge that such budgeting may require a revision to the rate schedule consistent with the process set forth in Mission Valley Power's Self-Determination Agreement and its Attachments.

69. The Parties acknowledge that the 1948 Act does not address the annual budgeting of Net Power Revenue. The Parties agree, however, that the annual budgeting of Net Power Revenue appears consistent with the intent of the 1948 Act. If necessary, the Parties will draft language to be included in the Federal legislation that ratifies and approves the Compact that would resolve any perceived inconsistency.

70. The Parties agree that the Net Power Revenue that will be made available consistent with Section 68, above, shall be split equally between the FIIP and the power utility to be used by the FIIP for the purposes set forth in the Transfer Agreement, and to be used by the power utility to establish and maintain an emergency operational reserve that allows the Mission Valley Power to operate between reimbursement payments made by the United States pursuant to the Self-Determination Agreement between the United States and the CSKT.

71. The Parties agree to revisit the distribution of Net Power Revenue generated by the Mission Valley Power or successor power utility within nine (9) years of the effective date of this Agreement for the Department under Section 74 below, with any subsequent agreement to become effective on the tenth (10th) anniversary of the effective date of this Agreement.

72. In the event the Parties do not agree as to the distribution of Net Power Revenue as provided for in Section 71 above, the distribution shall remain as specified in Sections 65 through 70.

PROPOSED

XXII. TERM AND EFFECTIVE DATE OF THE AGREEMENT

73. The term of this Agreement is perpetual from the effective date defined in the next section, unless a Party withdraws under Article XXIII or the Agreement is terminated pursuant to Article XXV.

74. The effective date of this Agreement is the date Agreement is fully executed by all Parties, which for purposes of this Agreement shall be the date of execution of the Agreement by the CSKT, the FJBC and by the United States after Congress adopts legislation approving the Compact.

XXIII. WITHDRAWAL FROM THE AGREEMENT

75. Prior to the Secretarial Finding, the FJBC, CSKT and United States retain the unilateral right to withdraw from this Agreement if any of the following events occurs:

    (a) The Montana Legislature fails to approve the Compact to which this Agreement is appended by July 1, 2013;

    (b) The Montana Water Court fails to approve the Compact;

    (c) The Montana Legislature fails to provide funding for the State contribution to implement this Agreement by July 1, 2015; or

    (d) The United States Congress fails to ratify the CSKT water rights settlement, authorize the funding needed to implement said settlement, and appropriate such sums as Congress has directed, by July 31, 2016.

76. If one of the above events in Section 75 occurs that makes withdrawal from the Agreement possible for the FJBC, CSKT, or United States, the FJBC and CSKT and United States shall not be able to withdraw for at least six months while the Parties engage in dispute resolution to seek to prevent the withdrawal of a Party from the Agreement through an amendment to the Agreement.

XXIV. REEVALUATION BASED ON DATA REVIEW AND AMENDMENTS TO THE AGREEMENT

77. Notwithstanding any other provision of this Agreement and the Compact, ten years following the implementation of the FTAs, MEFs, and TIFs, the Parties to this Agreement agree to reevaluate and revise, in accordance with this Section, the Instream

PROPOSED

Flows and FTAs herein established. If the data show water is available or can be made available without adversely affecting the MEFs and the TIFs, additional water will be split equally between CSKT Instream Flows and irrigation purposes up to but not exceeding an amount that can be beneficially used for irrigation purposes. Subsequently the reevaluation can reoccur every ten years. When water is reallocated under this Section 77, the Parties must agree in writing to the changes and the changes shall be accounted for in the water accounting process identified in Appendix B.

78. All Parties must consent in writing to amendments to this Agreement and Appendices.

79. No amendment to the Agreement or the Appendices shall be valid if enacted less than four months prior to ratification of the Compact by the United States Congress. Provided, however, that the Parties may also amend this Agreement after ratification of the Compact by the United States Congress pursuant to Section 78 so long as such amendments do not conflict with the Compact ratified by the United States or the Federal legislation approving the Compact.

XXV. TERMINATION OF THE AGREEMENT

80. Prior to the Secretarial Finding, in the event any Party to this Agreement violates any of the material terms or conditions of this Agreement, the violation of the terms shall be considered a termination event unless the Parties agree in writing that they deem the event to conform to this Agreement or whether they can adopt a mutually agreeable amendment to this Agreement pursuant to Sections 78-79 above.

81. If the FJBC, CSKT, or United States withdraws from the Agreement prior to the Secretarial Finding, pursuant to Article XXIII above, the Agreement shall terminate.

82. After the Secretarial Finding, this Agreement shall be permanent.

XXVI. DISPUTE RESOLUTION

83. In the event of any dispute over the interpretation or implementation of this Agreement, the Parties shall seek to timely resolve the dispute through the following steps in priority order:

    (a) Meet and attempt informal resolution among the Parties;

    (b) Complaints to the FIIP Manager;

    (c) Complaints to the Project Operator;

PROPOSED

(d) Actions taken pursuant to the Dispute Resolution Provision Number 29 of the Transfer Agreement;

(e) Complaints and objections made to the Unitary Water Management Board created pursuant to the Compact; and

(f) Federal Court action to enforce the provisions of this Agreement.

84. Any controversy that relates to the management and/or operation of FIIP or the administration of water through FIIP facilities shall remain subject to the oversight of the CME.

85. The forum for disputes between the Parties pertaining to this Agreement shall be Federal Court.

ATTEST:

Flathead District
Mission District
Jocko Valley District
Project Operator

PARTIES' SIGNATURES

CSKT

FJBC

United States

PROPOSED

Appendix A to the Water Use Agreement between the Confederated Salish and Kootenai Tribes, the United States, and the Flathead Joint Board of Control

Appendix A1: Instream Flow Sites and Instream Flow Values *pg A-4*

Jocko Area *pg A-4*

1. **Middle Fork Jocko River below Tabor Feeder Canal**
2. **North Fork Jocko River below Tabor Feeder Canal**
3. **Falls Creek below Tabor Feeder Canal**
4. **S-14 Creek below Tabor Feeder Canal**
5. **Jocko River below Upper S Canal**
6. **Cold Creek below Upper S Canal**
7. **Gold Creek below Upper S Canal**
8. **Big Knife Creek below Upper Jocko S Canal**
9. **Jocko River below K Canal**
10. **Agency Creek below Upper Jocko J Canal**
11. **East Fork Finley Creek below Jocko N Canal near Mouth**
12. **Schley Creek near Mouth**
13. **Finley Creek below Finley E Canal near Mouth**
14. **Jocko River below Lower Jocko S Canal**
15. **Jocko River below Lower Jocko J Canal**
16. **Revais Creek below Highway 200**

Mission Area *pg A-7*

1. **Mission Creek below Pablo Feeder Canal**
2. **Post Creek below McDonald Reservoir**
3. **Middle Crow Creek below Pablo Feeder Canal**
4. **North Crow Creek below Pablo Feeder Canal**
5. **Mission Creek below 6C Canal above Post Creek**
6. **Post Creek below Post F Canal**
7. **Marsh Creek near mouth**
8. **South Crow Creek below South Crow Feeder Canal**
9. **Crow Creek below Crow Pump Canal**
10. **Mud Creek below Ronan B Canal**
11. **Crow Creek below Moiese A Canal near Mouth**
12. **Hellroaring Creek near Mouth**

Little Bitterroot Area *pg A-9*

1. **Little Bitterroot River below Hubbart Reservoir**
2. **Little Bitterroot River below Camas A Canal Headwork's**
3. **Mill Creek below Camas A Canal near Mouth**
4. **Hot Springs Creek below Camas C Canal near Mouth**
5. **Little Bitterroot River below Hot Springs Creek**

Appendix A2: Minimum Reservoir Pool Elevations *pg A-10*

Appendix A3: River Diversion Allowances *pg A-11*

Jocko Area *pg A-11*

1. **Tabor Feeder Canal Administrative Area**
2. **Upper Jocko River Administrative Area**
3. **Agency / Finley Creek Administrative Area**
4. **Lower Jocko River Administrative Area**
5. **Revais Creek Administrative Area**

Mission Area *pg A-12*

1. **Pablo Feeder Canal Administrative Area**
2. **Upper Mission Creek Administrative Area**
3. **Lower Mission Creek Administrative Area**
4. **Upper Crow Creek Administrative Area**
5. **Lower Crow Creek Administrative Area**
6. **Hellroaring / Centipede / Bisson Creeks Administrative Area**
7. **Flathead River Pumping Plant**

Little Bitterroot Area *pg A-14*

1. **Little Bitterroot River Administrative Area**

Off-Reservation Areas *pg A-15*

1. **Placid Canal Diversion**
2. **McGinnis Diversion**
3. **Alder Diversion**

Appendix A4: Farm Turnout Allowances for the Jocko, Mission and Little Bitterroot Areas *pg A-16*

Appendix A5: Irrigation Return Flow Sites *pg A-17*

Mission Area *pg A-20*

1. **Coleman Coulee near mouth**
2. **Dublin Gulch near mouth**
3. **Walchuck Coulee near mouth**
4. **West Miller Coulee near mouth**
5. **Hopkins Draw near mouth**
6. **Westphal Coulee near mouth**

Little Bitterroot Area *pg A-20*

1. **Camas C wasteway near mouth**
2. **Garden Creek near mouth**
3. **Dry Fork Creek near mouth**

Appendix A6: Map Exhibit

pg A-18

1. **Instream Flow Sites, River Diversion Allowance Areas, Site numbering tables**

Appendix A1: Minimum Enforceable Instream Flows, Target Instream Flows, and Water Right for Instream Flow Sites –All values are reported in cubic-feet per second

Jocko Area

Middle Fork Jocko River below Tabor Feeder Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	9	9	10	18	26	22	20	9	9	9	9	9
Normal Year	9	9	11	21	26	26	44	72	44	25	14	10
Wet Year	11	11	12	20	52	96	92	60	58	38	12	9
Water Right	11	11	12	21	52	96	93	72	59	38	14	10

North Fork Jocko River below Tabor Feeder Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	3	4	9	25	40	30	22	8	6	6	6	6
Normal Year	4	4	14	26	70	44	24	12	10	10	12	8
Wet Year	10	8	9	30	110	210	60	14	8	8	12	7
Water Right	11	8	14	30	110	210	60	14	10	10	13	8

Falls Creek below Tabor Feeder Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	1	1	1	1	4	5	4	3	3	2	2	1
Water Right	1	1	1	2	4	5	5	6	3	3	2	2

S-14 Creek below Tabor Feeder Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	0.1	0.1	0.1	0.2	0.4	0.7	0.4	0.3	0.2	0.1	0.1	0.1
Water Right	0.2	0.2	0.2	0.3	0.4	0.7	0.4	0.3	0.2	0.2	0.3	0.2

Jocko River below Upper S Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	20	20	25	60	100	75	50	25	20	20	20	20
Water Right	29	24	29	101	334	446	213	92	82	63	32	23

Cold Creek below Upper S Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Water Right	1	1	1	2	6	11	8	3	2	2	1	1

Gold Creek below Upper S Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Water Right	1	1	1	2	7	14	9	4	2	2	1	1

Big Knife Creek below Upper Jocko S Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	3	3	3	5	7	8	5	5	4	4	3	3
Water Right	5	5	5	7	17	33	9	5	4	8	7	6

Jocko River at K Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	40	45	50	100	140	90	42	42	42	42	40	40
Normal Year	54	51	68	123	294	303	87	77	94	105	85	64
Wet Year	68	64	79	176	516	758	222	68	96	111	83	58
Water Right	68	64	79	176	516	758	222	77	96	111	85	64

Agency Creek below Upper Jocko J Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	3	3	4	8	15	14	10	6	6	4	4	3
Water Right	5	3	4	14	41	47	10	6	6	8	7	5

East Fork Finley Creek below Jocko N Canal near Mouth

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	3	3	3	7	15	10	7	5	4	4	3	3
Water Right	4	3	4	13	39	48	14	5	4	5	4	3

Schley Creek near Mouth

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	0.3	0.3	0.4	1.0	3.0	1.9	1.1	0.6	0.5	0.4	0.4	0.3
Water Right	0.5	0.4	0.5	1.7	5.2	6.7	2.5	1.1	0.7	0.7	0.6	0.4

Finley Creek below Finley E Canal near Mouth

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	9	9	11	23	50	28	15	12	11	11	11	10
Normal Year	12	13	16	31	90	67	30	17	22	23	20	15
Wet Year	15	15	16	60	128	156	37	18	20	24	21	16
Water Right	15	15	16	60	128	156	37	18	22	24	21	16

Jocko River below Lower Jocko S Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	78	78	104	168	310	242	135	95	110	80	80	80
Normal Year	79	76	96	169	425	462	183	134	165	167	140	98
Wet Year	98	92	108	253	686	983	324	123	162	176	141	93
Water Right	98	92	108	253	686	983	324	134	165	176	141	98

Jocko River below Lower Jocko J Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	95	95	110	175	325	250	145	130	115	110	105	100
Normal Year	111	106	125	212	507	530	235	185	228	224	188	136
Wet Year	133	127	141	321	778	1,075	395	190	232	241	191	132
Water Right	133	127	141	321	778	1,075	395	190	232	241	191	136

Revais Creek below Highway 200

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	3	3	3	6	10	6	4	3	3	3	3	3
Water Right	8	10	12	38	97	106	12	3	3	6	6	5

Mission Area

Mission Creek below Pablo Feeder Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	11	10	10	20	94	115	102	85	45	20	20	11
Normal Year	11	10	10	20	94	160	150	128	120	80	20	11
Wet Year	14	13	13	22	100	200	190	136	130	100	20	14
Water Right	24	15	15	22	101	200	191	136	138	119	48	24

Post Creek below McDonald Reservoir

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	20	20	20	30	60	140	120	80	40	40	30	20
Normal Year	20	20	30	35	88	160	184	128	92	45	38	28
Wet Year	35	22	32	48	96	155	268	155	106	46	36	28
Water Right	35	23	33	48	96	160	269	155	106	46	38	28

Middle Crow Creek below Pablo Feeder Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	2	2	2	2	9	9	2	2	2	2	2	2
Water Right	3	2	3	4	13	24	15	2	2	2	3	3

North Crow Creek below Pablo Feeder Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	9	9	14	23	56	27	11	10	10	10	9	9
Normal Year	9	9	14	23	67	37	19	12	12	10	15	10
Wet Year	9	9	15	23	61	125	78	20	15	10	15	10
Water Right	17	14	16	23	67	125	78	20	15	10	20	16

Mission Creek below 6C Canal above Post Creek

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	13	13	20	24	50	65	35	25	25	25	20	15
Normal Year	13	13	22	24	72	130	80	56	56	50	50	24
Wet Year	14	14	22	24	85	174	130	70	65	60	55	26
Water Right	22	18	22	24	85	174	130	70	119	92	55	26

Post Creek below Post F Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	20	20	22	26	55	60	35	26	24	22	22	22
Normal Year	22	22	22	26	76	130	90	70	65	52	35	28
Wet Year	30	26	22	30	88	178	178	75	70	52	42	30
Water Right	38	26	22	30	88	178	178	75	70	53	43	30

Marsh Creek near mouth

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	2	2	2	2	2	2	2	2	2	2	2	2
Water Right	2	2	2	2	6	4	4	3	2	2	2	2

South Crow Creek below South Crow Feeder Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	5	5	5	10	12	13	10	9	7	7	7	6
Normal Year	6	6	9	10	14	30	20	12	10	9	9	6
Wet Year	8	8	8	14	18	55	30	16	12	10	10	8
Water Right	10	8	9	24	48	94	60	16	12	10	12	8

Crow Creek below Crow Pump Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	25	25	25	40	60	55	22	22	25	25	25	25
Normal Year	30	30	36	40	70	80	36	36	36	36	36	36
Wet Year	35	35	40	40	90	156	110	40	40	40	40	40
Water Right	43	38	40	41	90	157	111	40	40	40	49	44

Mud Creek below Ronan B Canal

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	3	3	4	5	13	9	5	3	3	3	3	3
Water Right	5	4	5	7	25	50	35	4	3	3	4	4

Crow Creek below Moiese A Canal near Mouth

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	30	30	30	35	50	30	21	21	21	21	21	21
Normal Year	45	45	50	50	100	75	35	22	25	50	50	45
Wet Year	50	50	50	70	100	190	116	30	40	60	60	60
Water Right	56	50	50	70	100	191	116	40	40	66	80	70

Hellroaring Creek near Mouth

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	1	1	1	1	1	1	1	1	1	1	1	1
Water Right	8	7	8	14	25	30	10	9	10	8	9	7

Little Bitterroot Area

Little Bitterroot River below Hubbart Reservoir

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	1	1	1	1	1	1	1	1	1	1	1	1
Water Right	8	10	5	101	114	81	41	60	42	14	20	13

Little Bitterroot River below Camas A Canal Headwork's

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	5	5	5	5	5	5	5	5	5	5	5	5
Water Right	15	18	6	95	103	71	9	23	10	9	20	15

Mill Creek below Camas A Canal near Mouth

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	1	1	1	1	1	1	1	1	1	1	1	1
Water Right	7	8	13	46	51	31	11	5	4	3	4	3

Hot Springs Creek below Camas C Canal near Mouth

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
MEF	1	1	1	1	1	1	1	1	1	1	1	1
Water Right	1	3	2	11	12	1	1	1	1	1	1	1

Little Bitterroot River below Hot Springs Creek

Hydrograph Type	*Jan*	*Feb*	*Mar*	*Apr*	*May*	*Jun*	*Jul*	*Aug*	*Sep*	*Oct*	*Nov*	*Dec*
Water Right	75	106	116	198	176	108	28	47	35	32	37	26

Appendix A2: Minimum Reservoir Pool Elevations

Reservoir	*Minimum pool elevation (ft above msl)*	*Minimum pool volume (AF)*
Mission Reservoir	3,379	1,006
McDonald Reservoir	3,549	385
Kicking Horse Reservoir	3,049	1,230
Ninepipe Reservoir	2,998	1,905
Pablo Reservoir	3,188	1,425
Lower Crow Reservoir	2,839	2,039
Turtle Lake	3,068	96
Upper Dry Fork Reservoir	2,915	413
Lower Dry Fork Reservoir	2,842	636

St Mary's Reservoir

Date(s)	*Minimum pool elevation (ft above msl)*	*Minimum pool volume (AF)*	*Frequency of occurrence (Years)*
Up to August 1st	4,006	18,162	Target for each year, required one in four years
August 1 up to August 15	3,980	12,119	Target for each year, required three in four years
August 15 up to November 15	3,927	2,416	Required every year

Appendix A3: River Diversion Allowances

Tables below identify the river diversion allowance (RDA) for administrative areas for the April 15th through September 15th period, this period may be extended at the discretion of the Project Operator to no later than October 15th, unless otherwise noted. River diversion allowances are reported for: (a) specifically administered locations; and (b) specifically administered locations with the inclusion of incremental natural inflow. Incremental natural inflows include small streams and spring seeps that are intercepted by canals and accumulate water to an administrative area. Incremental inflows are not intended for measurement or direct administration. Peak flows are reported for administered irrigation diversion locations within an RDA area.

Jocko Area

Tabor Feeder Canal Administrative Area

Administration area type	*Wet Year RDA*	*Normal Year RDA*	*Dry Year RDA*	*Peak Flow for administered locations*
	in af			in cfs
Administered locations	18,600	28,200	20,400	Location 1 - 150
Administered and incremental inflow	23,870	33,700	24,700	Location 2 – 420 Location 3 - 470

Administered locations: 1 - Tabor Feeder Canal at Middle Fork Jocko River (150 cfs), 2 - Tabor Feeder Canal at North Fork Jocko River (420 cfs), 3 – Tabor Feeder Canal below Twin Lakes (470 cfs)
Incremental inflow: Placid Diversions routed into Tabor Feeder Canal, Upper and Lower Jocko Reservoir storage routed into Tabor Feeder Canal, Falls Creek, S-14 Creek, Grizzly Creek

Upper Jocko River Administrative Area

Administration area type	*Wet Year RDA*	*Normal Year RDA*	*Dry Year RDA*	*Peak Flow for administered locations*
	in af			in cfs
Administered locations	22,900	24,000	26,500	Location 1 – 50
Administered and incremental inflow	24,450	25,700	28,700	Location 2 – 55 Location 3 - 245

Administered locations: 1 - Upper Jocko S Canal at Jocko River (50 cfs), 2 - Upper Jocko S Canal at Big Knife Creek (55 cfs), 3 - Jocko K Canal at headwork's (245 cfs).
Incremental inflow: Placid Diversions routed into Upper S and K Canals, Upper and Lower Jocko Reservoir storage routed into Upper S and K Canals, Cold Creek, Gold Creek, Pellew Creek, Lamoose Creek

Agency / Finley Creek Administrative Area

Administration area type	*Wet Year RDA*	*Normal Year RDA*	*Dry Year RDA*	*Peak Flow for administered locations*
	in af			in cfs
Administered locations	6,300	6,100	6,300	Location 1 – 55
Administered and incremental inflow	7,100	6,800	7,100	Location 2 – 10 Location 3 – 35 Location 4 – 14 Location 5 – 14 Location 6 - 1

Administered locations: 1 - Upper Jocko S Canal at Agency Creek (55 cfs), 2 - Upper Jocko J Canal at Agency Creek (10 cfs), 3 - Jocko E Canal at Agency Creek (35 cfs), 4 - Jocko E Canal at Finley Creek above siphon (14 cfs), 5 - Jocko N Canal at East Fork Finley Creek (14 cfs), 6 - Doney Ditch at Schley Creek (1 cfs).
Incremental inflow: Tailwater from Upper S Canal at Big Knife Creek, McClure Creek

Lower Jocko River Administrative Area

Administration area type	*Wet Year RDA*	*Normal Year RDA*	*Dry Year RDA*	*Peak Flow for administered locations*
	in af			in cfs
Administered locations	1,500	1,700	2,000	Location 1 – 15
Administered and incremental inflow	1,500	1,700	2,000	Location 2 - 35

Administered locations: 1 - Lower Jocko S Canal at Jocko River (15 cfs), 2 - Lower Jocko J Canal at Jocko River (35 cfs).

Revais Creek Administrative Area

Administration area type	*Wet Year RDA*	*Normal Year RDA*	*Dry Year RDA*	*Peak Flow for administered locations*
	in af			in cfs
Administered locations	2,000	1,800	1,700	Location 1 - 27
Administered and incremental inflow	2,500	2,400	2,400	

Administered locations: 1 - Revais R Canal at Revais Creek (27 cfs).
Incremental inflow: Revais Pump inflow supplied from Lower Jocko J Canal (10.5 cfs)

Mission Area

The RDA for the Pablo Feeder Canal is not limited to the April 15 through September 15 period, when the purpose is to convey water to reservoirs.

The RDA for Upper Mission Creek is limited to the April 15 through September 15th period, this period may be extended at the discretion of the Project Operator to no later than October 15th with the exception of the Kicking Horse Feeder Canal, the South Crow Feeder Canal and the Crow Pump Canal, which may be used to convey water to reservoirs.

Pablo Feeder Canal Administrative Area

Administration area type	*Wet Year RDA*	*Normal Year RDA*	*Dry Year RDA*	*Peak Flow for administered locations*
	in af			in cfs
Administered locations	85,100	65,900	44,900	Location 1 – 255
Administered and incremental inflow	113,100	85,700	57,500	Location 2 – 300
				Location 3 – 220
				Location 4 – 270
				Location 5 – 270
				Location 6 – 470
				Location 7 - 470

Administered locations: 1 - Mission DA Canal below DC Pool (255 cfs), 2 - Mission A Canal below Mission Creek (300 cfs), 3 - Pablo Feeder Canal below Post Creek (220 cfs), 4 - Pablo Feeder Canal below South Crow Creek (270 cfs), 5 - Pablo Feeder Canal at Middle Crow Creek (270 cfs), 6 - Pablo Feeder Canal at North Crow Creek (470 cfs), 7 - Pablo Feeder Canal at Pablo Drop (470 cfs).
Incremental inflow: Reservoir storage and incremental small stream inflows along Pablo Feeder Canal

Upper Mission Creek Administrative Area

Administration area type	*Wet Year RDA*	*Normal Year RDA*	*Dry Year RDA*	*Peak Flow for administered locations*
	in af			in cfs
Administered locations	31,000	33,800	38,000	Location 1 – 3
Administered and incremental inflow	35,200	37,400	40,000	Location 2 – 1 Location 3 – 27 Location 4 – 60 Location 5 – 100 Location 6 – 10 Location 7 – 250 Location 8 - 70

Administered locations: 1 - DC-2 Lateral at Dry Creek Lining (3 cfs), 2 - Cold Creek Ditch at Cold Creek (1 cfs), 3 - Mission F Canal at headwork's (27 cfs), 4 - Mission B Canal at Mission Creek (60 cfs), 5 - Mission C Canal at Mission Creek (100 cfs), 6 - Mission 6C Canal at Mission Creek (10 cfs), 7 - Kicking Horse Feeder Canal at Post Creek (250 cfs), 8 - Post F Canal at Post Creek (70 cfs).
Incremental inflow: Return flow reuse from irrigation losses, incremental small stream inflows

Lower Mission Creek Administrative Area

Administration area type	*Wet Year RDA*	*Normal Year RDA*	*Dry Year RDA*	*Peak Flow for administered locations*
	in af			in cfs
Administered locations	1000	1000	1000	Location 1 - 15
Administered and incremental inflow	1000	1000	1000	

Administered locations: 1 - Mission H Canal at Mission Creek (15 cfs)

Upper Crow Creek Administrative Area

Administration area type	*Wet Year RDA*	*Normal Year RDA*	*Dry Year RDA*	*Peak Flow for administered locations*
	in af			in cfs
Administered locations	15,300	14,000	11,700	Location 1 – 275
Administered and incremental inflow	16,300	15,000	12,800	Location 2 – 22 Location 3 - 24

Administered locations: 1 - South Crow Feeder Canal at South Crow Creek (275 cfs), 2 - Crow Pump Canal at Crow Creek (22 cfs), 3 - Ronan B Canal at Mud Creek (24 cfs)
Incremental inflow: Pablo Feeder Canal from Mission South Area, return flow reuse from irrigation losses

Hellroaring Creek Administrative Area

Administration area type	*Wet Year RDA*	*Normal Year RDA*	*Dry Year RDA*	*Peak Flow for administered locations*
	in af			in cfs
Administered locations	1,400	1,400	1,400	Location 1 – 15
Administered and incremental inflow	1,400	1,400	1,400	Location 2 – 15 Location 3 - 8

Administered locations: 1 - Twin Feeder Canal at Hellroaring Creek (15 cfs), 2 - Twin Feeder Canal at Centipede Creek (15 cfs), 3 - Lower Twin Feeder Canal at Bisson Creek (8 cfs)

Lower Crow Creek Administrative Area

Administration area type	*Wet Year RDA*	*Normal Year RDA*	*Dry Year RDA*	*Peak Flow for administered locations*
	in af			in cfs
Administered locations Administered and incremental inflow	20,000 20,000	20,000 20,000	20,000 20,000	Location 1 – 100 Location 2 - 30
Administered locations:1 - Moiese A Canal at Crow Creek (100 cfs), 2 - Hillside Ditch (30 cfs) Incremental inflow: Reservoir storage and return flow reuse from irrigation losses				

Flathead River Pumping Plant*

Administration area type	*RDA*	*Peak Flow for Pumping Plant*
	in af	in cfs
Administered location	65,000	210
*The RDA shall not exceed 50,000 acre-feet for the July 15 to December 31 period in any given year.		

Little Bitterroot Area

Little Bitterroot River Administrative Area

Administration area type	*Wet Year RDA*	*Normal Year RDA*	*Dry Year RDA*	*Peak Flow for administered locations*
	in af			in cfs
Administered location	18,000	18.000	18,000	Location 1 - 90
Administered location: 1 - Camas A Canal at Mill Creek (90 cfs)				

Off-Reservation Areas

Placid Canal Diversion

Administration area type	*RDA*	*Peak Flow for administered locations*
	in af	in cfs
Administered location	10,000	Location 1 - 120
Administered location: 1 – Placid Canal Diversion (120 cfs)		

McGinnis Diversion

Administration area type	*RDA*	*Peak Flow for administered locations*
	in af	in cfs
Administered location	1,800	16
Administered location: 1 – McGinnis Diversion (16 cfs)		

Alder Diversion

Administration area type	*RDA*	*Peak Flow for administered locations*
	in af	in cfs
Administered location	3,500	45
Administered location: 1 – Alder Diversion (45 cfs)		

Appendix A4: Farm Turnout Allowances for the Jocko, Mission and Little Bitterroot Areas

Jocko Area

Hydrologic Condition	*FTA (AF/Ac)*
Wet Year	1.30
Normal Year	1.26
Dry Year	1.28
Maximum FTA	1.40

Mission Area

Hydrologic Condition	*Mission FTA (AF/Ac)*
Wet Year	1.03
Normal Year	1.07
Dry Year	1.14
Maximum FTA	1.40

Little Bitterroot Area

Hydrologic Condition	*FTA (AF/Ac)*
Wet Year	1.10
Normal Year	1.10
Dry Year	1.14
Maximum FTA	1.40

Appendix A5: Irrigation Return Flow Sites

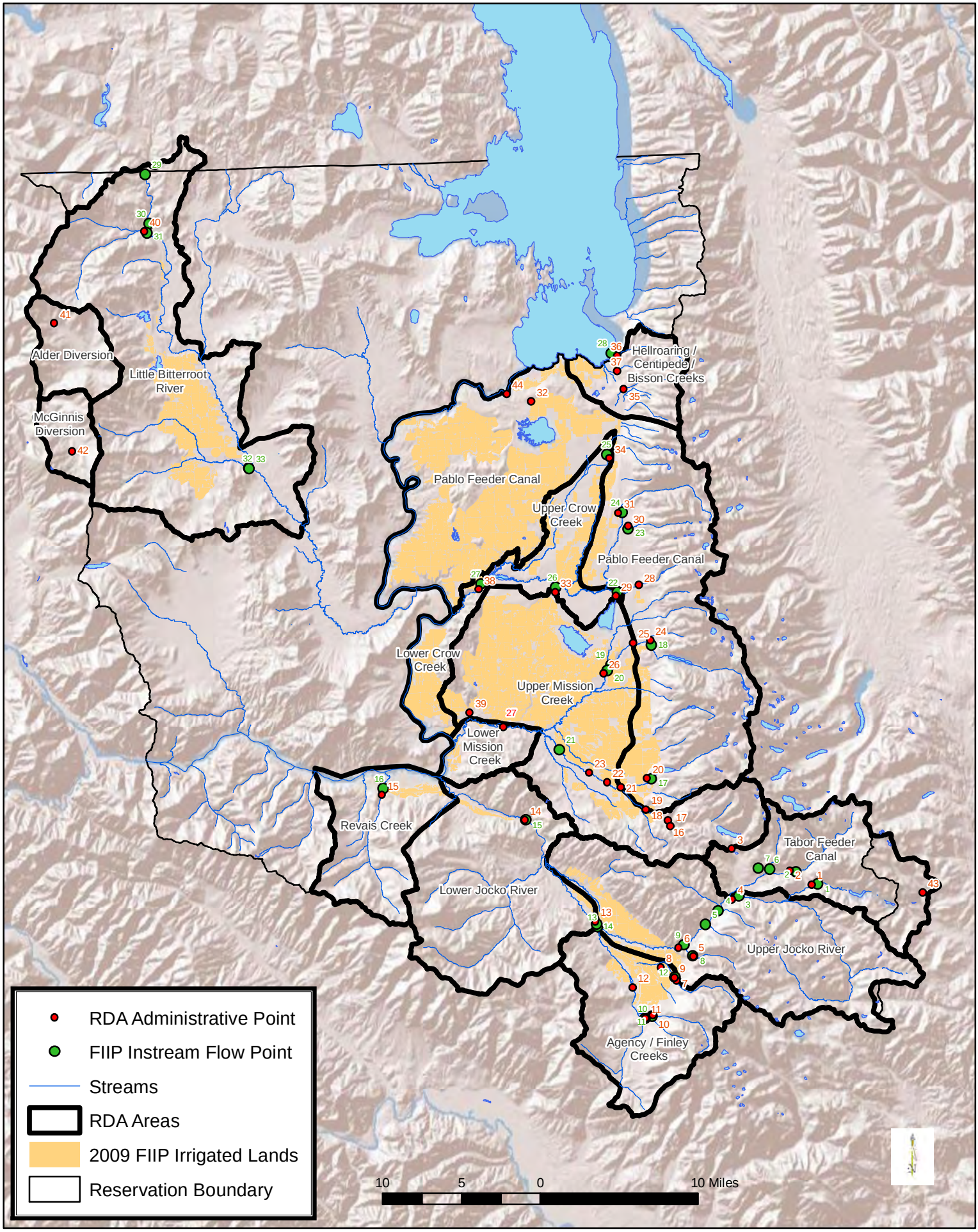
MISSION AREA

Location	*Return Flow April-October(AF)*	*Peak flow (CFS)*
Coleman Coulee near mouth	1,280	25
Dublin Gulch near mouth	915	20
Walchuck Coulee near mouth	1,040	15
West Miller Coulee near mouth	910	20
Hopkins Draw near mouth	830	25
Westphal Coulee near mouth	500	10

LITTLE BITTERROOT AREA

Location	*Return Flow April-October(AF)*	*Peak flow (CFS)*
Camas C wasteway near mouth	715	20
Garden Creek near mouth	500	15
Dry Fork Creek near mouth	740	15

Appendix A6: River Diversion Allowance Areas and Instream Flow Points



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Appendix A6: Legend Tables for River Diversion Allowance and Instream Flow Point Map

Table associating instream flow point numeric labels with instream flow point name on map

Point	Instream Flow point name	Point	Instream Flow point name
1	Middle Fork Jocko River below Tabor Feeder Canal	18	Post Creek below McDonald Reservoir
2	North Fork Jocko River below Pablo Feeder Canal	19	Marsh Creek near mouth
3	Jocko River below upper S Canal	20	Post Creek below Post F Canal
4	Cold Creek below upper S Canal near mouth	21	Mission Creek below 6C Canal and above Post Creek
5	Gold Creek below upper S Canal near mouth	22	South Crow Creek below South Crow Feeder Canal
6	Falls Creek below Tabor Feeder Canal near mouth	23	Middle Crow Creek below Pablo Feeder Canal
7	S-14 Creek below Tabor Feeder Canal	24	North Crow Creek below Pablo Feeder Canal
8	Big Knife Creek below upper S Canal near mouth	25	Mud Creek below Ronan B Canal
9	Jocko River below K Canal	26	Crow Creek below Crow Pump Canal
10	Schley Creek below Doney Ditch near mouth	27	Crow Creek below Moiese A Canal
11	East Finley Creek below N Canal	28	Hellroaring Creek near mouth
12	Agency Creek below upper J Canal	29	Little Bitterroot River below Hubbart Reservoir
13	Finley Creek below E Canal near mouth	30	Little Bitterroot River below Camas A Canal headworks
14	Jocko River below lower S Canal	31	Mill Creek below Camas A canal near mouth
15	Jocko River below lower J Canal	32	Hot Springs Creek near mouth
16	Revais Creek below R Canal and Highway 200	33	Little Bitterroot River below Hot Springs Creek
17	Mission Creek below Mission A Canal		

Table associating RDA administrative point numeric labels with administrative point name on map

Point	RDA point name	Point	RDA point name
1	Tabor Feeder Canal at Middle Fork Jocko River	23	Mission 6C Canal at headworks below Mission Creek
2	Tabor Feeder Canal at North Fork Jocko River	24	Pablo Feeder Canal below Post Creek
3	Tabor Feeder Canal below Twin Lakes	25	Kicking Horse Feeder Canal at headworks below Post Creek
4	Upper Jocko S Canal at the Jocko River	26	Post F Canal at headworks below Post Creek
5	Upper Jocko S Canal at Big Knife Creek	27	Mission H Canal at headworks below Mission Creek
6	Jocko K Canal at Jocko River	28	Pablo Feeder Canal at headworks below South Crow Creek
7	Upper Jocko S Canal at Agency Creek	29	South Crow Feeder Canal at headworks below South Crow
8	Jocko E Canal at Agency Creek	30	Pablo Feeder Canal at headworks below Middle Crow Creek
9	Upper Jocko J Canal at headworks below Agency Creek	31	Pablo Feeder Canal at headworks below North Crow Creek
10	Jocko N Canal at East Finley Creek	32	Pablo Feeder Canal at Pablo Drop
11	Doney Ditch at Schley Creek	33	Crow Pump Canal at headworks below Crow Creek
12	Jocko E Canal at Finley Creek	34	Ronan B Canal at headworks below Mud Creek
13	Lower Jocko S Canal on Jocko River below Finley Creek	35	Lower Twin Feeder Canal at headworks below Bisson Creek
14	Lower Jocko J Canal at Jocko River	36	Twin Feeder Canal at headworks below Hellroaring Creek
15	Revais R Canal at Revais Creek	37	Twin Feeder Canal below Centipede Creek
16	Cold Creek Ditch at Cold Creek	38	Moiese A Canal at headworks below Crow Creek
17	DC-2 lateral at Dry Creek lining	39	Hillside Ditch at headworks
18	Mission F Canal at headworks below DC pool	40	Camas A Canal at headworks below Mill Creek
19	Mission DA Canal below DC pool	41	Alder Ditch at headworks below Alder Creek
20	Mission A Canal at Mission Creek	42	McGinnis Creek at headworks below McGinnis Creek
21	Mission B Canal at headworks below Mission Creek	43	Placid Canal at headworks below Placid Creek
22	Mission C Canal at headworks below Mission Creek	44	Flathead River Pumping Plant

Appendix B to the Water Use Agreement between the Confederated Salish and Kootenai Tribes, the United States, and the Flathead Joint Board of Control Adaptive Management Process

Purpose

The Water Management and Adaptive Management Planning Process is intended to implement several of the technical elements found in the Agreement and Appendices between the Confederated Salish and Kootenai Tribes (CSKT), the Flathead Joint Board of Control (FJBC), and the U.S. Bureau of Indian Affairs. The planning process, and the commitments and responsibilities of the Parties, continue over the life of the Agreement.

The allocation between instream flows and irrigation water demands of natural water supply, storage water, and water developed through irrigation project upgrades, is the focus for this planning process. The Parties agree implementation of the Agreement, in particular the Adaptive Management and Water Management it requires, will be conducted at all times based on objective, sound science and data.

The Agreement, among other things, defines five sets of numbers that relate to either irrigation water management or instream flows. Additionally, the Agreement envisions the need for adaptation of wet and normal year instream flow hydrographs and river diversion allowances as monitoring information and experience with the different flow targets grows. This planning process sets out a mechanism to adapt target flows based on monitoring feedback.

1. Minimum enforceable instream flows (MEF). These are a schedule of monthly streamflow values that are minimum or floor-level instream flows. The MEF values shall be met, unless Natural Flow falls below the MEF values, in which case the MEF values shall equal the Natural Flow. The Parties agree that there shall be incremental, or stepped, increases in the MEF values as Operational and Rehabilitation and Betterment Improvements are implemented by the Project Operator. The process to incrementally augment MEF values is located under Objective 2 below. The MEF values shall be fully met once the deferral period criteria outlined in the body of the Agreement are achieved. The Minimum Enforceable Instream Flows have a time immemorial priority date.
2. Minimum Reservoir Pool Elevations. These are minimum elevations for reservoir levels that shall be met at the effective date of the Compact.
3. Farm turnout allowance numbers (FTA). These are irrigation water turnout volumes, reported in acre-feet per acre of land, which shall be met at an individual farm unit turnout. Farm Turnout Allowances are intended to be met as defined in Articles XV and XVI of the FIIP Water Use Agreement. The FTA values are reported for wet through dry years.
4. Wet and normal year instream flow hydrographs. These are monthly target streamflow values set to vary based on water supply conditions. These targets are intended to be met, but the Parties understand that each year's snowmelt and rainfall timing will vary, leading to the need to administer wet and normal year hydrographs on an annual basis. Dry year hydrographs are not developed, and under these conditions, the Minimum Enforceable Instream Flows become the dry year flow. The Parties agree to work toward wet and normal year instream flow hydrographs at the outset of the Agreement, recognizing that full implementation shall occur following the deferral period. The wet and normal year instream flow hydrographs have a time immemorial priority date.
5. River diversion allowance (RDA). The RDA is a seasonal volume of water that must be diverted at a source, or combination of sources, to meet the Farm Turnout Allowance. The RDA values are measured and administered

at specific diversion locations and incorporate canal conveyance and other losses. The River Diversion Allowances are set for wet through dry years, but the Parties recognize that these values shall be reviewed and, as warranted, adapted based on monitoring information. The RDA values shall be met once the deferral period criteria outlined in the body of the Agreement are achieved. The Parties agree that there shall be incremental, or stepped, reductions in the RDA values as Operational Improvements and Rehabilitation and Betterment Improvements that result in water savings are implemented by the Project Operator.

Responsibilities and Commitments of Parties

The allocation of instream flows and irrigation water across and among the various natural streams, irrigation service areas, and reservoirs that is anticipated by the Agreement necessitates a high level of commitment and resources by the Parties to the agreement over the life of the Agreement. Many of the planning functions require close coordination and recognition that instream flow targets and minimum pool levels, as well as irrigation water management, are objectives for the Agreement. The Parties may delegate or coordinate the performance of some or all of their responsibilities and commitments under the Agreement and Appendices to the Project Operator.

The Parties understand that many of the flow targets cannot be met until either federal, state, or local appropriations are dedicated to the CSKT Water Rights settlement. However, the Parties commit to develop the coordination and water co-management process at the time the Agreement is implemented.

The Parties also agree to retain the interim instream flow levels that have been enforced since the late 1980's, including the more recent additions of Marsh Creek and the Jocko River at the Upper S Canal, until either pre- or post-deferral period Operational and Rehabilitation and Betterment Improvements permit the Project Operator to implement the instream flows defined in Appendix A to this Agreement.

The wet and normal year instream flow hydrographs have a time immemorial priority date. However, the adaptive water management process shall be implemented to meet the Minimum Enforceable Instream Flows and farm turnout allowances prior to fully meeting the target wet and normal year instream flow hydrograph values.

Objectives and Focus for the Planning Process

Three overarching objectives are defined for the water and adaptive management planning process.

1. Develop an annual and within season planning process to set both instream flow and irrigation water availability targets, based on forecast and realized water supply;
2. Coordinate and monitor the process to reallocate water accrued from (a) Operational Improvements in irrigation operations, and (b) Rehabilitation and Betterment upgrades to irrigation facilities to fulfill the instream flow levels found in the Agreement;
3. Develop and implement monitoring procedures to efficiently implement irrigation and streamflow water management operations, to evaluate and report on water management operations, and to positively adapt water management operations over time based on monitoring results.

More detailed objectives are embedded within the overarching objectives noted above, and lead directly to a set of technical tasks that the parties shall commit to accomplish.

Objective 1 - Develop an annual and within season planning process to set both instream flow and irrigation water availability targets, based on forecast and realized water supply

Overall, this objective encompasses each party's commitment to fully participate in water management and reallocation planning to best achieve wet and normal year instream flow targets and wet through dry year river diversion and farm turnout allowances.

Until such time as the forecast procedures described in Objective 1b are useable, the parties may agree to modify Minimum Enforceable Flows for a particular year to match anticipated snowmelt runoff conditions that might occur during that year by moving the Monthly Enforceable Flows from any particular month during the irrigation season either forward in time one month or backward in time one month. Following the development of the forecast procedures outline in Objective 1B, the parties may develop other means for modifying the timing of MEFs to match anticipated snowmelt runoff conditions to the extent possible.

Objective 1a – Develop objective hydrologic and climatologic criteria to define wet through dry water year conditions applicable to both instream flow and irrigation water management

Objective 1b – Develop forecast procedures to predict, through the snowmelt and runoff season, water year conditions

Objectives 1a and 1b implicate a set of tasks that are best completed in conjunction with each other. The CSKT Water Management Program will coordinate and develop a technical review draft defining forecast procedures and hydrologic and climatologic criteria to categorize wet through dry year conditions. The Parties will review and adapt this draft to an endpoint where there is concurrence to utilize the materials for within season water management planning.

Experience implementing and monitoring the forecast procedures will be documented in annual reporting (Objective 3), and both forecast procedures and criteria to define wet through dry years may be modified with mutual written concurrence of the parties.

Objective 1c – Participate in a continuous planning process to allocate water between instream flows and irrigation water demands

Each Party commits to a planning process to coordinate and allocate water between instream flows and irrigation water. The Parties agree to meet at a minimum at the frequency defined below, and on an as-needed basis.

Approximate date	***Meeting output***
End of February	Review reservoir carryover and initial projection of water supply, set March wet and normal year streamflow targets
End of March	Refine projection of water supply, tentatively categorize water year type, and set April wet and normal streamflow targets
Mid-April	Refine projection of water supply, update water year type, update wet and normal streamflow targets for month, set initial river headgate diversion allowance and farm turnout allowance, modify MEF timing (if applicable) to match anticipated snowmelt runoff
Early May	Refine projection of water supply, update water year type, set wet and normal streamflow targets for month, review initial river headgate diversion allowance and farm turnout allowance, modify MEF timing (if applicable) to match anticipated snowmelt runoff
Mid-May	Refine projection of water supply, update water year type, update wet and normal streamflow targets for month, update river headgate diversion allowance, modify MEF timing (if applicable) to match anticipated snowmelt runoff
Early June	Refine projection of water supply, update water year type, set wet and normal streamflow targets for month, set farm turnout allowance, accumulate river headgate diversion allowance to date, modify MEF timing (if applicable) to match anticipated snowmelt runoff
Mid June	Finalize projection of water supply and water year type, update wet and normal streamflow targets

	for month, evaluate farm turnout allowance, modify MEF timing (if applicable) to match anticipated snowmelt runoff
Early July	Set wet and normal streamflow targets for month, evaluate farm turnout allowance, evaluate and accumulate river headgate diversion allowance to date
Mid July	Update wet and normal streamflow targets for month
Early August	Set wet and normal streamflow targets for month, evaluate farm turnout allowance, accumulate river headgate diversion allowance to date
Early September	Set wet and normal streamflow targets for month, accumulate river headgate diversion allowance to date
Early October	Discuss annual reporting and water operations for previous year
Early December	Finalize annual reporting of water operations

The Parties agree to each year rotate the responsibility to schedule, chair, and record water management coordination meetings, with the CSKT assigned responsibility in year one of the process.

Objective 2 - Coordinate and monitor the process to reallocate water accrued from (a) Operational Improvements in irrigation operations, and (b) Rehabilitation and Betterment upgrades to irrigation facilities to fulfill the minimum enforceable and wet and normal year instream flow hydrographs

Operational Improvements in irrigation water management relate to practices that improve the ability of the project operations staff to plan for and distribute water to farm turnouts in amounts that do not exceed Farm Turnout Allowances. Operational Improvements will include, but not necessarily be restricted to, a comprehensive water measurement and data management program, a water accounting program to track farm turnout deliveries, and automatic gate operators at critical river headgates. Water reallocated through a specific Operational Improvement shall be credited by the Project Operator to the CSKT instream flows in a stepped fashion prior to the end of the deferral period or to increased irrigation diversions, following the criteria set forth in Objectives 2c, 2d and 3 of this appendix.

Rehabilitation and Betterment Improvements in irrigation water management include practices that reduce the losses in conveyance of water from sources of supply to points of use. Rehabilitation and Betterment Improvements will include, but not necessarily be restricted to, canal lining, placement of canals in pipelines, or other conveyance improvements. Water reallocated through a specific Rehabilitation and Betterment Improvement shall be credited by the Project Operator to the CSKT instream flows in a stepped fashion prior to the end of the deferral period or to increased irrigation diversions, following the criteria set forth in Objectives 2c, 2d and 3 of this appendix.

Objective 2a – Prioritize both Operational and Rehabilitation and Betterment Improvement projects to improve instream flows and improve irrigation project operations

The Parties agree to jointly prioritize Operational and Rehabilitation and Betterment Improvements that are either: (a) authorized and appropriated by Congress, the Montana Legislature, or the Tribal Council for application to the CSKT Water Rights Settlement; or (b) otherwise funded through the settlement. This shall be accomplished by meeting three times per year, or as needed, to develop priority lists.

The Parties understand there may be uncertainty and unanticipated delays in the distribution of appropriations to implement provisions of the water rights compact between the CSKT, the State of Montana, and the United States. This consequence will require the Parties to adapt and adjust their prioritization and implementation of Operational and Rehabilitation and Betterment Improvement projects. Adaptation of priority and implementation schedules to reflect distribution of appropriations will occur during the meeting schedule noted above, and will be reported under objective 3b below.

The party not responsible for the water management coordination meetings (objective 1c) shall be responsible to coordinate, chair, and write a summary of the agreed upon project priorities. Per the Agreement, the Parties shall be afforded the opportunity to review and modify the project priority list found in Appendix C to this Agreement.

Objective 2b – Plan, design and complete environmental and engineering review of Operational and Rehabilitation and Betterment Improvement projects

Objective 2c – Reallocate water from Operational and Rehabilitation and Betterment Improvement projects to CSKT instream flows or to increased irrigation diversions as applicable

Objectives 2b and 2c share tasks, with Objective 2c embedded as a component of the overall project planning process.

The Parties to the FIIP Water Use Agreement commit to coordinate the planning, review, and implementation functions that are associated with Operational and Rehabilitation and Betterment Improvement projects. The intent for this task is not to create an unnecessary and burdensome design and planning process, but instead to draw from the expertise found within the Project Operator, and the CSKT to move from project planning to implementation. With this perspective the Parties agree to assign staff, appropriate to each project, to complete the Operational and Rehabilitation and Betterment upgrade planning and review process.

A set of steps and responsibilities are identified to accomplish the task to reallocate water from Operational and Rehabilitation and Betterment Improvements to the CSKT instream flows:

a) A project planning team, comprised of staff from the CSKT Water Management Program and the Project Operator will be set up to evaluate each type of irrigation water management improvement project. The project planning team may draw from other CSKT staff resources as specific projects dictate.
b) The project planning team will develop, through a consensus approach, an objective, and science-based method to reallocate water to the CSKT instream flows. Two approaches are proposed to reallocate water from either Operational or Rehabilitation and Betterment Improvements – a hydrologic or engineering calculation approach or a volumetric measurement approach. Generally a measurement approach is preferred, but it is also the more intensive process. The project planning team shall also develop a procedure to associate water savings with one or more instream flow administration points or with one or more irrigation diversion points.
c) The project planning team shall identify the volume and timing of water that may be required for resource mitigation. This volume of water shall be incorporated into the irrigation water reallocation process.
d) As noted under Objective 3a, the CSKT Water Management Program shall commit to complete field measurements or hydrologic or engineering calculations to quantify the volume and timing of reallocated water to assign to one or more instream flow administration points or to one or more irrigation diversion points.

Objective 2d – Credit water saved through Operational and Rehabilitation and Betterment Improvements to CSKT instream flows

After an Operational Improvement or Rehabilitation and Betterment project has been completed, and the project planning team identifies both a volume, and the seasonal timing of water that shall be reallocated , the CSKT Water Management Program shall:

a) develop a water reallocation report to submit to the Project Operator; and

b) the program shall complete Adaptive Management reporting identified under objective 3.

The reallocation report shall, at minimum, describe: a) the Operational and Rehabilitation Improvements, or other actions, that form the basis for reallocated water; b) the magnitude and seasonal timing of reallocated water; c) the instream flow compliance point or irrigation diversion points to assign reallocated water to; d) water requirements for resource mitigation; and e) changes to the River Diversion Allowances or FTAs, if any, related to the reallocation of water. The Project Operator shall retain all such reports and incorporate the reported reallocation of water into the CME annual report to the BIA.

The parties commit to comply with applicable Tribal, federal, and State law during all aspects of project planning and implementation.

Objective 3 - Develop and implement monitoring procedures to efficiently complete irrigation and streamflow water management operations, to evaluate and report on water management operations, and to positively adapt water management operations over time based on monitoring results

Objective 3a – Monitoring implementation for water supply, irrigation distribution, and planning and effectiveness monitoring for Operational and Rehabilitation and Betterment Improvements

Efficient allocation of water between instream flows, and irrigation water demands is predicated on expansion of the existing Reservation water measurement program. The Parties commit to a number of monitoring activities prior to, or as either Federal, State, or local appropriations become available.

Overall, the objectives for comprehensive water measurement and data management are to: (**a**) improve capability to implement the instream flow and irrigation targets identified in the Agreement; (**b**) to provide objective and widely accessible flow information; (**c**) to adapt, if warranted, wet and normal years flow targets and river diversion allowance targets based on monitoring and experience; and (**d**) to improve the annual forecasting through water allocation procedure as it relates to the irrigation project.

Specific to the subparts noted immediately above, the Parties commit to develop a synergistic monitoring program, with the general assignment of responsibilities as follows. The CSKT shall direct their monitoring focus to natural flows, instream flows, irrigation return flows, and river diversions used to calculate the River Diversion Allowance. The Project Operator shall direct their monitoring focus to the Farm Turnout Allowance, to canal laterals and irrigation distribution points, and to reservoir levels.

The Parties commit, as appropriations or local resources become available, to develop objective flow data that is broadly accessible, and reported in a real-time, or near real-time framework to support within-year water operations.

With respect to subpart **c** above, the Parties understand that some uncertainty is associated with the wet and normal year instream flow targets and wet through dry year River Diversion Allowances. Uncertainty may be related to modeling and calculation procedures, and to climatic patterns that may develop in the future. Based on this, the Parties agree that an Adaptive Management process is needed to review these target flows. The minimum criteria for the process is that (a) changes to these flow targets be based on monitoring information that captures a range of wet through dry hydrologic conditions; (b) changes to these flow targets do not change the prescription for the Minimum Enforceable Instream Flows, Minimum Reservoir Pool levels, or the Farm Turnout Allowances; and (c) the changes are based on mutual written concurrence of the Parties.

With reference to subpart **d** above, the Parties commit to the monitoring, reporting and adaptive management procedure as the approach to improve and more efficiently manage and allocate water.

Objective 3a also identifies monitoring as a mechanism to identify reallocated water from Operational and Rehabilitation and Betterment Improvements that can be directed to instream flows or to irrigation diversions. The Parties shall commit the resources to implement pre-project through post-project monitoring to objectively determine the magnitude of reallocated water. This commitment implicates an overall project planning schedule that allows for pre- and post-project monitoring. The CSKT shall complete and report on project-level streamflow or canal monitoring associated with Operational and Rehabilitation and Betterment Improvements.

As noted above under objective 2c, there may be more cost-effective calculation or empirical approaches to estimate saved water. This practice shall be employed jointly by the Parties, when there is mutual agreement by the Parties to use a calculation approach.

Objective 3b – Reporting procedure

The Parties commit to an annual reporting procedure that reports monitoring results, water management decisions, and planning and implementation for, at minimum, the following topics: (a) forecasting and water supply conditions; (b) natural and managed streamflows and compliance with minimum and wet and normal year instream flow hydrographs; (c) reservoir minimum pool levels; (d) River Diversion Allowances and Farm Turnout Allowances and attainment of target levels; (e) Operational and Rehabilitation and Betterment project planning and implementation activities; (f) reallocation of irrigation water to instream flows or irrigation diversions; (g) and review of procedures and ongoing adaptive management activities.

The CSKT shall coordinate and prepare the annual reporting materials, with release of these materials occurring after mutual review and concurrence of the Parties.

Objective 3c – Review and adaptation procedure

Finally, the Parties commit to a continuous water and irrigation management process that is guided by a monitoring and adaptation process over the life of the Agreement.

Appendix C to the Water Use Agreement between the Confederated Salish and Kootenai Tribes, the United States, and the Flathead Joint Board of Control Rehabilitation and Betterment Priority Project List

Purpose

This appendix to the Agreement is intended to set forth a list of rehabilitation and betterment projects for the Flathead Indian Irrigation Project (FIIP) that reflect agreed upon priorities of the parties to the Agreement. The formulation of the priority list includes projects that are identified in the 2009 Biological Opinion for transfer of the FIIP, projects that will benefit fishery and wildlife resources, projects that will lead to greater water savings and improved water management, and projects that have significant design and cost considerations. Most of the projects share benefits across the previous categories.

List of Projects

1. **Lateral and sub-lateral rehabilitation and betterment based on the geographic priorities: 1) Mission Valley south of Crow Creek; 2) Mission Valley north of Crow Creek; 3) Jocko Valley; and 4) Little Bitterroot Valley**

Project Extent: Project-wide, with a geographic prioritization for completion of lateral and sub-lateral rehabilitation and betterment starting in the Mission Valley south of Crow Creek, then the Mission Valley north of Crow Creek including the Polson Area, then the Jocko Valley, and finally the Little Bitterroot Valley

Current Condition: Condition varies, but laterals and sub-laterals, including water management structures, are generally in a deteriorated to critically deteriorated condition. Layout for lateral and sub-lateral canals based on original design of project, and does not generally meet requirements for delivery with modern standards.

Proposed Rehabilitation: Rehabilitation of canals to pipelines or efficient, and low maintenance open channel canals. Rehabilitation of water management diversion structures to improve efficiency, reduce operation and maintenance, and support water measurement.

Project Benefits: Lateral and sub-lateral rehabilitation will lead to water saving through reduced conveyance losses, improved demand-based irrigation delivery, and water measurement and structure updates. Lateral and sub-lateral rehabilitation will reduce operation and maintenance costs for FIIP and will improve demand-based delivery to farm tracts. This activity will also reduce irrigation tailwater, and detrimental effects, through improved water management and distribution.

2. **North Fork Jocko River Diversion at Tabor Feeder Canal and Fish Entrainment and Passage at site**

Project Extent: Diversion dam, Tabor Feeder Canal headworks and gate structure, stream and floodplain at site.

Current Condition: Critically deteriorated concrete diversion dam, headworks, and headworks gates. No fish passage at dam or control of fish entrainment in canal. Stream and floodplain at site heavily modified.

Proposed Rehabilitation: Due to site complexity, full site analysis to execute most effective rehabilitation and betterment approach for diversion dam, headworks, and gates. Rebuild structures (or structure equivalents) based on analysis. Incorporate gate automation and fish passage. Preclude fish entrainment in headworks design. Stream and floodplain reclamation at site.

Project Benefits: Project located in occupied bull trout habitat and listed as needed in 2009 BIOP for FIIP transfer. Project would rebuild channel-spanning diversion dam, headworks, and gate structure to meet irrigation and fishery objectives. Project would

increase length of available habitat for endangered bull trout and would preclude fish entrainment in Tabor Feeder Canal. Project would improve irrigation water and streamflow management. Project would improve stream and floodplain conditions.

3. <u>Jocko K Canal Diversion and Fish Entrainment and Passage at site</u>

Project Extent: Diversion check dam and Jocko K Canal headworks and gate structure, stream and floodplain at site.

Current Condition: The diversion check dam and headworks structure have been retrofitted to include selective fish passage and screening to preclude entrainment in the K Canal. The diversion check dam and headworks are not optimal to address fisheries concerns and irrigation operations. Deteriorated concrete at headworks. The stream channel and floodplain have been modified at the site.

Proposed Rehabilitation: Improve fish passage and screening facilities and integrate into irrigation operations. Headworks gate automation and diversion and headworks improvements. Stream and floodplain reclamation at site.

Project Benefits: Project located in occupied bull trout habitat and listed as needed in 2009 BIOP for FIIP transfer. Project would improve fishery conditions for endangered bull trout and would improve irrigation operations at site. Project would improve irrigation water and streamflow management. Project would improve stream and floodplain conditions.

4. <u>Jocko Upper S Canal Diversion and Fish Entrainment and Passage at site</u>

Project Extent: Diversion check dam and Jocko upper S Canal headworks structure, stream and floodplain at site.

Current Condition: The diversion check dam and headworks structure have been retrofitted to include selective fish passage and screening to preclude entrainment in the upper S Canal. The diversion check dam was reconstructed as an Obermeyer Gate, but cannot be operated as intended. Headworks and diversion check dam are not optimal to address fisheries concerns and irrigation operations. The stream channel and floodplain have been modified at the site.

Proposed Rehabilitation: Improve fish passage and screening facilities and integrate into irrigation operations. Headworks gate automation and diversion check dam and headworks rehabilitation or reconstruction. Stream and floodplain reclamation at site.

Project Benefits: Project located in occupied bull trout habitat and listed as needed in 2009 BIOP for FIIP transfer. Project would improve fishery conditions for endangered bull trout and would improve irrigation operations at site. Project would improve irrigation water and streamflow management. Project would improve stream and floodplain conditions.

5. <u>Fish Entrainment – McDonald Reservoir, Tabor Reservoir, Flathead Pumps</u>

Project Extent: Outlet works at two reservoirs and intake to Flathead Pumps.

Current Condition: All three sites are located in occupied bull trout habitat, and entrainment and loss of fish may occur at each site.

Proposed Rehabilitation: The 2009 BIOP for FIIP transfer identified screening as the approach to preclude entrainment. Based on Fisheries Biologist input, it is more appropriate to step back and develop optimal approach to preclude entrainment at each site and construct selected approach.

Project Benefits: Project(s) located in occupied bull trout habitat and listed as needed in 2009 BIOP for FIIP transfer. Project(s) would preclude fish entrainment at sites and potential take of endangered bull trout.

6. <u>Jocko Lower J Canal Diversion</u>

Project Extent: Diversion check dam, headworks and gate structure, and stream and floodplain at site.

Current Condition: Diversion check dam is pin and plank structure that is failing. Headworks has large forebay area that requires ongoing maintenance. Stream and floodplain reach through site have been modified.

Proposed Rehabilitation: Rebuild diversion check dam, headworks and headworks forebay. Install headworks gate automation. Restore stream channel and floodplain at site.

Project Benefits: Project located in occupied bull trout habitat. Project would improve fishery conditions and would improve irrigation operations through gate automation and reduction in site maintenance. Project would improve irrigation water and streamflow management.

7. <u>Pablo Feeder Canal Diversion at Post Creek</u>

Project Extent: Diversion check dam, headworks and gate structure and stream and floodplain at site.

Current Condition: The diversion check dam and headworks has deteriorated concrete and gates. The stream and floodplain at the site have been heavily modified and fish passage is not incorporated into the diversion check dam. An overpass flume was recently constructed to separate the Pablo Feeder Canal south of Post Creek from Post Creek. A short section of stream below the diversion works may be dewatered due to site operations.

Proposed Rehabilitation: Rebuild diversion check dam, headworks and headworks gates. Headworks gate automation. Fish passage across diversion dam. Stream and floodplain reclamation at site.

Project Benefits: Project located in occupied bull trout habitat. Project would improve fishery conditions for endangered bull trout and would improve irrigation operations at site. Project would improve irrigation water and streamflow management. Project would improve stream and floodplain conditions.

8. <u>Pablo Feeder Canal Diversion at South Crow Creek</u>

Project Extent: Diversion check dam and headworks at site.

Current Condition: Deteriorated concrete diversion structure, headworks, and headworks gates.

Proposed Rehabilitation: Rebuild diversion structure, headworks and gates. Install headworks gate automation.

Project Benefits: Greater operational control for irrigation and streamflow management. Reduced impact to stream from current channel spanning diversion structure.

9. <u>Pablo Feeder Canal Diversion at North Crow Creek</u>

Project Extent: Diversion check dam, headworks structure and stream and floodplain at site.

Current Condition: Deteriorated diversion structure, overflow structure, headworks, and headworks gates. Stream and floodplain are heavily modified at site.

Proposed Rehabilitation: Rebuild diversion structure, headworks and gates. Install headworks gate automation. Stream and floodplain reclamation at site.

Project Benefits: Greater operational control for irrigation and streamflow management. Reduced impact to stream from current channel spanning diversion structure.

10. <u>Crow Pump Canal Diversion on Crow Creek</u>

Project Extent: Diversion check dam.

Current Condition: Diversion check dam is full barrier to fish passage on Crow Creek.

Proposed Rehabilitation: Construct suitable fish passage at site.

Project Benefits: Reconnect of fisheries above and below diversion check dam.

11. <u>Camas A Canal Diversion on Little Bitterroot River</u>

Project Extent: Diversion check dam, headworks and gates, and stream and floodplain at site.

Current Condition: Deteriorated high head check dam, headworks and gates. Diversion check dam is full barrier to fish passage on Little Bitterroot River. Condition of gates leads to dewatering below diversion check dam. Heavily modified stream and floodplain at site.

Proposed Rehabilitation: Due to site complexity, full site analysis to execute most effective rehabilitation and betterment approach for diversion check dam, headworks, and gate. Rebuild structures (or structure equivalents) based on analysis. Incorporate gate automation and fish passage. Preclude fish entrainment in headworks design. Stream and floodplain reclamation at site.

Project Benefits: Project would rebuild channel-spanning diversion check dam, headworks, and gate structure. Project would reconnect fisheries above and below structure. Project would eliminate river dewatering below structure. Project would improve irrigation water and streamflow management. Project would improve stream and floodplain conditions.

12. <u>Jocko K Canal</u>

Project Extent: From K Canal diversion structure on Jocko River to end of canal.

Current Condition: Deteriorated concrete lining and poor condition of open earth ditch. Documented high seepage rates and canal tailwater.

Project Rehabilitation: Replace entire ditch with buried pipe.

Project Benefits: Greater operational control of irrigation water. Saved water transferred to instream flow. Reduce or eliminate irrigation tailwater.

13. <u>Dry Creek Canal</u>

Project Extent: Outlet of Tabor Dam to "DC Pool" structure, including reconstruction of "DC Pool" structure.

Current Condition: Deteriorated concrete lining, structure in critical condition. High safety risk due to uncontrolled access to open canal lining. Barrier to wildlife movement.

Project Rehabilitation: Replace entire open concrete liner section with buried pipe. Rebuild "DC Pool" structure. Surface reclamation along liner right-of-way.

Project Benefits: Greater operational control of irrigation water. Replacement of critical structure with high safety concerns. Removal of wildlife barrier.

14. <u>Moiese MA Canal</u>

Project Extent: Outlet of Crow Dam to end of Moiese MA Canal.

Current Condition: Deteriorated concrete lined sections, poor condition of open earth ditch. Documented high seepage rates and canal tailwater.

Project Rehabilitation: Reconstruct ditch with closed pipeline system directly connected to outlet works at Crow Dam.

Project Benefits: Greater operational control of irrigation water. Saved water transferred to instream flow. Reduce or eliminate irrigation tailwater. Removal of high maintenance channel spanning diversion check dam and headworks at current Moiese MA canal diversion.

15. <u>Pablo Pump Canal/Pablo Feeder Canal</u>

Project Extent: Penstock outlet of Flathead Pumping Plant to junction with Pablo Feeder Canal, then south to Pablo Reservoir.

Current Condition: Deteriorated concrete lining. Seepage evident alongside canal sections.

Project Rehabilitation: Reconstruct with combination of concrete lining and buried pipe.

Project Benefits: Replacement of critical irrigation project infrastructure.

16. <u>Camas A Canal</u>

Project Extent: Mill Creek diversion to end of concrete lining.

Current Condition: Deteriorated concrete chute and concrete lining.

Project Rehabilitation: Reconstruct concrete chute section with buried pipe and reconstruct existing concrete lined canal section.

Project Benefits: Replacement of critical irrigation project infrastructure.

17. <u>Tabor Feeder Canal</u>

Project Extent: Diversion at North Fork Jocko River to Falls Creek diversion and overflow structure.

Current Condition: Deteriorated concrete lining, critical poor condition at Falls Creek diversion and overflow structure.

Project Rehabilitation: Reconstruct canal section, considering buried pipe. Reconstruct Falls Creek diversion and overflow structure.

Project Benefits: Replacement of critical irrigation project infrastructure. Replacement of Falls Creek diversion and overflow structure required to implement instream flow at site.

18. <u>Flathead River Pumping Plant</u>

Project Extent: Flathead Pumping Plant and access road to plant.

Current Condition: Penstock pipe deteriorated to condition where leaks occur. Pump motor switch gear obsolete and in poor condition. Impellers need replacement. Access roadway does not meet current safety standards.

Project Rehabilitation: Reconstruct penstock pipe. Replace all obsolete switchgear and electrical components. Replace impellers. Upgrade access road.

Project Benefits: Rehabilitate critical project infrastructure.

19. <u>Mission Creek Structures</u>

Project Extent: Mission Dam outlet cross diversion structure for Mission A Canal to Pablo Feeder Canal, Mission B Canal diversion structure, Mission C Canal diversion structure.

Current Condition: Deteriorated concrete at diversion structures. High maintenance due to condition and design. Modified stream and floodplain conditions at sites.

Project Rehabilitation: Rebuild structures with updated design to improve fishery conditions and reduce chronic maintenance. Stream and floodplain reclamation at sites.

Project Benefits: Greater operational control for irrigation and streamflow management. Reduced impact to stream and floodplain from current channel spanning diversion structures.

20. <u>Upper S Canal</u>

Project Extent: Upper S Canal diversion at Jocko River to junction with Big Knife Creek.

Current Condition: Poor condition earth ditch. Documented high seepage rates.

Project Rehabilitation: Replace open ditch with buried pipe.

Project Benefits: Greater operational control of irrigation water. Saved water transferred to instream flow.

21. <u>South Crow Feeder Canal at South Crow Creek</u>

Project Extent: South Crow diversion check dam, headworks and gates on South Crow Creek.

Current Condition: Deteriorated concrete and high maintenance at structure. Stream and floodplain modified at structure.

Project Rehabilitation: Reconstruct check dam, headworks and gates.

Project Benefits: Greater operational control of irrigation water. Greater connectivity for fishery resources across structure. Stream and floodplain reclamation at site.

22. <u>North Fork Placid Creek Feeder Canal</u>

Project Extent: Diversion structure on North Fork Placid Creek to inlet to Black Lake Reservoir.

Current Condition: Earth canal in poor condition. High seepage rates. Susceptible to slope failures.

Project Rehabilitation: Reconstruct sections of canal prone to slope failure.

Project Benefits: Reduce or eliminate canal failure, including potential failure into occupied bull trout habitat.

23. <u>Twin Reservoir Feeder Canal</u>

Project Extent: Diversion structure from Hellroaring Creek to inlet to Twin Reservoir.

Current Condition: Earth canal in poor condition. High seepage rates. Susceptible to slope failure.

Project Rehabilitation: Replace canal sections that are prone to seepage or slope failure.

Project Benefits: Reduce or eliminate canal failure. Saved water transferred to instream flow.

24. <u>Pablo 31A Canal (Valley View main canal)</u>

Project Extent: Pablo 31A Canal around perimeter of Valley View service area.

Current Condition: Open canal with sections of deteriorated concrete lining. High seepage rates in some canal sections.

Project Rehabilitation: Replace open canal with concrete lined canal or buried pipe.

Project Benefits: Rehabilitate critical project infrastructure. Saved water transferred to instream flow.

25. <u>Structure Rehabilitation through Distribution System</u>

Project Extent: Deteriorated check structures, check drops, headgates and chutes through the distribution system that have a replacement/rehabilitation cost greater than $20,000. This leaves approximately 490 concrete structures requiring rehabilitation, but with an estimated cost below $20,000.

Current Condition: Deteriorated or failed concrete structures.

Project Rehabilitation: Jocko Service Area – 11 structures; Mission South service area – 9 structures; Mission North service area – 28 structures; Camas service area – 18 structures.

Project Benefits: Rehabilitate critical project infrastructure. Greater operational control of irrigation water. Opportunity to incorporate water measurement into selected structures.