

Appendix 14: Interim Instream Flow Protocols

This appendix identifies the enforcement procedures that are in effect as of December 31, 2014 for the interim instream flows, measured as instantaneous streamflow, that are subject to this enforcement procedure identified in Appendix 13 to this compact.

Ensuring compliance with the interim instream flows is the responsibility of the Project Operator at the Flathead Indian Irrigation Project (FIIP). If the flow in a given stream reach drops below the magnitude established for the interim instream flow in that reach, and the natural flow is equal to or greater than the interim instream flow, the CSKT Water Management Program (WMP): a) notifies the Project Operator directly to request rectification of the interim instream flow infraction on the date of contact; and b) prepares a letter of noncompliance to the attention of the Project Operator and the Bureau of Indian Affairs, Flathead Agency Superintendent (Superintendent).

In the event that the Project Operator, through the operation of FIIP facilities, cannot comply with any given interim instream flow, the Superintendent or designee may curtail secretarial water right diversions to achieve compliance. FIIP, and if necessary, secretarial water right diversions shall continue to be curtailed until the given interim instream flow is met. If, with these two actions, the given interim instream flow still cannot be met, that instream flow level remains below the streamflow magnitude values identified in Appendix 13 until such time as naturally available water supply is sufficient to meet the given interim instream flow. The Bureau of Indian Affairs administrative appeals process is available to resolve disputes related to compliance with the interim instream flows.

Irrespective of whether a noncompliance notice is issued, if the natural flow in a given stream reach drops below the magnitude established for the interim instream flow, the WMP documents both the magnitude of the interim instream flow and the magnitude of the natural flow and delivers a letter of insufficient flow to the Project Operator and the Superintendent.