

## **DECREE APPENDIX 3**

Lists and Abstracts of the Tribes' Water Rights Under  
Articles III.D.4.a.i. and D.5 of the Compact

Compact Appendix 28: Co-owned  
CKST- MFWP Instream Flow Water  
Rights

## Appendix 28 Confederated Salish and Kootenai Tribes - Montana Water Rights

### Compact FWP Claims co-owned by the CSKT to be decreed as part of the Compact:

#### Flathead Basin

##### Middle Fork Flathead River

~~761 134924 00, 761 134925 00, 761 134926 00, 761 134927 00, 761 134928 00, 761 134929 00~~

##### South Fork Flathead River

~~76L 134968 00, 76L 134969 00, 76L 134970 00, 76L 134971 00, 76L 134972 00, 76L 134973 00,  
76L 179244 00, 76L 179245 00~~

As per Division DD of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182, 3008-38 (Montana Water Rights Appropriations Act) at Section 10, the CSKT have waived co-ownerships of the above-listed 14 water rights for the Middle Fork Flathead River and the South Fork Flathead River. These waivers are not an amendment of the Water Rights Compact.

#### Rock Creek Basin

##### Rock Creek

76E 133208 00, 76E 133209 00, 76E 133210 00, 76E 133211 00, 76E 133212 00, 76E 133213 00,  
76E 133214 00, 76E 133215 00, 76E 133216 00, 76E 133217 00, 76E 133218 00, 76E 133219 00

#### Blackfoot Basin

<u>Ward Creek (Browns L.)</u>	76F 167411 00
<u>Upsata Lake</u>	76F 167412 00
<u>Harpers Lake</u>	76F 149231 00
<u>Clearwater (Salmon L.)</u>	76F 149469 00
<u>Owl Creek (Placid Lake)</u>	76F 149472 00
<u>Clearwater (Seeley Lake)</u>	76F 149471 00
<u>Clearwater (Lake Inez)</u>	76F 149466 00
<u>Clearwater (Lake Alva)</u>	76F 149467 00
<u>Clearwater (Rainy Lake)</u>	76F 149468 00
<u>Clearwater Lake</u>	76F 149470 00

Compact Appendix 30: Co-owned  
CSKT- MFWP Milltown Instream  
Fishery Rights Abstracts

**PRELIMINARY DECREE  
CONFEDERATED SALISH AND KOOTENAI-MONTANA COMPACT**

**Water Right Number:** 76M 94404-01 STATEMENT OF CLAIM

**Version:** 1 -- ORIGINAL RIGHT

**Version Status:** ACTIVE

**Owners:** MONTANA, STATE OF DEPT OF FISH WILDLIFE & PARKS  
PO BOX 200701  
HELENA, MT 59620-0701

CONFEDERATED SALISH & KOOTENAI TRIBES  
C/O TRIBAL CHAIRMAN  
PO Box 278  
PABLO, MT 59855-0278

THE CONFEDERATED SALISH AND KOOTENAI TRIBES BECOME COOWNERS OF THIS WATER RIGHT ON THE EFFECTIVE DATE OF THE COMPACT, WHICH IS THE DATE ON WHICH THE COMPACT IS FINALLY APPROVED BY THE TRIBES, BY THE STATE, AND BY THE UNITED STATES, AND ON WHICH THE LAW OF ADMINISTRATION (APPENDIX 4 OF THE COMPACT) HAS BEEN ENACTED AND TAKEN EFFECT AS THE LAW OF THE STATE AND THE TRIBES, WHICHEVER DATE IS LATEST.

**Priority Date:** DECEMBER 11, 1904

**Enforceable Priority Date:** DECEMBER 11, 1904

**Type of Historical Right:** FILED

**Purpose (use):** INSTREAM FISHERY

**Maximum Flow Rate:** 833.00 CFS

FOR ANY ANALYSIS OF THE LEGAL AVAILABILITY OF WATER IN BASINS 76F (BLACKFOOT RIVER), 76G ( CLARK FORK RIVER ABOVE BLACKFOOT RIVER), 76E (ROCK CREEK, TRIBUTARY OF THE CLARK FORK RIVER). AND 76GJ (FLINT CREEK), THIS RIGHT SHALL BE CONSIDERED CONJOINED TO WATER RIGHT 76M 94404-02, TO HAVE A CUMULATIVE YEAR-ROUND FLOW RATE OF 2,000 CFS AS MEASURED BELOW THE CONFLUENCE OF THE CLARK FORK AND BLACKFOOT RIVERS AT THE LOCATION OF USGS GAGE #12340500 ABOVE MISSOULA (46 52 38.06 N, 113 55 54.99 W, NAD83) (NWNWNW SEC19 T13N R18W).

THE ENFORCEABLE LEVELS OF THIS WATER RIGHT ARE INDIVIDUAL FOR EACH CALENDAR DAY OF THE YEAR AND ARE IDENTIFIED IN THE TECHNICAL DOCUMENTATION FILED WITH THIS WATER RIGHT (SEE SCANNED FILE IN THE DNRC WATER RIGHTS DATABASE FOR WATER RIGHT NUMBERS 76M 94404-01 AND 76M 94404-02).

CALL MAY BE INITIATED ON THE DAY FOLLOWING A FIVE-CONSECUTIVE-DAY PERIOD WHERE FOUR OUT OF FIVE AVERAGE DAILY RIVER FLOWS FALL BELOW THEIR RESPECTIVE DAILY ENFORCEABLE VALUES; CALL MAY PERSIST UNTIL SUCH TIME AS TWO AVERAGE DAILY FLOWS OF THE PREVIOUS FIVE-CONSECUTIVE-DAY-PERIOD ARE IN EXCESS OF THEIR RESPECTIVE DAILY ENFORCEABLE VALUES.

ENFORCEABLE LEVELS OF THIS WATER RIGHT SHALL BE MEASURED AT THE USGS GAGE #12334550 LOCATION ON THE MAINSTEM OF THE CLARK FORK

Category: COMPACTED OFF RESERVATION

RIVER @ TURAH BRIDGE, MONTANA (46 49 33.28 N, 113 48 50.51 W, NAD83)  
(SWNWSW SEC 1 T12N R18W). IF USGS GAGE #12334550 IS DISCONTINUED  
OR OTHERWISE RENDERED NONFUNCTIONAL, MEASUREMENTS SHALL BE  
TAKEN EITHER AT THIS SAME LOCATION OR AT A POINT DOWNSTREAM AS  
NEAR AS REASONABLY PRACTICABLE TO THE CONFLUENCE OF THE CLARK  
FORK AND BLACKFOOT RIVERS.

**Maximum Volume:**

**Source Name:** CLARK FORK  
**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			1	12N	18W	MISSOULA
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31						
<b>Diversion Means:</b> INSTREAM						
<b>Diversion Type:</b> PRIMARY						
2			2	12N	18W	MISSOULA
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31						
<b>Diversion Means:</b> INSTREAM						
<b>Diversion Type:</b> PRIMARY						
3			3	12N	18W	MISSOULA
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31						
<b>Diversion Means:</b> INSTREAM						
<b>Diversion Type:</b> PRIMARY						
4			7	12N	18W	MISSOULA
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31						
<b>Diversion Means:</b> INSTREAM						
<b>Diversion Type:</b> PRIMARY						
5			12	12N	18W	MISSOULA
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31						
<b>Diversion Means:</b> INSTREAM						
<b>Diversion Type:</b> PRIMARY						
6			18	12N	18W	MISSOULA
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31						
<b>Diversion Means:</b> INSTREAM						
<b>Diversion Type:</b> PRIMARY						
7			21	13N	18W	MISSOULA
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31						
<b>Diversion Means:</b> INSTREAM						
<b>Diversion Type:</b> PRIMARY						

Category: COMPACTED OFF RESERVATION

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
8			27	13N	18W	MISSOULA

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** INSTREAM

**Diversion Type:** PRIMARY

9			28	13N	18W	MISSOULA
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**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** INSTREAM

**Diversion Type:** PRIMARY

10			34	13N	18W	MISSOULA
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**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** INSTREAM

**Diversion Type:** PRIMARY

11			35	13N	18W	MISSOULA
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**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** INSTREAM

**Diversion Type:** PRIMARY

**Period of Use:** JANUARY 1 to DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1				1	12N	18W	MISSOULA
2				2	12N	18W	MISSOULA
3				3	12N	18W	MISSOULA
4				7	12N	18W	MISSOULA
5				12	12N	18W	MISSOULA
6				18	12N	18W	MISSOULA
7				21	13N	18W	MISSOULA
8				27	13N	18W	MISSOULA
9				28	13N	18W	MISSOULA
10				34	13N	18W	MISSOULA
11				35	13N	18W	MISSOULA

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**Remarks:**

**Remarks:**

THE OWNERS OF THIS WATER RIGHT SHALL BE ENTITLED TO MAKE A CALL, IN ACCORDANCE WITH STATE LAW, TO ENFORCE THIS WATER RIGHT ONLY AGAINST JUNIOR WATER RIGHTS IN BASINS 76G ( CLARK FORK ABOVE BLACKFOOT RIVER), 76E (ROCK CREEK, TRIBUTARY TO THE CLARK FORK), AND 76GJ (FLINT CREEK), THAT:

1) HAVE A PRIORITY DATE EARLIER THAN THE DATE ON WHICH THE RATIFICATION BY THE MONTANA LEGISLATURE OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA TAKES EFFECT UNDER STATE LAW (APRIL 24, 2015), HAVE A PURPOSE OF IRRIGATION AND WHOSE SOURCE OF SUPPLY IS SURFACE WATER;

2) HAVE A PRIORITY DATE EARLIER THAN THE DATE ON WHICH THE RATIFICATION BY THE MONTANA LEGISLATURE OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA TAKES EFFECT UNDER STATE LAW (APRIL 24, 2015), AND HAVE A PURPOSE OF IRRIGATION, WHOSE SOURCE OF SUPPLY IS GROUNDWATER AND WHOSE FLOW RATE IS GREATER THAN 100 GALLONS PER MINUTE; OR

3) HAVE A PRIORITY DATE LATER THAN THE DATE ON WHICH THE RATIFICATION BY THE MONTANA LEGISLATURE OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA TAKES EFFECT UNDER STATE LAW (APRIL 24, 2015).

THE ABILITY TO ENFORCE THIS RIGHT SHALL BE SUSPENDED UNTIL APRIL 24, 2025, WHICH IS 10 YEARS FROM THE DATE THE RATIFICATION OF THIS COMPACT BY THE MONTANA LEGISLATURE BECAME EFFECTIVE UNDER STATE LAW (APRIL 24, 2015).

THIS WATER RIGHT SHALL NOT BE EXERCISED IN CONJUNCTION WITH ANY ARTIFICIAL DIVERSION.

THE EXERCISE OF THIS WATER RIGHT IS SUBJECT TO THE TERMS AND CONDITIONS OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA.

THE DESIGNATION OF A PLACE OF USE OF THIS WATER RIGHT IS A DESIGNATION FOR PURPOSES OF MEASUREMENT OF THE ENFORCEABLE LEVELS AND IS NOT A GEOGRAPHIC LIMITATION ON THE LOCATION OF JUNIOR WATER RIGHTS AGAINST WHOM THIS RIGHT MAY BE ENFORCED.

WATER RIGHT 76M 94404-00 HAS BEEN CHANGED FROM HYDROPOWER GENERATION TO INSTREAM FISHERY AND SPLIT INTO WATER RIGHTS 76M 94404-01 AND 76M 94404-02 BY THE MONTANA LEGISLATURE'S RATIFICATION OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA. 76M 94404-00 CAN NO LONGER BE CHANGED.

THE PLACE OF USE OF THIS WATER RIGHT INCLUDES THE REACH OF THE CLARK FORK RIVER STARTING JUST ABOVE THE CONFLUENCE OF THE CLARK FORK AND BLACKFOOT RIVERS (46 52 17 N, 113 53 16 W, NAD27) (NESWNW SEC 21 T13N R18W) AND EXTENDING UPSTREAM TO THE CONFLUENCE OF THE CLARK FORK RIVER AND ALLEN CREEK (46 47 47 N, 113 47 0, NAD27) (SENWSE SEC 18 T12N R17W).

76M 94404-01 & 76M 94404-02 ARE NONCONSUMPTIVE INSTREAM WATER RIGHTS AND THE PURPOSES AND INSTREAM PLACES OF USE CANNOT BE CHANGED.

Category: COMPACTED OFF RESERVATION

**PRELIMINARY DECREE  
CONFEDERATED SALISH AND KOOTENAI-MONTANA COMPACT**

**Water Right Number:** 76M 94404-02 STATEMENT OF CLAIM

**Version:** 1 -- ORIGINAL RIGHT

**Version Status:** ACTIVE

**Owners:**

MONTANA, STATE OF DEPT OF FISH WILDLIFE & PARKS  
PO BOX 200701  
HELENA, MT 59620-0701

CONFEDERATED SALISH & KOOTENAI TRIBES  
C/O TRIBAL CHAIRMAN  
PO Box 278  
PABLO, MT 59855-0278

THE CONFEDERATED SALISH AND KOOTENAI TRIBES BECOME COOWNERS OF THIS WATER RIGHT ON THE EFFECTIVE DATE OF THE COMPACT, WHICH IS THE DATE ON WHICH THE COMPACT IS FINALLY APPROVED BY THE TRIBES, BY THE STATE, AND BY THE UNITED STATES, AND ON WHICH THE LAW OF ADMINISTRATION (APPENDIX 4 OF THE COMPACT) HAS BEEN ENACTED AND TAKEN EFFECT AS THE LAW OF THE STATE AND THE TRIBES, WHICHEVER DATE IS LATEST.

**Priority Date:** DECEMBER 11, 1904

**Enforceable Priority Date:** DECEMBER 11, 1904

**Type of Historical Right:** FILED

**Purpose (use):** INSTREAM FISHERY

**Maximum Flow Rate:** 1,167.00 CFS

FOR ANY ANALYSIS OF THE LEGAL AVAILABILITY OF WATER IN BASINS 76F (BLACKFOOT RIVER), 76G ( CLARK FORK RIVER ABOVE BLACKFOOT RIVER), 76E (ROCK CREEK, TRIBUTARY OF THE CLARK FORK RIVER). AND 76GJ (FLINT CREEK), THIS RIGHT SHALL BE CONSIDERED CONJOINED TO WATER RIGHT 76M 94404-01, TO HAVE A CUMULATIVE YEAR-ROUND FLOW RATE OF 2,000 CFS AS MEASURED BELOW THE CONFLUENCE OF THE CLARK FORK AND BLACKFOOT RIVERS AT THE LOCATION OF USGS GAGE #12340500 ABOVE MISSOULA (46 52 38.06 N, 113 55 54.99 W, NAD83) (NWNWNW SEC19 T13N R18W).

THE ENFORCEABLE LEVELS OF THIS WATER RIGHT ARE INDIVIDUAL FOR EACH CALENDAR DAY OF THE YEAR AND ARE IDENTIFIED IN THE TECHNICAL DOCUMENTATION FILED WITH THIS WATER RIGHT (SEE SCANNED FILE IN THE DNRC WATER RIGHTS DATABASE FOR WATER RIGHT NUMBERS 76M 94404-01 AND 76M 94404-02).

CALL MAY BE INITIATED ON THE DAY FOLLOWING A FIVE-CONSECUTIVE-DAY-PERIOD WHERE FOUR OUT OF FIVE AVERAGE DAILY RIVER FLOWS FALL BELOW THEIR RESPECTIVE DAILY ENFORCEABLE VALUES; CALL MAY PERSIST UNTIL SUCH TIME AS TWO AVERAGE DAILY FLOWS OF THE PREVIOUS FIVE-CONSECUTIVE-DAY-PERIOD ARE IN EXCESS OF THEIR RESPECTIVE DAILY ENFORCEABLE VALUES.

ENFORCEABLE LEVELS OF THIS WATER RIGHT SHALL BE MEASURED AT THE USGS GAGE #12340000 LOCATION ON THE MAINSTEM OF THE BLACKFOOT

Category: COMPACTED OFF RESERVATION

RIVER @ BONNER, MONTANA (46 53 57.88 N, 113 45 22.75 W, NAD83) (SESENW SEC 9 T13N R17W). IF USGS GAGE #12340000 IS DISCONTINUED OR OTHERWISE RENDERED NONFUNCTIONAL, MEASUREMENTS SHALL BE TAKEN EITHER AT THIS SAME LOCATION OR AT A POINT DOWNSTREAM AS NEAR AS REASONABLY PRACTICABLE TO THE CONFLUENCE OF THE CLARK FORK AND BLACKFOOT RIVERS.

**Maximum Volume:**

**Source Name:** BLACKFOOT RIVER  
**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			2	13N	17W	MISSOULA
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31						
<b>Diversion Means:</b> INSTREAM						
<b>Diversion Type:</b> PRIMARY						
2			7	13N	17W	MISSOULA
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31						
<b>Diversion Means:</b> INSTREAM						
<b>Diversion Type:</b> PRIMARY						
3			8	13N	17W	MISSOULA
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31						
<b>Diversion Means:</b> INSTREAM						
<b>Diversion Type:</b> PRIMARY						
4			9	13N	17W	MISSOULA
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31						
<b>Diversion Means:</b> INSTREAM						
<b>Diversion Type:</b> PRIMARY						
5			10	13N	17W	MISSOULA
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31						
<b>Diversion Means:</b> INSTREAM						
<b>Diversion Type:</b> PRIMARY						
6			11	13N	17W	MISSOULA
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31						
<b>Diversion Means:</b> INSTREAM						
<b>Diversion Type:</b> PRIMARY						
7			17	13N	17W	MISSOULA
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31						
<b>Diversion Means:</b> INSTREAM						
<b>Diversion Type:</b> PRIMARY						

Category: COMPACTED OFF RESERVATION

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
8			18	13N	17W	MISSOULA

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** INSTREAM

**Diversion Type:** PRIMARY

9			12	13N	18W	MISSOULA
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**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** INSTREAM

**Diversion Type:** PRIMARY

10			13	13N	18W	MISSOULA
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**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** INSTREAM

**Diversion Type:** PRIMARY

11			14	13N	18W	MISSOULA
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**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** INSTREAM

**Diversion Type:** PRIMARY

12			15	13N	18W	MISSOULA
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**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** INSTREAM

**Diversion Type:** PRIMARY

13			16	13N	18W	MISSOULA
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**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** INSTREAM

**Diversion Type:** PRIMARY

14			21	13N	18W	MISSOULA
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**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** INSTREAM

**Diversion Type:** PRIMARY

15			22	13N	18W	MISSOULA
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**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** INSTREAM

**Diversion Type:** PRIMARY

**Period of Use:** JANUARY 1 to DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1				2	13N	17W	MISSOULA
2				7	13N	17W	MISSOULA
3				8	13N	17W	MISSOULA
4				9	13N	17W	MISSOULA
5				10	13N	17W	MISSOULA

Category: COMPACTED OFF RESERVATION

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
6				11	13N	17W	MISSOULA
7				17	13N	17W	MISSOULA
8				18	13N	17W	MISSOULA
9				12	13N	18W	MISSOULA
10				13	13N	18W	MISSOULA
11				14	13N	18W	MISSOULA
12				15	13N	18W	MISSOULA
13				16	13N	18W	MISSOULA
14				21	13N	18W	MISSOULA
15				22	13N	18W	MISSOULA

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**Remarks:**

THIS WATER RIGHT SHALL NOT BE EXERCISED IN CONJUNCTION WITH ANY ARTIFICIAL DIVERSION. WATER RIGHT 76M 94404-00 HAS BEEN CHANGED FROM HYDROPOWER GENERATION TO INSTREAM FISHERY AND SPLIT INTO WATER RIGHTS 76M 94404-01 AND 76M 94404-02 BY THE MONTANA LEGISLATURE'S RATIFICATION OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA. 76M 94404-00 CAN NO LONGER BE CHANGED.

THE EXERCISE OF THIS WATER RIGHT IS SUBJECT TO THE TERMS AND CONDITIONS OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA.

THE ABILITY TO ENFORCE THIS RIGHT SHALL BE SUSPENDED UNTIL APRIL 24, 2025, WHICH IS 10 YEARS FROM THE DATE THE RATIFICATION OF THIS COMPACT BY THE MONTANA LEGISLATURE BECAME EFFECTIVE UNDER STATE LAW (APRIL 24, 2015).

THE OWNERS OF THIS WATER RIGHT SHALL BE ENTITLED TO MAKE A CALL, IN ACCORDANCE WITH STATE LAW, TO ENFORCE THIS WATER RIGHT ONLY AGAINST JUNIOR WATER RIGHTS IN BASIN 76F (BLACKFOOT RIVER), THAT:

1) HAVE A PRIORITY DATE EARLIER THAN THE DATE ON WHICH THE RATIFICATION BY THE MONTANA LEGISLATURE OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA TAKES EFFECT UNDER STATE LAW (APRIL 24, 2015), HAVE A PURPOSE OF IRRIGATION AND WHOSE SOURCE OF SUPPLY IS SURFACE WATER;

2) HAVE A PRIORITY DATE EARLIER THAN THE DATE ON WHICH THE RATIFICATION BY THE MONTANA LEGISLATURE OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA TAKES EFFECT UNDER STATE LAW (APRIL 24, 2015), AND HAVE A PURPOSE OF IRRIGATION, WHOSE SOURCE OF SUPPLY IS GROUNDWATER AND WHOSE FLOW RATE IS GREATER THAN 100 GALLONS PER MINUTE; OR

3) HAVE A PRIORITY DATE LATER THAN THE DATE ON WHICH THE RATIFICATION BY THE MONTANA LEGISLATURE OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES (APRIL 24, 2015), THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA TAKES EFFECT UNDER STATE LAW.

THE PLACE OF USE OF THIS WATER RIGHT INCLUDES THE REACH OF THE BLACKFOOT RIVER STARTING JUST ABOVE THE CONFLUENCE OF THE CLARK FORK AND BLACKFOOT RIVERS (46 52 17 N, 113 53 16 W, NAD27) (NESWNW SEC 21 T13N R18W) AND EXTENDING UPSTREAM TO THE CONFLUENCE OF THE BLACKFOOT RIVER AND EAST TWIN CREEK (46 54 49 N, 113 42 35 W, NAD27) (SWSWNE SEC 2 T12N R17W).

THE DESIGNATION OF A PLACE OF USE OF THIS WATER RIGHT IS A DESIGNATION FOR PURPOSES OF MEASUREMENT OF THE ENFORCEABLE LEVELS AND IS NOT A GEOGRAPHIC LIMITATION ON THE LOCATION OF JUNIOR WATER RIGHTS AGAINST WHOM THIS RIGHT MAY BE ENFORCED.

**Remarks:**

76M 94404-01 & 76M 94404-02 ARE NONCONSUMPTIVE INSTREAM WATER RIGHTS AND THE PURPOSES AND INSTREAM PLACES OF USE CANNOT BE CHANGED.

Compact Appendix 31: Co-owned  
CSKT- MFWP Milltown Instream  
Fishery Rights Technical  
Documentation

## Appendix 31: 76M 94404-01 and 76M 94404-02 Technical Documentation

By way of the water rights compact entered into by the Confederated Salish & Kootenai Tribes, the State of Montana, and the United States of America, the former Milltown Dam water right, 76M 94404-00, is hereby split and changed, creating two separate active and enforceable water rights: 76M 94404-01, with a place of use along the reach of the Clark Fork River starting just above the confluence of the Clark Fork and Blackfoot Rivers extending upstream along the Clark Fork River to the confluence of the Clark Fork River and Allen Creek; and 76M 94404-02, with a place of use along the reach of the Blackfoot River starting just above the confluence of the Clark Fork and Blackfoot Rivers and extending along the Blackfoot River upstream to the confluence of the Blackfoot River and the East Fork of Twin Creek. The designation of a place of use of these water rights is a designation for purposes of measurement of the enforceable levels and is not a geographic limitation on the location of junior water rights against whom this right may be enforced.

These water rights maintain the original priority date of December 11, 1904.

The purpose of these water rights is the maintenance and enhancement of fish habitat.

For any analysis of the legal availability of water in basins 76F (Blackfoot River), 76G (Clark Fork above Blackfoot River), 76E (Rock Creek, Tributary to the Clark Fork River), and 76GJ (Flint Creek), these water rights shall be considered conjoined at a combined flow rate of 2,000 CFS for every day of the year, as measured downstream of the confluence of the Clark Fork and Blackfoot Rivers at the location of USGS Gage #12340500 above Missoula (46°52'38.06" N, 113°55'54.99" W, NAD83) (NWNWNW SEC 19 T13N R18W).

These water rights shall not be exercised in conjunction with any artificial diversion.

The ability to enforce these water rights shall be suspended for a period of 10 years from the date the ratification by the Montana legislature of the water rights compact entered into by the Confederated Salish & Kootenai Tribes, the State of Montana, and the United States of America, becomes effective under state law.

The enforceable levels of these water rights take the form of static distributions of unique daily flow values, one each for every day of the year for each water right. Call may be initiated on the day following a five-consecutive-day-period where four out of five average daily river flows fall below their respective daily enforceable flow values; call may persist until such time as two average daily flows of the previous five-consecutive-day-period are in excess of their respective daily enforceable flow values.

### **The details of each water right are described as follows:**

**Water Right 76M 94404-01:** The owners of these water rights shall be entitled to make a call, in accordance with state law, to enforce water right number 94404-01 only against junior water

## Appendix 31: 76M 94404-01 and 76M 94404-02 Technical Documentation

rights in basins 76G (Clark Fork above Blackfoot River), 76E (Rock Creek, Tributary to the Clark Fork River). and 76GJ (Flint Creek), that:

- 1) Have a priority date earlier than the date on which the ratification by the Montana Legislature of the water rights compact entered into by the Confederated Salish and Kootenai Tribes, the State of Montana, and the United States of America takes effect under state law (April 24, 2015), have a purpose of irrigation and whose source of supply is surface water;
- 2) Have a priority date earlier than the date on which the ratification by the Montanan Legislature of the water rights compact entered into by the Confederated Salish and Kootenai Tribes, the State of Montana, and the United States of America takes effect under state law (April 24, 2015), and have a purpose of irrigation, whose source of supply is groundwater and whose flow rate is greater than 100 gallons per minute; or
- 3) Have a priority date later than the date on which the ratification by the Montana Legislature of the water rights compact entered into by the Confederated Salish and Kootenai Tribes, the State of Montana, and the United States of America takes effect under state law (April 24, 2015).

Enforceable levels of water right 76M 94404-01 shall be measured at USGS gage #12334550 on the mainstem of the Clark Fork River at Turah Bridge, Montana (46°49'33.28" N, 113°48'50.51", NAD83) (SWNWSW SEC 1 T12N R18W), unless that USGS gage is discontinued or otherwise rendered nonfunctional at which point measurements shall be taken either at this same location or at a point downstream on the Clark Fork River as near as reasonably practicable to just above, but not below, the confluence of the Clark Fork and Blackfoot Rivers. The enforceable static individual daily flow values are described in Table 1.

**Water Right 76M 94404-02:** The owners of these water rights shall be entitled to make a call, in accordance with state law, to enforce water right number 94404-02 only against junior water rights in basin 76F (Blackfoot River), that:

- 1) Have a priority date earlier than the date on which the ratification by the Montana Legislature of the water rights compact entered into by the Confederated Salish and Kootenai Tribes, the State of Montana, and the United States of America takes effect under state law (April 24, 2015), have a purpose of irrigation and whose source of supply is surface water;
- 2) Have a priority date earlier than the date on which the ratification by the Montanan Legislature of the water rights compact entered into by the Confederated Salish and Kootenai Tribes, the State of Montana, and the United States of America takes effect under state law (April 24, 2015), and have a purpose of irrigation, whose source of supply is groundwater and whose flow rate is greater than 100 gallons per minute; or

## Appendix 31: 76M 94404-01 and 76M 94404-02 Technical Documentation

- 3) Have a priority date later than the date on which the ratification by the Montana Legislature of the water rights compact entered into by the Confederated Salish and Kootenai Tribes, the State of Montana, and the United States of America takes effect under state law (April 24, 2015).

Enforceable levels of water right 76M 94404-02 shall be measured at the USGS gage #12340000 near Bonner, Montana (46°53'57.88" N, 113°45'22.75", NAD83) (SESENW SEC 9 T13N R17W), unless that USGS gage is discontinued or otherwise rendered nonfunctional at which point measurements shall be taken either at this same location or at a point downstream on the Blackfoot River as near as reasonably practicable to just above, but not below, the confluence of the Clark Fork and Blackfoot Rivers. The enforceable static individual daily flow values are described in Table 2.

Appendix 31, Table 1

Enforceable Daily Flows for 76M 94404-01 on the Clark Fork @ Turah Bridge, MT												
Day	Month											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1	500	515	561	727	833	833	735	503	500	512	654	560
2	500	518	568	731	833	833	727	501	500	516	655	553
3	500	521	573	733	833	833	718	500	500	521	655	550
4	500	524	582	734	833	833	710	500	500	527	656	547
5	500	522	592	736	833	833	707	500	500	534	657	544
6	500	520	602	741	833	833	705	500	500	540	657	542
7	500	520	611	744	833	833	703	500	500	548	658	538
8	500	520	618	747	833	833	702	500	500	556	659	534
9	500	519	627	752	833	833	699	500	500	566	659	529
10	500	518	633	760	833	833	695	500	500	577	660	524
11	500	518	641	768	833	833	689	500	500	587	659	520
12	500	519	651	775	833	833	680	500	500	597	659	516
13	500	520	660	780	833	833	672	500	500	607	656	513
14	503	524	667	785	833	833	663	500	500	617	654	511
15	503	527	669	791	833	833	653	500	500	625	651	509
16	503	527	673	796	833	833	644	500	500	631	645	509
17	503	527	676	801	833	832	635	500	500	636	639	509
18	503	526	676	804	833	831	622	500	500	641	633	509
19	506	524	678	807	833	828	610	500	500	645	629	509
20	509	524	681	812	833	822	598	500	500	649	625	508
21	509	520	682	818	833	815	588	500	500	652	621	507
22	509	522	685	822	833	808	573	500	500	654	617	506
23	509	523	687	824	833	799	559	500	500	656	613	503
24	511	523	689	827	833	790	546	500	500	657	608	500
25	511	524	692	831	833	782	535	500	500	658	603	500
26	511	527	695	833	833	775	526	500	500	656	596	500
27	511	534	701	833	833	767	519	500	501	655	589	500
28	513	542	706	833	833	759	514	500	502	655	583	500
29	514	552	710	833	833	749	511	500	505	654	575	500
30	514		715	833	833	741	507	500	508	654	568	500
31	514		720		833		504	500		654		500

Appendix 31, Table 2

Enforceable Daily Flows for 76M 94404-02 on the Blackfoot @ Bonner, MT												
Day	Month											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1	700	700	700	700	1,167	1,167	1,041	700	700	700	700	700
2	700	700	700	700	1,167	1,167	1,022	700	700	700	700	700
3	700	700	700	700	1,167	1,167	1,001	700	700	700	700	700
4	700	700	700	700	1,167	1,167	982	700	700	700	700	700
5	700	700	700	700	1,167	1,167	961	700	700	700	700	700
6	700	700	700	704	1,167	1,167	943	700	700	700	700	700
7	700	700	700	713	1,167	1,167	923	700	700	700	700	700
8	700	700	700	723	1,167	1,167	902	700	700	700	700	700
9	700	700	700	733	1,167	1,167	878	700	700	700	700	700
10	700	700	700	747	1,167	1,167	856	700	700	700	700	700
11	700	700	700	765	1,167	1,167	836	700	700	700	700	700
12	700	700	700	788	1,167	1,167	817	700	700	700	700	700
13	700	700	700	815	1,167	1,167	799	700	700	700	700	700
14	700	700	700	843	1,167	1,167	782	700	700	700	700	700
15	700	700	700	870	1,167	1,167	766	700	700	700	700	700
16	700	700	700	898	1,167	1,166	752	700	700	700	700	700
17	700	700	700	925	1,167	1,164	741	700	700	700	700	700
18	700	700	700	953	1,167	1,161	732	700	700	700	700	700
19	700	700	700	980	1,167	1,156	723	700	700	700	700	700
20	700	700	700	1,008	1,167	1,151	717	700	700	700	700	700
21	700	700	700	1,035	1,167	1,145	711	700	700	700	700	700
22	700	700	700	1,062	1,167	1,142	707	700	700	700	700	700
23	700	700	700	1,086	1,167	1,136	703	700	700	700	700	700
24	700	700	700	1,104	1,167	1,129	701	700	700	700	700	700
25	700	700	700	1,122	1,167	1,120	700	700	700	700	700	700
26	700	700	700	1,139	1,167	1,111	700	700	700	700	700	700
27	700	700	700	1,153	1,167	1,101	700	700	700	700	700	700
28	700	700	700	1,162	1,167	1,089	700	700	700	700	700	700
29	700	700	700	1,166	1,167	1,075	700	700	700	700	700	700
30	700		700	1,167	1,167	1,059	700	700	700	700	700	700
31	700		700		1,167		700	700		700		700