

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
(406) 586-4364
1-800-624-3270
Fax: (406) 522-4131
watercourt@mt.gov

FILED

APR 04 2019

Montana Water Court

**IN THE WATER COURT OF THE STATE OF MONTANA
BLACKFEET TRIBE'S OFF-RESERVATION INSTREAM RESERVED WATER
RIGHTS**

CASE WC-1991-01

**NOTICE OF ENTRY OF THE BLACKFEET TRIBE'S OFF-RESERVATION
INSTREAM RESERVED WATER RIGHTS PRELIMINARY DECREE AND
NOTICE OF AVAILABILITY**

AS A WATER USER YOU MUST READ ALL OF THIS NOTICE

The Montana Water Court has been asked to approve a stipulation settling the off-reservation instream flow reserved water right claims of the Blackfeet Tribe of Indians ("Tribe") in Glacier National Park and the Lewis and Clark National Forest. In December 2016, the Tribe, the United States Bureau of Indian Affairs, acting in its capacity as trustee for the Tribe, the United States National Park Service, and the United States Forest Service entered into the *Stipulation to Address Claims by and for the Benefit of the Blackfeet Indian Tribe to Water Rights within the Lewis and Clark National Forest and Glacier National Park* ("Blackfeet Stipulation"). By its own terms, the Blackfeet Stipulation became effective when the Tribe's membership ratified the Blackfeet Tribe-Montana-United States Compact (codified at § 85-20-1501, MCA) and the Blackfeet Water Rights Settlement Act (Pub L. No. 114-322, Title III, Subtitle G) in a vote held on April 20, 2017, and that vote was certified, on May 30, 2017, by the Bureau of Indian Affairs. The Blackfeet Stipulation needs your review before the Court determines whether to approve the Blackfeet Stipulation in accordance with applicable law.

The Blackfeet Stipulation defines the off-reservation instream flow reserved water rights of the Tribe within the Lewis and Clark National Forest and Glacier National Park within parts of the following basins: Basin 40F, the mainstem of the Milk River and its tributaries above Fresno Reservoir; Basin 40T, the mainstem of the St. Mary River and its tributaries; Basin 41L, the mainstem of Cut Bank Creek and its tributaries; and Basin 41M, the mainstem of Birch Creek, Badger Creek, Two Medicine River and their respective tributaries.

You are receiving this Notice because the State's water rights records indicate you have filed a statement of claim, applied for or received a permit to appropriate water, or own a water reservation in the vicinity of the area in which an off-reservation instream flow reserved water

right quantified in the Blackfeet Stipulation is located. Since you may have an interest affected by the Blackfeet Stipulation, you should review the Stipulation. Accordingly,

YOU ARE HEREBY NOTIFIED that the Montana Water Court has entered a Preliminary Decree and Order for the Commencement of Proceedings for Consideration of the Blackfeet Tribe's Off-Reservation Instream Reserved Water Rights in the affected basins, which includes the Blackfeet Stipulation, in order to determine whether it should be approved in accordance with applicable law. If the Court approves the Blackfeet Stipulation, it will enter a Final Decree adjudicating the off-reservation instream flow water rights of the Tribe as they are recognized in the Blackfeet Stipulation. That Final Decree will be binding on all water users in the Montana water rights adjudication.

*What Is a Preliminary Decree and What Are Your Rights
And Obligations to Object to the Blackfeet Stipulation?*

This Preliminary Decree is a decree entered by the Water Court in accordance with § 85-2-231(2), MCA. The Preliminary Decree sets forth the entire Blackfeet Stipulation that the Court will review in the proceeding. The United States initially filed the claims that are the subject of the Blackfeet Stipulation in its capacity as trustee for the Tribe in the Montana general stream adjudication on April 30, 1982. The quantification of the Tribe's off-reservation instream flow reserved water rights within the Lewis and Clark National Forest and Glacier National Park is uniquely an issue between the United States and the Tribe and therefore is not addressed in the Blackfeet Tribe-Montana-United States Compact. The Court's review will be conducted pursuant to the standards set forth in Part 2 (Adjudication of Water Rights) of the Water Use Act, §§ 85-2-212 to 85-2-282, MCA.

At this stage in the adjudication, all affected persons are required to state any objections that they may have to the Preliminary Decree. Your water usage may be affected by the Blackfeet Stipulation. If you do not agree with the off-reservation instream flow reserved water rights recognized in the Blackfeet Stipulation, you may file an objection and request a hearing and the Water Court will hear your objection. **This will be your only opportunity to object to the Preliminary Decree. If you do not file an objection at this time, you will not be able to object to the Preliminary Decree in any other proceedings before the Water Court and you will be bound by any final decree entered by the Water Court approving the Tribe's off-reservation instream flow water rights quantified in the Blackfeet Stipulation.**

Right to Appeal

If you do not participate in the Water Court proceedings, your right to appeal an adverse decision is limited. Section 85-2-235, MCA, provides that:

(1) A person whose existing rights and priorities are determined in a final decree may appeal the determination only if: (a) the person requested a hearing and appeared and entered objections to the temporary preliminary decree or the preliminary decree; (b) the person's rights or priorities as determined in the temporary preliminary decree or the preliminary decree were affected as the result of an objection filed by another person; (c) the person requested a hearing and appeared before the water court to finally resolve an issue remark, as defined in 85-2-250; or (d) the person is a claimant appealing an adverse decision when the water court issued the decision as

the result of an evidentiary hearing or as the result of calling the claim in on the court's own motion.

(2) The attorney general may appeal a determination made in a final decree if the attorney general participated as an intervenor as provided in 85-2-248.

(3) An interlocutory ruling by the water judge upon a question of law may be appealed by any party who is affected by the decision and who participated in the matter in which the ruling was issued.

What You Should Do

1. Review the abstracts in the Decree, as well as the Decree Indexes.
2. Decide if you want to file objections.
3. File your objections with the Water Court on or before the filing deadline identified below.

The Montana Department of Natural Resources and Conservation (DNRC) has not examined any of the claims in this Decree and these water rights appear as they were filed. Review the abstracts carefully. The Decree Indexes will help your review.

The Source Name Index lists all claims under the name of each source of supply.

The Point of Diversion Index lists all claims by point of diversion.

The Water Right Number Index lists all claims by water right number.

Should You File an Objection?

Only you can answer this question. To help you determine whether you should file an objection, you should examine the water rights in this Preliminary Decree and abstracts and compare the Tribe's off-reservation instream flow water rights with the claims that you have filed with the Water Court, the water right permits or certificates that you have received from the DNRC, and possibly the other claims, permits, certificates, and reservations of water within the basins where the Tribe's claims are located. All of the water rights claims filed and all of the water right permits, certificates, or reservations of water that have been granted in the diversionary basins are on record with the DNRC. You might also review the entire Preliminary Decree. Some or all of the documents referenced in this paragraph can be reviewed during business hours at the following offices:

1. The Montana Water Court, 1123 Research Drive, Bozeman, MT 59718 (Preliminary Decree only).
2. The Montana Department of Natural Resources & Conservation, Water Resources Regional Office, 210 Sixth Avenue, Havre, MT 59501; (406) 265-5516 (all documents).
3. Glacier County Clerk's Office, Cut Bank, MT; (Preliminary Decree only).
4. Bureau of Indian Affairs, Blackfeet Agency, 531 SE Boundary Street, Browning, MT 59417; (406) 338-7544 (Preliminary Decree only).
5. Blackfeet Tribal Headquarters, 640 All Chiefs Road, Browning, MT 59417; (406) 338-7522 (Preliminary Decree only).

You may obtain a paper or electronic copy of the Preliminary Decree from the Department of Natural Resources and Conservation, Water Rights Bureau, P.O. Box 201601, Helena, MT, 59620-1601. The cost of a paper copy of the Preliminary Decree and abstracts (approximately 105 pages) is \$10.00. An electronic copy of the Preliminary Decree and abstracts on CD is \$10.00.

Public Meetings

Public meetings to explain Water Court procedures will be held by Stephen R. Brown, Associate Water Judge of the Montana Water Court. Representatives of the Tribe and the United States will also be present to explain the Blackfeet Stipulation. The meetings will be held:

- April 30, 2019, 7:00 p.m., Browning High School, 105 Highway 89, Browning, Montana;
- May 1, 2019, 7:00 p.m., Valier High School Gym, 804 4th Street, Valier, Montana;
- May 2, 2019, 7:00 p.m., Hilton Garden Inn, 2520 14th Street SW, Great Falls, Montana.
- May 7, 2019, 7:00 p.m., Valley County Courthouse, 501 Court Square, Glasgow, Montana; and
- May 8, 2019, 7:00 p.m., Best Western Plus Havre Inn & Suites, 1425 U.S. Highway 2 NW, Havre, Montana.

How to File An Objection and Request a Hearing

An objection to the Preliminary Decree must be filed on the form provided by the Montana Water Court. Objection forms can be found at the Water Court and the DNRC office in Havre and at <https://courts.mt.gov/courts/water/legal>. Any objection to the procedure being followed in this matter may be filed in any format which is in compliance with the Montana Rules of Civil Procedure. **All objections must be filed and received by the Montana Water Court, P.O. Box 1389, Bozeman, MT 59771-1389, on or before October 1, 2019. LATE OBJECTIONS WILL NOT BE CONSIDERED.**

Extensions

Upon a showing of good cause, the Water Judge may grant a request for an extension of the time for filing objections. A request for an extension must be received by the Water Court on or before **October 1, 2019**. Use the Water Court's Request for Extension form found at <https://courts.mt.gov/courts/water/legal>.

If an extension is granted, it will apply to everyone. Any extension will be posted at the offices listed above and will be advertised once in the *Great Falls Tribune*, the *Glacier Reporter*, the *Cut Bank Pioneer Press*, *The Valierian*, and the *Havre Daily News*.

Any Questions?

Use our toll-free number 800-624-3270. Our regular office number is (406) 586-4364, and is not toll-free.

DATED this 4th day of April, 2019.

/s/ Stephen R. Brown
Associate Water Judge
Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389

REMEMBER: OBJECTIONS MUST BE RECEIVED BY THE WATER COURT BY OCTOBER 1, 2019.