

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

\*\*\*\*\*

CLAIMANT: State of Montana Department of Fish, Wildlife & Parks

**76J-6001-A-2024**  
76J 134969-00  
76J 134971-00  
76J 134973-00

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

**MASTER'S REPORT**

FINDINGS OF FACT

1. On October 22, 2024, claimant Montana Fish, Wildlife & Parks ("FWP") filed a *Motion to Amend* claims 76J 134969-00, 76J 134971-00, and 76J 134973-00

which stated that the periods of diversion and periods of use for each claim were incorrectly modified by the DNRC. The *Motion to Amend* requests that the periods of diversion and period of use be changed to eliminate the modification and bring the claims into historical conformity. The *Motion to Amend* requests the following modifications to the claims:

**South Fork Flathead River**

**Statement of Claim No. 76J 134969-00: April 1 – April 15**

**Statement of Claim No. 76J 134971-00: July 16 – July 31**

**Statement of Claim No. 76J 134973-00: April 16 – April 30**

2. Because the Interlocutory Decree for Basin 76J is imminent, the Court initially determined that the claims should have an issue remark added to the abstracts providing notice of the requested amendments to other water users in the basin and an Order Adding Remark to the Abstracts was issued by the Court on November 18, 2024. However, upon further review, because the amendments are clerical corrections, and the above-captioned claims are not part of the decree, the Court determined the Amendments can be processed prior to the issuance of the forthcoming decree.

**PRINCIPLES OF LAW**

1. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA; Rule 10, W.R.Adj.R.

2. After the issuance of a temporary preliminary decree and close of the objection period in a basin, a claimant may amend its Statement of Claim. Section 85-2-233(6), MCA.

3. Notice is required to other water users if a motion to amend will adversely affect other water rights. Section 85-2-233(6), MCA.

4. A claimant asserting an amendment to its claim has the burden to show that the historical use of the claim is accurately reflected by the requested amendment. *Nelson v. Brooks*, 2014 MT 120, ¶ 34, 375 Mont. 86, 329 P.3d 558.

## CONCLUSIONS OF LAW

1. The proposed modifications contained in FWP's *Motion to Amend* should be applied to the claims. Based on the information contained in the FWP's *Motion to Amend*, the claims should be modified as described in Finding of Fact No. 1.

2. The requested amendments and modifications do not have the reasonable potential to adversely affect other water rights as they are corrections to the abstracts which do not make any change to the actual historical use of the claimed right on the ground. Notice by publication of this amendment is not required.

## RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Master recommends that the Court adopt the changes as outlined above.

Post decree abstracts of the water right claims reflecting the recommended changes are attached to this Report.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

### *Service Via Electronic Mail:*

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Agency Legal Counsel  
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Helena, MT 59620  
(406) 444-3312  
kevin.rechhoff@mt.gov  
Audrey.Kelly@mt.gov

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
FLATHEAD RIVER, SOUTH FORK  
BASIN 76J**

**Water Right Number:** 76J 134969-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

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

**Priority Date:** DECEMBER 2, 1970

**Type of Historical Right:** FILED

**Purpose (Use):** FISH AND WILDLIFE

**Flow Rate:** 700.00 CFS

**Volume:** 20,822.00 AC-FT

THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

**Source Name:** FLATHEAD RIVER, SOUTH 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			5	21N	13W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 1 TO APRIL 15					
<b>Diversion Means:</b>	INSTREAM					
2			6	21N	13W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 1 TO APRIL 15					
<b>Diversion Means:</b>	INSTREAM					
3			31	22N	13W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 1 TO APRIL 15					
<b>Diversion Means:</b>	INSTREAM					
4			1	21N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 1 TO APRIL 15					
<b>Diversion Means:</b>	INSTREAM					
5			36	22N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 1 TO APRIL 15					
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6			25	22N	14W	FLATHEAD
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7			35	22N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 1 TO APRIL 15					
<b>Diversion Means:</b>	INSTREAM					

8		26	22N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 1 TO APRIL 15				
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9		23	22N	14W	FLATHEAD
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10		14	22N	14W	FLATHEAD
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16		34	23N	14W	FLATHEAD
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31		8	24N	14W	FLATHEAD
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32		5	24N	14W	FLATHEAD
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42		18	25N	15W	FLATHEAD
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43		7	25N	15W	FLATHEAD
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47		25	26N	16W	FLATHEAD
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48		26	26N	16W	FLATHEAD
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<b>Diversion Means:</b>	INSTREAM				
49		24	26N	16W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 1 TO APRIL 15				
<b>Diversion Means:</b>	INSTREAM				

50 23 26N 16W FLATHEAD

**Period of Diversion:** APRIL 1 TO APRIL 15

**Diversion Means:** INSTREAM

**Period of Use:** APRIL 1 TO APRIL 15

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1				5	21N	13W	FLATHEAD
2				6	21N	13W	FLATHEAD
3				31	22N	13W	FLATHEAD
4				1	21N	14W	FLATHEAD
5				36	22N	14W	FLATHEAD
6				25	22N	14W	FLATHEAD
7				35	22N	14W	FLATHEAD
8				26	22N	14W	FLATHEAD
9				23	22N	14W	FLATHEAD
10				14	22N	14W	FLATHEAD
11				13	22N	14W	FLATHEAD
12				11	22N	14W	FLATHEAD
13				12	22N	14W	FLATHEAD
14				2	22N	14W	FLATHEAD
15				3	22N	14W	FLATHEAD
16				34	23N	14W	FLATHEAD
17				35	23N	14W	FLATHEAD
18				27	23N	14W	FLATHEAD
19				26	23N	14W	FLATHEAD
20				22	23N	14W	FLATHEAD
21				21	23N	14W	FLATHEAD
22				15	23N	14W	FLATHEAD
23				16	23N	14W	FLATHEAD
24				9	23N	14W	FLATHEAD
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26				5	23N	14W	FLATHEAD
27				32	24N	14W	FLATHEAD
28				29	24N	14W	FLATHEAD
29				20	24N	14W	FLATHEAD
30				17	24N	14W	FLATHEAD
31				8	24N	14W	FLATHEAD
32				5	24N	14W	FLATHEAD
33				6	24N	14W	FLATHEAD
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**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
FLATHEAD RIVER, SOUTH FORK  
BASIN 76J**

**Water Right Number:** 76J 134971-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

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

**Priority Date:** DECEMBER 2, 1970

**Type of Historical Right:** FILED

**Purpose (Use):** FISH AND WILDLIFE

**Flow Rate:** 943.00 CFS

**Volume:** 29,920.00 AC-FT

THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

**Source Name:** FLATHEAD RIVER, SOUTH FORK

**Source Type:** SURFACE WATER

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

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
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<b>Diversion Means:</b>	INSTREAM				

50 23 26N 16W FLATHEAD

**Period of Diversion:** JULY 16 TO JULY 31

**Diversion Means:** INSTREAM

**Period of Use:** JULY 16 TO JULY 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				5	21N	13W	FLATHEAD
2				6	21N	13W	FLATHEAD
3				31	22N	13W	FLATHEAD
4				1	21N	14W	FLATHEAD
5				36	22N	14W	FLATHEAD
6				25	22N	14W	FLATHEAD
7				35	22N	14W	FLATHEAD
8				26	22N	14W	FLATHEAD
9				23	22N	14W	FLATHEAD
10				14	22N	14W	FLATHEAD
11				13	22N	14W	FLATHEAD
12				11	22N	14W	FLATHEAD
13				12	22N	14W	FLATHEAD
14				2	22N	14W	FLATHEAD
15				3	22N	14W	FLATHEAD
16				34	23N	14W	FLATHEAD
17				35	23N	14W	FLATHEAD
18				27	23N	14W	FLATHEAD
19				26	23N	14W	FLATHEAD
20				22	23N	14W	FLATHEAD
21				21	23N	14W	FLATHEAD
22				15	23N	14W	FLATHEAD
23				16	23N	14W	FLATHEAD
24				9	23N	14W	FLATHEAD
25				4	23N	14W	FLATHEAD
26				5	23N	14W	FLATHEAD
27				32	24N	14W	FLATHEAD
28				29	24N	14W	FLATHEAD
29				20	24N	14W	FLATHEAD
30				17	24N	14W	FLATHEAD
31				8	24N	14W	FLATHEAD
32				5	24N	14W	FLATHEAD
33				6	24N	14W	FLATHEAD
34				1	24N	15W	FLATHEAD
35				34	25N	15W	FLATHEAD
36				33	25N	15W	FLATHEAD
37				28	25N	15W	FLATHEAD
38				29	25N	15W	FLATHEAD
39				21	25N	15W	FLATHEAD
40				20	25N	15W	FLATHEAD
41				17	25N	15W	FLATHEAD

42	18	25N	15W	FLATHEAD
43	7	25N	15W	FLATHEAD
44	6	25N	15W	FLATHEAD
45	31	26N	15W	FLATHEAD
46	36	26N	16W	FLATHEAD
47	25	26N	16W	FLATHEAD
48	26	26N	16W	FLATHEAD
49	24	26N	16W	FLATHEAD
50	23	26N	16W	FLATHEAD

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
FLATHEAD RIVER, SOUTH FORK  
BASIN 76J**

**Water Right Number:** 76J 134973-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

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

**Priority Date:** DECEMBER 2, 1970

**Type of Historical Right:** FILED

**Purpose (Use):** FISH AND WILDLIFE

**Flow Rate:** 1,180.00 CFS

**Volume:** 35,099.00 AC-FT

THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

**Source Name:** FLATHEAD RIVER, SOUTH FORK

**Source Type:** SURFACE WATER

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

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			5	21N	13W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30					
<b>Diversion Means:</b>	INSTREAM					
2			6	21N	13W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30					
<b>Diversion Means:</b>	INSTREAM					
3			31	22N	13W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30					
<b>Diversion Means:</b>	INSTREAM					
4			1	21N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30					
<b>Diversion Means:</b>	INSTREAM					
5			36	22N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30					
<b>Diversion Means:</b>	INSTREAM					
6			25	22N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30					
<b>Diversion Means:</b>	INSTREAM					
7			35	22N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30					
<b>Diversion Means:</b>	INSTREAM					



8		26	22N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
9		23	22N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
10		14	22N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
11		13	22N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
12		11	22N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
13		12	22N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
14		2	22N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
15		3	22N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
16		34	23N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
17		35	23N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
18		27	23N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
19		26	23N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
20		22	23N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
21		21	23N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				

22		15	23N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
23		16	23N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
24		9	23N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
25		4	23N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
26		5	23N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
27		32	24N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
28		29	24N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
29		20	24N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
30		17	24N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
31		8	24N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
32		5	24N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
33		6	24N	14W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
34		1	24N	15W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
35		34	25N	15W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				

36		33	25N	15W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
37		28	25N	15W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
38		29	25N	15W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
39		21	25N	15W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
40		20	25N	15W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
41		17	25N	15W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
42		18	25N	15W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
43		7	25N	15W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
44		6	25N	15W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
45		31	26N	15W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
46		36	26N	16W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
47		25	26N	16W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
48		26	26N	16W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				
49		24	26N	16W	FLATHEAD
<b>Period of Diversion:</b>	APRIL 16 TO APRIL 30				
<b>Diversion Means:</b>	INSTREAM				

50 23 26N 16W FLATHEAD

**Period of Diversion:** APRIL 16 TO APRIL 30

**Diversion Means:** INSTREAM

**Period of Use:** APRIL 16 TO APRIL 30

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1				5	21N	13W	FLATHEAD
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6				25	22N	14W	FLATHEAD
7				35	22N	14W	FLATHEAD
8				26	22N	14W	FLATHEAD
9				23	22N	14W	FLATHEAD
10				14	22N	14W	FLATHEAD
11				13	22N	14W	FLATHEAD
12				11	22N	14W	FLATHEAD
13				12	22N	14W	FLATHEAD
14				2	22N	14W	FLATHEAD
15				3	22N	14W	FLATHEAD
16				34	23N	14W	FLATHEAD
17				35	23N	14W	FLATHEAD
18				27	23N	14W	FLATHEAD
19				26	23N	14W	FLATHEAD
20				22	23N	14W	FLATHEAD
21				21	23N	14W	FLATHEAD
22				15	23N	14W	FLATHEAD
23				16	23N	14W	FLATHEAD
24				9	23N	14W	FLATHEAD
25				4	23N	14W	FLATHEAD
26				5	23N	14W	FLATHEAD
27				32	24N	14W	FLATHEAD
28				29	24N	14W	FLATHEAD
29				20	24N	14W	FLATHEAD
30				17	24N	14W	FLATHEAD
31				8	24N	14W	FLATHEAD
32				5	24N	14W	FLATHEAD
33				6	24N	14W	FLATHEAD
34				1	24N	15W	FLATHEAD
35				34	25N	15W	FLATHEAD
36				33	25N	15W	FLATHEAD
37				28	25N	15W	FLATHEAD
38				29	25N	15W	FLATHEAD
39				21	25N	15W	FLATHEAD
40				20	25N	15W	FLATHEAD
41				17	25N	15W	FLATHEAD

42	18	25N	15W	FLATHEAD
43	7	25N	15W	FLATHEAD
44	6	25N	15W	FLATHEAD
45	31	26N	15W	FLATHEAD
46	36	26N	16W	FLATHEAD
47	25	26N	16W	FLATHEAD
48	26	26N	16W	FLATHEAD
49	24	26N	16W	FLATHEAD
50	23	26N	16W	FLATHEAD