

Montana Water Court  
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IN THE WATER COURT OF THE STATE OF MONTANA  
CLARK FORK DIVISION  
CLARK FORK RIVER BELOW THE FLATHEAD RIVER BASIN (76N)  
PRELIMINARY DECREE

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OWNER OF COMPACT CLAIM: United States of America  
(Bureau of Indian Affairs)

**76N-0002-R-2024**

OBJECTORS: Margaret S. Juneman; Martin E. Weaver; Gunner  
Junge; Beth Junge

**ORDER DENYING OBJECTIONS TO MASTER’S REPORT**

**BACKGROUND**

On September 21, 2023, the Water Court issued the Preliminary Decree for Basin 76N. Basin 76N is the hydrologic basin that includes the Clark Fork River and its tributaries below the Flathead River. Issuance of the Preliminary Decree commenced an objection period, with a March 19, 2024 objection deadline. On March 19, 2024, Margaret S. Juneman, Martin E. Weaver, Gunner Junge, and Beth Junge (collectively, the “Objectors”) filed objections to water right no. 76N 30063808.

The water right no. 76N 30063808, the right the Objectors objected to is not part of the Basin 76N Preliminary Decree. Instead, the claim number refers to a water right that is part of the Tribal Water Right described in the Preliminary Decree for the Compact between the Confederated Salish and Kootenai Tribes, the United States and the State of

Montana. The abstract for the 76N 30063808 portion of the Tribal Water Right was included in the appendices to the Preliminary Decree the Court issued on June 9, 2022 as part of Case No. WC-0001-C-2021 (the “Compact Decree”).

On March 29, 2024, the Senior Water Master assigned to Basin 76N issued an order dismissing the Objectors’ objections. On April 18, 2024, Margaret S. Juneman filed a “Rebuttal to ‘Order Dismissing Objections’” (“Rebuttal”). The other Objectors did not join Juneman’s Rebuttal.<sup>1</sup>

## **DISCUSSION**

Although not specifically styled as such, the Court considers the Rebuttal filing by the Juneman parties as an objection to an order of a water master. The Water Court reviews a water master’s findings of fact for clear error and the water master's conclusions of law for correctness. *Klamert v. Iverson*, 2019 MT 110, ¶ 11, 395 Mont. 420, 425. Based on these standards of review, the water judge “may adopt, modify, or reject the [Master’s] report, in whole or in part, or may receive further evidence or recommit it with instructions.” Rule 23, W.R.Adj.R.

In this case, the Rebuttal is a challenge to the Water Master’s conclusion that the Basin 76N Preliminary Decree does not provide a mechanism to object to water right no. 76N 30063808. Under the Montana Water Use Act, objections only may be filed to a particular preliminary decree. Section 85-2-233, MCA; Rule 5(a), W.R.Adj.R. The Basin 76N Preliminary Decree did not include water right no. 76N 30063808. The only way to object to this water right was to file a timely objection to the Compact Decree, which did include it as part of the Tribal Water Right at issue in Case No. WC-0001-C-2021.

The Court recognizes that in certain instances a water right claim may be included in more than one preliminary decree, when for instance a state-based water right is subject to a claimed interbasin transfer. That is not the situation here. The Basin 76N Preliminary Decree did not include water right no. 76N 30063808, so there is no basis in the proceedings for this decree to process an objection to it.

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<sup>1</sup> Juneman evidently re-filed the same Rebuttal on May 6, 2024.

To the extent Juneman and the other Objectors filed objections to the Compact Decree, this Order does not affect those objections and they may continue to pursue them. However, as to objections filed against a claim that was not included in the Basin 76N Preliminary Decree, the Water Master correctly concluded that the Objection should be dismissed from the Basin 76N Preliminary Decree proceedings.

**ORDER**

Therefore, it is ORDERED that the Rebuttal to ‘Order Dismissing Objections’ is DENIED.

A copy of this Order shall be placed in the basin file for Basin 76N.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

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***\*Service List Updated 5/7/2024\****