FILED
10/30/2026
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CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
76I-0007-R-2026
Thompson, Eliot
8.00

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MONTANA WATER COURT
CLARK FORK DIVISION
FLATHEAD RIVER, MIDDLE FORK
BASIN 76I
PRELIMINARY DECREE

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CLAIMANT: United States, DOA Forest Service OBJECTOR: Montana Dept. of Fish Wildlife & Parks	**CASE 76I-0007-R-2026** 76I 51523-00 76I 51526-00 76I 51527-00 76I 51538-00 76I 51562-00 76I 51563-00

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 have **13 days** from the service date of the notice of filing of this report to file a written objection or request an extension of the objection period. Rule 23, Water Right Adjudication Rules; Rule 6, Montana Rules of Civil Procedure. 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

The above-captioned claims appeared in the Preliminary Decree for the Middle Fork of the Flathead River (Basin 76I) issued on December 6, 2024. The claims, owned by the United States Department of Agriculture – Forest Service ("United States"), received objections from the Montana Department of Fish, Wildlife and Parks ("FWP").

FINDINGS OF FACT

1. Claims 76I 51523-00, 76I 51526-00, 76I 51527-00, 76I 51538-00, 76I 51562-00, and 76I 51563-00 are all recreation claims utilizing a "bucket" means of diversion.

2. The claims were decreed with the following flow rates:

- 76I 51523-00 - 8.00 cfs;
- 76I 51526-00 - 1.00 cfs;
- 76I 51527-00 - 2.00 cfs;
- 76I 51538-00 - 1.02 cfs;
- 76I 51562-00 - 5.00 cfs;
- 76I 51563-00 - 1.00 cfs.

3. Each claim received the following objection from the FWP:

> the claimed flow rate is not commensurate with the diversion means, nor the purpose claimed as identified on the abstract. Purpose of this water right cannot be discerned from claim documents.

4. On August 3, 2026, the United States and FWP filed a Stipulation to Resolve Objections (the "Stipulation"); the terms of the Stipulation reduce the flow rate of each claim to 10.00 gpm.

5. Claims 76I 51523-00, 76I 51526-00, 76I 51527-00, 76I 51538-00, 76I 51562-00, and 76I 51563-00 also received notice-type issue remarks from the Montana Department of Natural Resources and Conservation ("DNRC") indicating that the point of diversion element had been modified and that, absent objections, the point of diversion element for each claim will be decreed as claimed. FWP's objections do not address point of diversion, so each claim's point of diversion should remain as decreed in the preliminary 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. This prima facie proof may be overcome by other evidence that proves, by a preponderance of the evidence, that one or more elements of the claim are incorrect; this standard of proof applies to both objectors and claimants objecting to their own claims. Rule 19, W.R.Adj.R.; *Nelson v. Brooks*, 2014 MT 120, ¶ 34, 375 Mont. 86, 329 P.3d 558.

2. Settlement agreements are subject to review and approval by the water court. Rule 17(a), W.R.Adj.R.

3. If a claimant agrees to reduce or limit an element of a claim, the water court may accept the reduction or limitation without reviewing further evidence, unless an unresolved issue remark remains. Rule 17(c), W.R.Adj.R.

4. The Water Court must address all issue remarks decreed on a claim. Section 85-2-248, MCA.

CONCLUSIONS OF LAW

1. The flow rate modifications proposed by the Stipulation are all reductions. As there are no unresolved objections or issue remarks, the United States' agreement to reduce the flow rate for each claim is sufficient to support the proposed modifications.

2. The notice-type issue remarks served their notice purpose.

RECOMMENDATIONS

1. The flow rate for claims 76I 51523-00, 76I 51526-00, 76I 51527-00, 76I 51538-00, 76I 51562-00, and 76I 51563-00 should be reduced to 10.00 gpm.

2. The issue remarks should be removed from the claim abstracts for claims 76I 51523-00, 76I 51526-00, 76I 51527-00, 76I 51538-00, 76I 51562-00, and 76I 51563-00.

Post Decree Abstracts of Water Right Claim reflecting these recommendations are served with this Report.

Electronically Signed By:
Hon. Judge Eliot Thompson
Fri, Oct 30 2026 08:49:50 AM

Service Via Electronic Mail

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POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
FLATHEAD RIVER, MIDDLE FORK
BASIN 76I

Water Right Number: **76I 51523-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: USA (DEPT OF AGRICULTURE FOREST SERVICE)
WATER RIGHTS PROGRAM MANAGER, NORTHERN REGION
26 FORT MISSOULA RD
MISSOULA, MT 59804-7203

Priority Date: MAY 1, 1930

Type of Historical Right: USE

Purpose (Use): RECREATION

Flow Rate: 10.00 GPM

Volume: 0.20 AC-FT

Source Name: CALBICK CREEK

Source Type: SURFACE WATER

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

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SENWNW	16	27N	12W	FLATHEAD

Period of Diversion: MAY 1 TO NOVEMBER 30

Diversion Means: BUCKET

Period of Use: MAY 1 TO NOVEMBER 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			SENWNW	16	27N	12W	FLATHEAD

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
FLATHEAD RIVER, MIDDLE FORK
BASIN 76I

Water Right Number: **76I 51526-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: USA (DEPT OF AGRICULTURE FOREST SERVICE)
WATER RIGHTS PROGRAM MANAGER, NORTHERN REGION
26 FORT MISSOULA RD
MISSOULA, MT 59804-7203

Priority Date: MARCH 30, 1930

Type of Historical Right: USE

Purpose (Use): RECREATION

Flow Rate: 10.00 GPM

Volume: 0.20 AC-FT

Source Name: SCHAFER CREEK

Source Type: SURFACE WATER

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

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NWNESE	23	27N	13W	FLATHEAD

Period of Diversion: MAY 1 TO NOVEMBER 30

Diversion Means: BUCKET

Period of Use: MAY 1 TO NOVEMBER 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			SWSWSE	23	27N	13W	FLATHEAD

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
FLATHEAD RIVER, MIDDLE FORK
BASIN 76I

Water Right Number: **76I 51527-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: USA (DEPT OF AGRICULTURE FOREST SERVICE)
WATER RIGHTS PROGRAM MANAGER, NORTHERN REGION
26 FORT MISSOULA RD
MISSOULA, MT 59804-7203

Priority Date: MAY 1, 1930

Type of Historical Right: USE

Purpose (Use): RECREATION

Flow Rate: 10.00 GPM

Volume: 0.20 AC-FT

Source Name: SWITCHBACK CREEK

Source Type: SURFACE WATER

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

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NWNWSW	6	26N	11W	FLATHEAD

Period of Diversion: MAY 1 TO NOVEMBER 30

Diversion Means: BUCKET

Period of Use: MAY 1 TO NOVEMBER 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			NWNWSW	6	26N	11W	FLATHEAD

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
FLATHEAD RIVER, MIDDLE FORK
BASIN 76I

Water Right Number: **76I 51538-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: USA (DEPT OF AGRICULTURE FOREST SERVICE)
WATER RIGHTS PROGRAM MANAGER, NORTHERN REGION
26 FORT MISSOULA RD
MISSOULA, MT 59804-7203

Priority Date: MAY 1, 1970

Type of Historical Right: USE

Purpose (Use): COMMERCIAL

Flow Rate: 10.00 GPM

Volume: 1.00 AC-FT

Source Name: UNNAMED TRIBUTARY OF CHALLENGE CREEK

Source Type: SURFACE WATER

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

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SESWNW	32	29N	13W	FLATHEAD

Period of Diversion: MAY 1 TO NOVEMBER 30

Diversion Means: BUCKET

Period of Use: MAY 1 TO NOVEMBER 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			SESWNW	32	29N	13W	FLATHEAD

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
FLATHEAD RIVER, MIDDLE FORK
BASIN 76I

Water Right Number: **76I 51562-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: USA (DEPT OF AGRICULTURE FOREST SERVICE)
WATER RIGHTS PROGRAM MANAGER, NORTHERN REGION
26 FORT MISSOULA RD
MISSOULA, MT 59804-7203

Priority Date: MARCH 30, 1930

Type of Historical Right: USE

Purpose (Use): RECREATION

Flow Rate: 10.00 GPM

Volume: 0.20 AC-FT

Source Name: GREAT BEAR CREEK

Source Type: SURFACE WATER

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

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NENWSE	23	31N	18W	FLATHEAD

Period of Diversion: MAY 1 TO NOVEMBER 30

Diversion Means: BUCKET

Period of Use: MAY 1 TO NOVEMBER 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			NENWSE	23	31N	18W	FLATHEAD

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
FLATHEAD RIVER, MIDDLE FORK
BASIN 76I

Water Right Number: **76I 51563-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: USA (DEPT OF AGRICULTURE FOREST SERVICE)
WATER RIGHTS PROGRAM MANAGER, NORTHERN REGION
26 FORT MISSOULA RD
MISSOULA, MT 59804-7203

Priority Date: MAY 1, 1930

Type of Historical Right: USE

Purpose (Use): RECREATION

Flow Rate: 10.00 GPM

Volume: 0.20 AC-FT

Source Name: RESCUE CREEK

Source Type: SURFACE WATER

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

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NWSESW	30	31N	17W	FLATHEAD

Period of Diversion: MAY 1 TO NOVEMBER 30

Diversion Means: BUCKET

Period of Use: MAY 1 TO NOVEMBER 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			NWSESW	30	31N	17W	FLATHEAD