

IN THE WATER COURT OF THE STATE OF MONTANA  
SOUTH FORK FLATHEAD RIVER BASIN 76J  
CLARK FORK DIVISION

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE  
INTERLOCUTORY DECREE OF FLATHEAD RIVER, SOUTH FORK  
(BASIN 76J)**

The Preliminary Decree for the South Fork Flathead River (Basin 76J) was issued on November 29, 2018. Objections filed to claims in the Preliminary Decree and issue remarks appearing on the claims in the Preliminary Decree have been addressed and resolved.

These Findings of Fact and Conclusions of Law are issued for inclusion in the Interlocutory Decree for South Fork Flathead River (Basin 76J) as authorized by §§ 3-7-224(2), 85-2-231, MCA.

**FINDINGS OF FACT**

**DESCRIPTION OF BASIN**

1. Basin 76J encompasses the Flathead River, South Fork and its tributaries as well as groundwater located within Basin 76J. The boundaries of Basin 76J are outlined on the attached map.

**DECREE ABSTRACTS AND INDEX**

2. In addition to these Findings and Conclusions, this Decree consists of abstracts for the claims included in this decree. Accompanying the Decree are six Indexes designed to facilitate research on water rights included in the Decree.

The six Indexes are as follows:

- Water Right Claim Identification Number Index
- Owner Name Index
- Priority Date Index
- Point of Diversion Index
- Source Name Index
- Issue Remark Index

3. Copies of the Decree and six Indexes are located at the Department of Natural Resources and Conservation (DNRC) Kalispell Regional Office, the DNRC Water Rights Adjudication Office in Helena, and the Montana Water Court in Bozeman. This information is also available on the DNRC's Water Rights Adjudication webpage.

### **UNRESOLVED FACTUAL AND LEGAL ISSUES**

4. The objection period allows interested parties to raise issues regarding ONLY the water rights in this decree. Issues may also be raised by the Water Court on its own initiative. Rule 8, W.R.Adj.R.

Unresolved factual and legal issues have been noted by issue remarks on claim abstracts. The Issue Remark Index combines the issue remarks into a list arranged numerically by water right claim number. Searching the Issue Remark Index by water right claim number will identify issue remarks on individual claim abstracts. Objections may be filed to claims with issue remarks. Issue remarks not resolved through the objection process will be resolved pursuant to § 85-2-248, MCA.

Water users within this Basin and other interested persons will be mailed a Notice of Entry of Interlocutory Decree and Notice of Availability contemporaneously with the filing of these Findings and Conclusions. The Notice of Availability explains the objection process and sets a deadline for filing objections with the Water Court.

5. Claims for water rights reserved under the laws of the United States of America are included in the Montana general adjudication of water rights. The State of Montana, through the Reserved Water Rights Compact Commission, engaged in the negotiation of reserved water right compacts with the federal government and Indian Tribes. §§ 85-2-701 through 85-2-708, MCA.

6. The Confederated Salish and Kootenai Tribes of the Flathead Reservation

("Tribes"), the United States of America, and the State of Montana entered into a Compact ("CSKT Compact") settling the water right claims of the Tribes, its members, and allottees, and the United States on behalf of the Tribes, its members, and allottees, in accordance with § 85-2-702, MCA.

7. There may be Tribal reserved rights in this basin that are not reflected in this decree. Those rights may be issued in a separate decree.

### **CONCLUSIONS OF LAW**

1. This is a general adjudication of existing water rights. An existing water right is a right to the use of water which is protected under the law as it existed prior to July 1, 1973. Section 85-2-102(13), MCA.

2. Certain claims were exempt from the statement of claim filing process but could be voluntarily filed. Section 85-2-222, MCA (1979). These exempt rights were for stock or domestic uses from instream or groundwater sources. In 2013, the Montana Legislature created a process to file claims for existing water rights that were exempt from filing in the statewide water right adjudication. Section 85-2-222(2), MCA.

3. The Montana Water Court has jurisdiction to enter an Interlocutory Decree for South Fork Flathead River (76J) pursuant to Title 85, Chapter 2, Montana Code Annotated. *Ariz. v. San Carlos Apache Tribe*, 463 U.S. 545, 103 S. Ct. 3201 (1983); *State ex rel. Greely v. Confederated Salish and Kootenai Tribes*, 219 Mont. 76, 712 P.2d 754 (1985).

4. These Findings of Fact, Conclusions of Law, and abstracts define these existing water rights under Montana law in Basin 76J and comprise an Interlocutory Decree in accordance with § 85-2-231, MCA, and Rule 4, W.R.Adj.R.

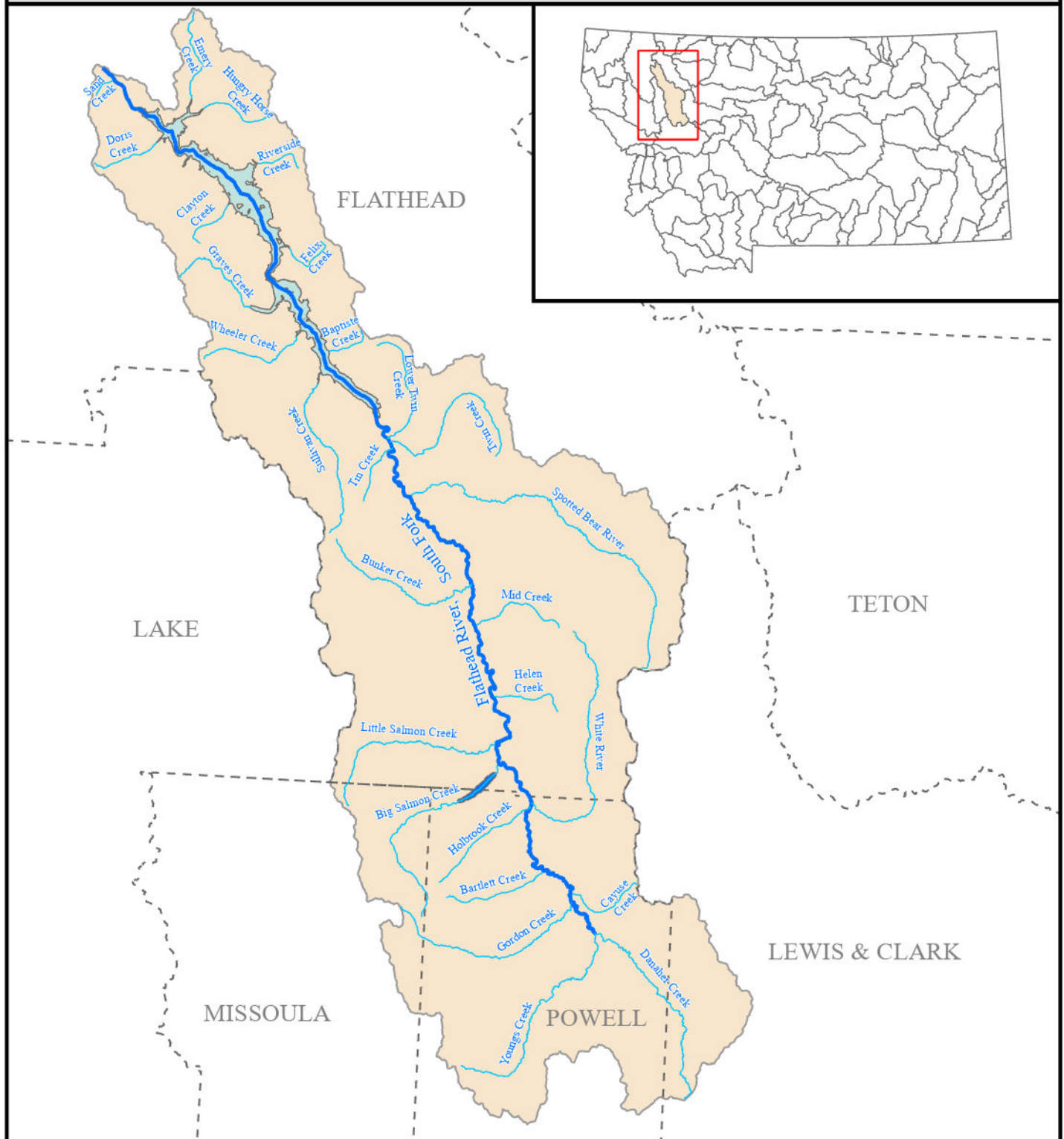
**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via Electronic Mail:**

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# Basin 76J - Flathead River, South Fork



## Legend

-  South Fork Flathead River
-  Streams
-  Big Salmon Lake
-  HUNGRY HORSE RESERVOIR
-  County Line
-  Basin Boundary



0 5 10  
Miles

Scale: 1:700,000

