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CLARK FORK DIVISION
FLATHEAD RIVER, TO AND INCLUDING FLATHEAD LAKE
BASIN 76LJ

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SECOND ORDER EXTENDING OBJECTION DEADLINE

The objection period for the Preliminary Decree in Basin 76LJ, the Flathead River Basin, to and including Flathead Lake, was originally scheduled to close on August 20, 2025. On July 1, 2025, the Court granted a joint request filed by the United States of America (“United States”), on behalf of the U.S. Department of Interior, Bureau of Indian Affairs, and as trustee for the Confederated Salish and Kootenai Tribes, and the Confederated Salish and Kootenai Tribes (“Tribes”), and extended the objection deadline to November 18, 2025. (Basin File, Doc. 49.00). On October 9, 2025, the United States filed a motion for a second extension to the objection deadline. (Doc. 50.00).

In general, this motion is based on the ongoing lapse of funding for the United States Department of Justice, as well as the numerous claims in this decree. The motion also cites the work performed by the Department of Justice on behalf of the United States in its capacity as Trustee for the Tribes in connection with the CSKT Compact litigation (Water Court case WC-0001-C-2021). The motion asks the Court to extend the deadline until two weeks after the lapse in appropriations ends. As the motion indicates, the Court recently issued a statewide order with such relief in connection with active Water Court cases that include the United States as a party. *See* Statewide Order Continuing Cases with Federal Parties, SWO-0001-WC-2025 (Oct. 7, 2025).

As the Court noted in its first extension order, the Water Use Act authorizes the Court to extend the objection period for a preliminary decree, provided good cause is shown and the request for extension is received before the end of the current objection period. Section 85-2-233(2), MCA. The motion is timely because it comes well before the current objection deadline.

As to good cause, the Court's prior order indicated the Court does not grant objection extensions routinely, being mindful of its obligation to move the statewide adjudication to completion. The Court also noted the issuance of one extension does not guarantee the Court will issue a second extension. However, the United States' motion demonstrates the delay is not attributed to lack of diligence, but instead is a matter largely beyond the control of those working on objections. Apparently such work must cease and there is no assurance it will resume before the current objection deadline expires. The Court also notes that it has granted an exception in the past under similar circumstances, albeit with some caution. *See* Order Granting Requested Extension in Part, Basin 76E (Jan. 30, 2019).¹

While the Court finds good cause to extend the deadline, the Court lacks authority to extend it as the motion requests. The Water Use Act sets a hard deadline on the length of an objection extension. Section 85-2-233(2) ("The water judge may, for good cause shown, extend this time limit up to two additional 90-day periods if application for an extension is made prior to expiration of the original 180-day period or any extension of it"). The motion seeks an open-ended deadline tied to the unknown date the lapse of appropriations ends. Conceivably this could be further in the future than 90 days from the current objection deadline. By statute, the most the Court can do is extend the deadline by 90 more days. The Court also finds that it would be confusing to other interested parties to set a non-specific extension tied to the date funding resumes. Instead, a specific extension is more equitable too because the extension will apply to all objectors to this

¹ A copy of the Basin 76E extension order is contained in the Volume 7 of the Basin 76E basin file, with the file reference BASIN-0006-1982.

decree, not only the United States. To balance these concerns, the Court concludes the most equitable approach is to grant an extension for the full 90 days.

Accordingly, it is ORDERED that the request is GRANTED, and the Basin 76LJ objection period is EXTENDED until and including **Tuesday, February 17, 2026 to file, not mail**, objections to the Preliminary Decree in Basin 76LJ. This extension applies to ALL WATER CLAIMANTS AND OBJECTORS for claims in this Basin, regardless of whether they asked for an extension. The Court will publish at least one notice of the extension in the *Daily Interlake*, *Bigfork Eagle*, and the *Whitefish Pilot*. The Court also will provide notice on the Public Notices and Information page on the Court's website (<https://courts.mt.gov/courts/water/Notices-Info/PublicNotices>) and to the Court's listserv.

ELECTRONICALLY SIGNED AND DATED BELOW.

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