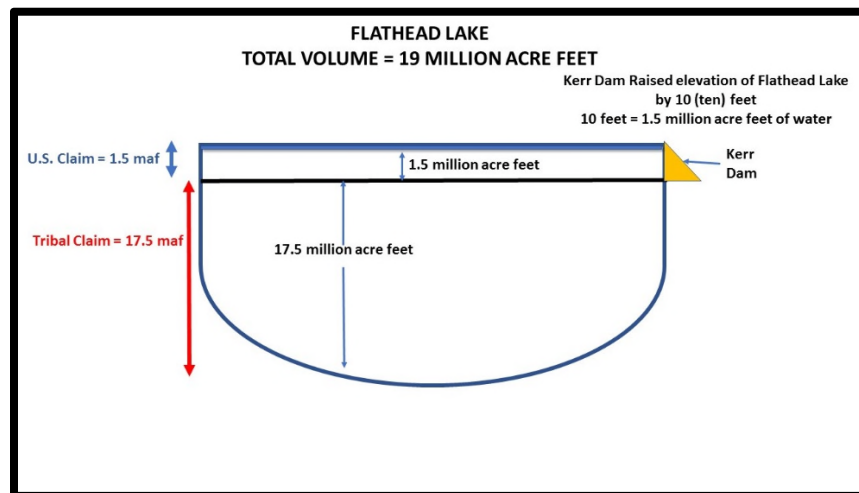


FLATHEAD LAKE



Flathead Lake Graphic Showing U.S. and CSKT Claims

Issue:

- **Lawful Claim.** The United States reserved and appropriated under state law 1.5 million acre feet of water to Flathead Lake for irrigation and power purposes. This represents the upper ten (10) feet of the lake which was created by the construction of Kerr Dam. The United States reserved the upper nine feet of this reservoir for irrigation and power; the remaining water in the upper one (1) foot (approximately 200,000 acre feet) of Flathead Lake is available for CSKT water development. The United States' 2015 filings in the Montana Water Court claimed only the 1.5 million acre feet with an 1855 priority date.
- **Unlawful Claim.** The CSKT Compact Tribal claims include the rest of Flathead Lake up to the original level of the lake before Kerr Dam, approximately 17.5 million acre feet as shown in the diagram above. The priority date of the Tribal claim to Flathead Lake is time immemorial priority date. Flathead Lake before and after Kerr Dam is navigable. The Abstract for the Tribal Flathead Lake Water Right states:

The sources for this water right include all naturally occurring surface water in Flathead Lake up to a shoreline elevation of 2883 feet above mean sea level

Hydrologically, this means that *all* the water draining into Flathead Lake, including ground water, is included in the Tribes' claim. Thus, all the surface and ground water rights currently permitted under state law, and unknown volumes of unpermitted surface and ground water that connect in any way to Flathead Lake are in jeopardy and subject to a claim for, or "call" by the CSKT. No one's water right is safe, and the future of any development surrounding or upstream of Flathead Lake is uncertain.

- **Control of Flathead County Water Development.** Because the Tribe claims it owns all the water in Flathead Lake, the Unitary Management Board/Ordinance will control any diversions from Flathead Lake. By virtue of the connection between Flathead Lake and allowed development in Flathead County, the Tribes will by default control water development in and the economic future of Flathead County.

"Concessions". Tribal concessions releasing their "claims" to the North Fork, South Fork, and Middle Fork of the Flathead River without releasing the claim to all of Flathead lake and Hungry Horse Reservoir are meaningless. Similarly, failing to remove the Unitary Management Ordinance (UMO) and Board, along with the Flathead Lake claim, are also meaningless. The UMO plus the Flathead River claim control the economic development of Flathead County.

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

1424 9TH AVENUE P.O.BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number: 76LJ 30052867 COMPACT
Version: 1 – ORIGINAL RIGHT
Version Status:

Owners: USA (DEPT OF INTERIOR BUREAU OF INDIAN AFF)
IN TRUST FOR CONFEDERATED SALISH & KOOTENAI TRIBES
OF THE FLATHEAD INDIAN RESERVATION, MONTANA
911 NE 11TH AVENUE
PORTLAND, OR 97232-4169
ALL COMMUNICATION SHALL BE COPIED TO THE CSKT TRIBAL CHAIRMAN AS THE
BENEFICIAL OWNER AT PO BOX 278, PABLO, MT 59855-0278.

Priority Date: TIME IMMEMORIAL
Purpose (use): FISH AND WILDLIFE
Maximum Flow Rate:

NO FLOW RATE IS DEFINED FOR THIS WATER RIGHT.

Maximum Volume:

THIS WATER RIGHT IS FOR ALL NATURALLY OCCURRING SURFACE WATER IN
FLATHEAD LAKE UP TO THE SHORELINE ELEVATION OF 2883 FEET ABOVE
MEAN SEA LEVEL.

Source Name: SWAN RIVER
Source Type: SURFACE WATER

Source Name: FLATHEAD RIVER (FLATHEAD LAKE)
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 | | | | | | LAKE |

Period of Diversion: JANUARY 1 TO DECEMBER 31
Source Name: FLATHEAD RIVER (FLATHEAD LAKE)
Diversion Means: INLAKE
Diversion Type: PRIMARY

2 FLATHEAD

Period of Diversion: JANUARY 1 TO DECEMBER 31
Source Name: FLATHEAD RIVER (FLATHEAD LAKE)
Diversion Means: INLAKE
Diversion Type: PRIMARY

3 LAKE

Period of Diversion:
Source Name: SWAN RIVER
Diversion Means: INLAKE
Diversion Type: PRIMARY

4 FLATHEAD

Period of Diversion:
Source Name: SWAN RIVER
Diversion Means: INLAKE
Diversion Type: PRIMARY

THE POINT OF DIVERSION IS THE SAME AS THE PLACE OF USE.

Period of Use: JANUARY 1 to DECEMBER 31

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> |
|-----------|--------------|-----------------|----------------|------------|------------|------------|---------------|
|-----------|--------------|-----------------|----------------|------------|------------|------------|---------------|

THE PLACE OF USE IS FLATHEAD LAKE, BOTH ON AND OFF OF THE FLATHEAD
INDIAN RESERVATION.

Remarks:

SEE 30052867 MAP EXHIBIT(S) 1.
PROPOSED.V1.2015

Remarks:

THIS WATER RIGHT HAS NO ARTIFICIAL MEANS OF DIVERSION OR CONTROL OF WATER THAT CAN BE USED TO CONTROL, MANIPULATE OR OTHERWISE AFFECT THE QUANTITY OF WATER AVAILABLE TO SATISFY THIS RIGHT.

THE PURPOSE OF THIS WATER RIGHT IS FOR THE MAINTENANCE AND ENHANCEMENT OF FISH HABITAT. THIS WATER RIGHT SHALL NOT BE CHANGED TO ANY OTHER OR ADDITIONAL PURPOSE.

THE EXERCISE OF THIS WATER RIGHT IS SUBJECT TO THE TERMS AND CONDITIONS OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH AND KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA.

THE SOURCES FOR THIS WATER RIGHT INCLUDE ALL NAMED AND UNNAMED TRIBUTARIES THAT DRAIN DIRECTLY INTO FLATHEAD LAKE.

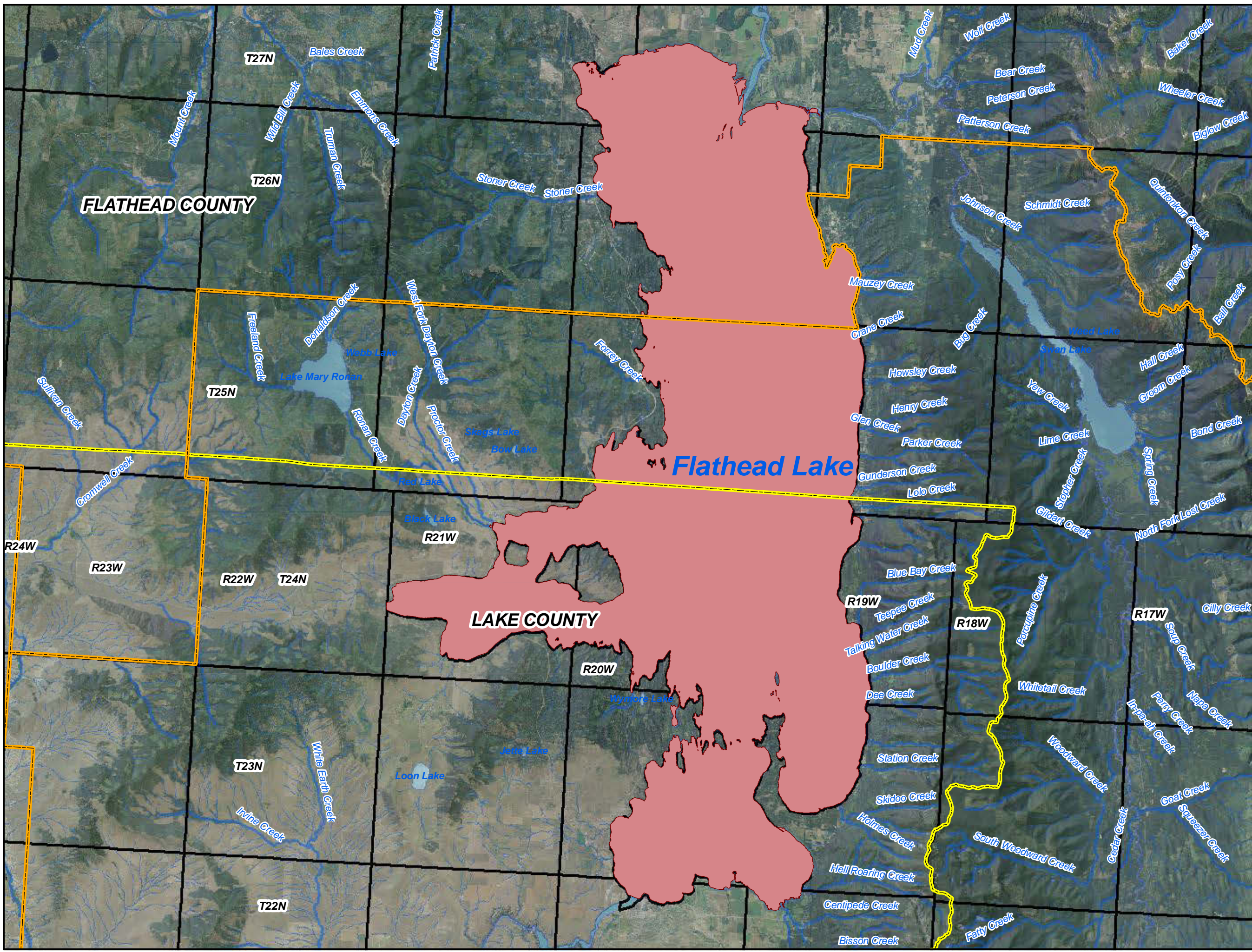
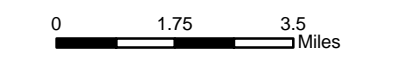
Place of Use
Flathead Lake
76LJ
30052867
Exhibit 1



Flathead Indian Reservation

Legend

- Place of Use
- Reservation Boundary
- County Boundary



POU/POD Data Source: CSKT-MT Compact Flathead Lake (available at nris.mt.gov)
 Imagery Source: "Montana 2009 Color NAIP Orthophotos, 12-Kilometer Tiles" courtesy of USDA-Farm Services Agency, Aerial Photography Field Office and the Montana State Library.
 Hillshade created from: "National Elevation Dataset" courtesy of U.S. Geological Survey (USGS), EROS Data Center (1-arc second)