

**MEMORANDUM OF UNDERSTANDING
FLATHEAD RESERVATION WATER MANAGEMENT BOARD TRANSFER OF
EXISTING-USE REGISTRATIONS TO THE OFFICE OF THE ENGINEER**

WHEREAS, the Compact established the Board as the exclusive regulatory body on the Reservation for the issuance of Appropriation Rights and authorization for Changes in Use of Appropriation Rights and Existing Uses, and for the administration and enforcement of all Appropriation Rights and Existing Uses. Compact, art. IV.I.1.

WHEREAS, the Ordinance directs the Board to transmit the Registrations of Existing Use of the Tribal Water Right to the Office of the Engineer (“OE”) pursuant to Ordinance, § 2-1-102(2).

WHEREAS, the Ordinance directs the Department of Natural Resources & Conservation (“DNRC”) to transfer Registrations of Certain Other Previously Unrecorded Existing Uses to the Flathead Reservation Water Management Board (“Board”) pursuant to Ordinance, § 2-1-107(2).

WHEREAS, Existing-Use Registrations are understood to be those rights referred to as tribal water right registrations, 180-Day registrations and suspended registrations defined in Ordinance § 2-1-101(1)-(4) and § 2-1-106(1)-(3).

WHEREAS, the Ordinance directs the Board to transmit the Registrations of Certain Other Previously Unrecorded Existing Uses to the OE pursuant to Ordinance, § 2-1-107(3).

WHEREAS, there is a need to specify the method(s) in which the Registrations of Existing Uses of the Tribal Water Right and Registrations of Previously Unrecorded Existing Uses (together “Existing-Use Registrations”) are transmitted to the OE.

THEREFORE, the Board and the OE enter into this Memorandum of Understanding (“MOU”) under the terms and conditions stated below:

- 1. Purpose.** The purpose of this MOU is to establish the methods under which the Board will transfer and distribute the Existing-Use Registrations to the OE for purposes of reviewing the Registration Forms within 180 days of receiving them from the Board as described in Ordinance, § 2-1-107(4).

- 2. Term of MOU.** The MOU shall remain in effect until all Existing-Use Registrations are successfully transferred to the OE, unless amended by the Parties.
- 3. Transmittal of Registrations.** Upon request of the OE, the Board shall transmit and distribute Existing-Use Registrations either singularly, as identified by specific name, or in batches as specified by the OE. Transfers of batches shall be determined by the workload, staffing, and priorities of the OE. The OE's request shall provide the Board with the specific water right numbers of batch parameters of each request, so the Board.
- 4. Review Timeline.** The Existing-Use review timeline, as described in Ordinance, §2-1-102(3) and §2-1-107(4), shall begin to run only upon receipt of an Existing-Use Registration by the OE. Any Existing-Use Registrations remaining in Board possession shall be held in "pending or suspended review" status until transmitted to the OE for purposes of review.
- 5. Responsibilities of the Board.** The Board shall receive Existing-Use Registrations, either through electronic transfer from the DNRC & through physical filings to the Board, and maintain the Registrations in a secure and accessible manner. The Board shall maintain a record of Existing-Use Registrations transmitted to the OE and all remaining Existing-Use Registrations in "pending or suspended review" status.
- 6. Responsibilities of the OE.** The OE shall maintain a record of Existing-Use Registrations received by the Board and of Existing-Use Registrations it has requested it receive from the Board.
- 7. General Provisions.**
 - A. Amendments.** Either party may request changes to this MOU. Any changes, modifications, revisions, or amendments to this MOU must be mutually agree upon and shall be incorporated in writing, and effective when executed and signed by all parties to this MOU.

B. Applicable Law. The construction, interpretation, and enforcement of this MOU shall be governed by the provisions of the Compact (Section 85, 20, 1901, MCA, et. seq.) and the Ordinance (Section 85-20-1902, MCA, et. seq.).

C. Entirety of Agreement. This MOU represents the agreement between the Parties for the transfer of the Existing-Use Registrations from the Board to the OE and supersedes all prior negotiations, representations, and agreements whether written or oral.

IN WITNESS WHEREOF, the Parties to this MOU through the duly authorized representatives have executed this MOU of the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.

FLATHEAD RESERVATION WATER MANAGEMENT BOARD

Clayton Matt, Board Chair

Date

Roger Noble, Board Vice Chair

Date

OFFICE OF THE WATER ENGINEER

Ethan Mace, Water Engineer

Date