

Commissioner of Political Practices  
1205 Eighth Avenue  
Post Office Box 202401  
Helena, MT 59620-2401  
Phone: 406-444-2942  
Fax : 406-444-1643  
www.politicalpractices.mt.gov

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COMMISSIONER OF  
POLITICAL PRACTICES

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### Lobbying

### Complaint Form (10/09)

Type or print in ink all information on this form except for verification signature

#### Person bringing complaint (Complainant):

Complete Name Terry Threlkeld  
Complete Mailing Address 12140 Gooch Hill Rd.  
Gallatin Gateway, MT 59730  
Phone Numbers: Work (406) 763-4185 Home \_\_\_\_\_

#### Person or organization against whom complaint is brought (Respondent):

Complete Name Confederated Salish & Kootenai Tribes  
Complete Mailing Address P.O. Box 278  
Pablo, MT 59855  
Phone Numbers: Work (406) 675-2700 Home \_\_\_\_\_

**Please complete the second page of this form and describe in detail the facts of the alleged violation.**

#### Verification by oath or affirmation

State of Montana, County of GALLATIN

I, TERRY THRELKELD, being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief.

(SEAL)

Terry Threlkeld  
Signature of Complainant



AMANDA M MENASCO  
NOTARY PUBLIC for the  
State of Montana  
Residing at Bozeman, Montana  
My Commission Expires  
October 12, 2016

Subscribed and sworn to before me this 24<sup>th</sup> day of  
June, 2015.

Amanda M Menasco  
Notary Public

My Commission Expires: 10/12/2016

THE STATE OF MONTANA

Commissioner of Political Practices  
1205 Eighth Avenue  
Post Office Box 202401  
Helena, MT 59620-2401  
Phone: 406-444-2942  
Fax: 406-444-1843  
www.politicalpractices.mt.gov

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Lobbying

Complaint Form (10/09)

Type or print in ink all information on this form except for verification signature

Person bringing complaint (Complainant):

Complete Name Walter E. Morris  
Complete Mailing Address 488  
542 E. Bench Rd.  
Twin Bridges, MT 59754  
Phone Numbers: Work (406) 684-5413 Home \_\_\_\_\_

Person or organization against whom complaint is brought (Respondent):

Complete Name Confederated Salish & Kootenai Tribes  
Complete Mailing Address P.O. Box 278, 42487 Complex Blvd  
Pablo, MT 59855  
Phone Numbers: Work (406) 675-2700 Home \_\_\_\_\_

Please complete the second page of this form and describe in detail the facts of the alleged violation.

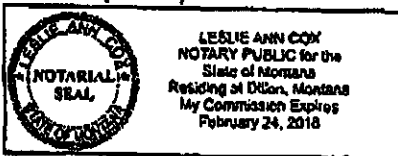
Verification by oath or affirmation

State of Montana, County of Madison

I, Walter E Morris, being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief.

Walter E Morris  
Signature of Complainant

(SEAL)



Subscribed and sworn to before me this 24 day of June, 2015.

Leslie Ann Cox  
Notary Public

My Commission Expires:

**Statement of facts:**

**Describe in detail the alleged violation(s) and cite the statute or statutes you believe have been violated. Please attach copies of documentary evidence to support the facts alleged in your statement.**

**If the space provided below is insufficient, you may attach additional pages as necessary.**

**See attached complaint.**

**Complaints must be:**

- **signed**
- **notarized**
- **delivered in person or by certified mail.**

1 Matthew G. Monforton (Montana Bar # 5245)  
2 Monforton Law Offices, PLLC  
3 32 Kelly Court  
4 Bozeman, Montana 59718  
5 Telephone: (406) 570-2949  
6 Facsimile: (406) 551-6919  
7 E-mail: matthewmonforton@yahoo.com

8 Attorney for Complainants

9 **BEFORE THE COMMISSIONER OF POLITICAL PRACTICES**

10	WALTER MORRIS, TERRY	)	
11	THRELKELD,	)	Case No. COPP 2015-LOB ____
12		)	
13	Complainants,	)	
14	vs.	)	<b>COMPLAINT</b>
15		)	
16	CONFEDERATED SALISH AND	)	
17	KOOTENAI TRIBES,	)	
18	Respondent.	)	

19  
20 COMES NOW Complainants Walter Morris and Terry Threlkeld, who allege as  
21 follows:

22  
23 **I. INTRODUCTION**

24 1. This is a complaint brought pursuant to Montana's lobbying disclosure laws.  
25 The Confederated Salish and Kootenai Tribes (Tribes) created and bankrolled a  
26 nonprofit corporation, Farmers And Ranchers For Montana (FARM), for purposes of  
27 lobbying Montana legislators to ratify the water compact negotiated between  
28

1 Governor Steve Bullock and the Tribes. FARM acted as a lobbyist by engaging in  
2 both direct lobbying and lobbying activities on behalf of the Tribes. The Tribes failed  
3 to report FARM's lobbying and lobbying activities and are therefore subject to  
4 penalties under Montana's lobbying disclosure laws.

## 5 6 II. PARTIES

7 2. Complainant Walter Morris resides in Twin Bridges, Montana, and is a  
8 fourth-generation Montana rancher.

9  
10 3. Complainant Terry Threlkeld resides in Gallatin Gateway, Montana, and is  
11 an engineer and senior water rights holder in Gallatin County.

12  
13 4. Respondent Confederated Salish and Kootenai Tribes are a federally-  
14 recognized confederation of Indian tribes. The Tribes' principal place of business is  
15 in Pablo, Montana.

## 16 17 III. JURISDICTION

18 5. The Commissioner of Political Practices has jurisdiction over this matter  
19 pursuant to § 5-7-305(2), MCA.

20  
21 6. Tribal sovereign immunity does not shield the Tribes from an enforcement  
22 action under Montana's lobbying disclosure laws. *Cf. Agua Caliente Band of*  
23 *Cahuilla Indians v. Superior Court*, 148 P.3d 1126, 1140 (Cal. 2006) (federal  
24 constitution's Tenth Amendment and Guarantee Clause in Article IV, § 4, precluded  
25 invocation of tribal sovereign immunity in suit by California against tribe for refusal  
26 to disclose contributions to California political campaigns).

1 **IV. STATEMENT OF FACTS**

2 7. On December 16, 2014, Legislative Services received a request to draft what  
3 would eventually become SB 262, a bill ratifying the water compact negotiated  
4 between Gov. Bullock and the Tribes.  
5

6 8. On or about January 9, 2015, the Tribes (along with their registered lobbyist,  
7 Mark Baker), created FARM as a nonprofit public benefits corporation that claims to  
8 be a "grassroots organization of farmers and ranchers, together with local leaders,  
9 tribes businesses and other Montanans to support the Water Compact."  
10

11 9. The Tribes are a member of FARM and bankrolled FARM's activities, as  
12 they admit in paragraph 10 of their response to the complaint filed in *Peters v.*  
13 *Confederated Salish & Kootenai Tribes*, COPP 2015-LOB-001.  
14

15 10. On January 13, 2015, FARM transmitted an email to Montana legislators.  
16 A copy of this email is attached as Exhibit H to the complaint filed in *Peters v.*  
17 *Confederated Salish & Kootenai Tribes*, COPP 2015-LOB-001 and is attached as  
18 **Exhibit 1** to this complaint.  
19

20 11. The upper portion of the email contains FARM's logo.  
21

22 12. Below the logo is the following statement: "The Helena Compact  
23 Commission public meeting attendees show that the Compact Commission as well as  
24 farmers, ranchers, and water users are united in overwhelming support of the  
25 Compact."  
26  
27  
28

1           13. The email also includes the following statement from Walt Sales, co-chair  
2 of FARM: “ Our agricultural economy is essential to the livelihood of our state – and  
3 the Compact is essential to preserving that livelihood. We need to make sure that  
4 Montanans know the facts about the tremendous benefits of the Water Compact.”  
5

6           14. On February 1, 2015, FARM transmitted another email to Montana  
7 legislators. A true and correct copy of this email is attached as **Exhibit 2**.  
8

9           15. The upper portion of the email contains FARM’s logo.  
10

11           16. Below the logo is the following phrase: “ANALYSIS OF THE 2015  
12 WATER COMPACT.”  
13

14           17. Below that phrase are the following four headings: (1) “PROTECTION  
15 FOR WATER AND PROPERTY RIGHTS,” (2) “LOCAL CONTROL & INPUT, (3)  
16 NEW RESOURCES FOR WATER USERS,” (4) “PROTECTS MONTANANS  
17 FROM FUTURE LITIGATION AND COSTS.”  
18

19           18. The email contains several bullet points under each heading describing how  
20 ratification of the water compact will supposedly achieve the goals identified in the  
21 headings.  
22

23           19. The Senate Judiciary Committee held a hearing on SB 262 on February 16,  
24 2015.  
25

26           20. Lorents Grosfield, a resident of Big Timber, Montana, and a former member  
27 of the Montana Senate, testified at that hearing.  
28

1           21. Sen. Grosfield identified himself as a co-chair of FARM, and the Senate  
2 Judiciary Committee listed him in its minutes as a representative of FARM. Pertinent  
3 portions of these minutes are attached as **Exhibit 3** and can also be found at  
4 [http://montanalegislature.granicus.com/MediaPlayer.php?clip\\_id=15688&meta\\_id=97](http://montanalegislature.granicus.com/MediaPlayer.php?clip_id=15688&meta_id=97432)  
5 432.

6  
7           22. In his testimony, Sen. Grosfield explained that he “strongly support[ed]” the  
8 water compact and was “very fearful of the consequences of not passing it,” which he  
9 claimed would include significant costs associated with the Tribes filing water claims  
10 throughout the state.

11  
12           23. Also on February 16, 2015, FARM transmitted another email to Montana  
13 legislators. A true and correct copy of the email is attached as **Exhibit 4**.

14  
15           24. The upper portion of the email contains FARM’s logo and its subject line  
16 states “To Legislators, From Former Representative and State Senator Walt McNutt.”

17  
18           25. Underneath the logo is the following salutation: “Dear Members of the  
19 Legislature”.

20  
21           26. The email describes several negative legal consequences that would  
22 supposedly result from a failure by the Legislature to ratify the water compact.

23  
24           27. The email further states that “[t]he CSKT Compact is fair to water users  
25 both on and off the reservation.”



1           28. The final sentence of the email states the following: "This is a good deal for  
2 Montana and I am hopeful that the 2015 Legislature recognizes the significant  
3 opportunity that lies before you."  
4

5           29. On February 20, 2015, FARM transmitted another email to Montana  
6 legislators. A true and correct copy of the email is attached as **Exhibit 5**.  
7

8           30. The upper portion of the email contains FARM's logo and its subject line  
9 states the following: "Must Read Article on CSKT Compact from former Montana  
10 Water Court Senior Master, Colleen Coyle."  
11

12           31. The email contains a message to legislators from Colleen Coyle, a former  
13 Water Court senior master, claiming that failure to ratify the water compact would  
14 result in protracted water rights litigation.  
15

16           32. On March 6, 2015, FARM transmitted another email to Montana legislators.  
17 A copy of this email is attached as Exhibit G to the complaint filed in  
18 *Peters v. Confederated Salish & Kootenai Tribes*, COPP 2015-LOB-001 and is  
19 attached as **Exhibit 6** to this complaint.  
20

21           33. This email included the following claim: "Many supporters of the Compact  
22 are encouraging legislators to listen to their constituents – the farmers, ranchers, and  
23 irrigators who would be directly impacted if the Compact fails."  
24

25           34. On March 23, 2015, FARM transmitted another email to Montana  
26 legislators. A true and correct copy of the email is attached as **Exhibit 7**.  
27  
28

1           35. The upper portion of the email contains FARM's logo and its subject line  
2 states "City of Polson: Vote Yes on CSKT Water Compact."  
3

4           36. Underneath the logo, the email contains the following message: "Below is a  
5 letter encouraging your support of SB 262, the CSKT Water Compact, from the City  
6 of Polson."  
7

8           37. The email also contains the following salutation: "Dear Chairman Bennett  
9 and House Judiciary Committee Members".  
10

11           38. Below the salutation is a statement purportedly from the City of Polson  
12 explaining how the water compact would supposedly benefit the city.  
13

14           39. On April 2, 2015, FARM transmitted another email to Montana legislators.  
15 A true and correct copy of the email is attached as **Exhibit 8**.  
16

17           40. The upper portion of the email contains FARM's logo and its subject line  
18 states "CSKT Water Compact Update."  
19

20           41. The email purports to be a "compilation of the latest news on the growing  
21 support for the CSKT Water Compact."  
22

23           42. It also contains snippets of letters from various individuals expressing their  
24 support for the water compact.  
25

26           43. On April 11, 2015, the House Judiciary Committee held a hearing on SB  
27 262.  
28

1           44. Walt Sales, a resident of Manhattan, Montana, presented written testimony  
2 at that hearing. A true and correct copy of this statement is attached as **Exhibit 9** and  
3 can be found at <<http://leg.mt.gov/bills/2015/Minutes/House/Exhibits/juh73a15.pdf>>.

4  
5           45. Sales identified himself in his written testimony to the House Judiciary  
6 Committee as “a current director and a founding member of the Association of  
7 Gallatin Agricultural irrigators (AGAI) and a co-chair of Farmers And Ranchers for  
8 Montana (FARM).”

9  
10           46. Sales trumpeted the protection and certainty the water compact will  
11 supposedly provide for all water rights holders and described the compact as “the best  
12 option for all Montanans.”

13  
14           47. Sales further claimed that failure to pass the water compact would  
15 “unquestionably hurt irrigators.”

16  
17           48. Throughout the 2015 session of the Montana Legislature, FARM paid for  
18 mass mailings urging the public to make telephone calls to legislators to voice support  
19 for the water compact.

20  
21           49. The Tribes have never disclosed that FARM has been their lobbyist nor has  
22 it filed with the Commissioner of Political Practices reports of FARM’s activities as  
23 required by Montana’s lobbying disclosure laws.

1 **IV. VIOLATIONS OF MONTANA’S LOBBYING DISCLOSURE LAWS**

2  
3 **Count I**

4 **Failure of the Tribes to Report Lobbying by FARM**

5  
6 50. All previous paragraphs are incorporated by reference.

7  
8 51. A “lobbyist” is a person who engages in the practice of lobbying, and such  
9 “persons” can include individuals as well as corporations. § 5-7-102(12)(a) & (14),  
10 MCA.

11  
12 52. A corporation lobbies when it engages in the practice of promoting or  
13 opposing the introduction or enactment of legislation before the legislature or  
14 legislators. § 5-7-102(11)(a)(i), MCA.

15  
16 53. FARM engaged in the practice of lobbying Montana legislators by  
17 transmitting at least seven emails that promoted ratification of the water compact to  
18 legislators during the 2015 session of the Montana Legislature.

19  
20 54. FARM also engaged in the practice of lobbying when Sen. Lorents  
21 Grosfield and Walt Sales appeared before legislative hearings in their capacity as  
22 agents of FARM in order to promote the ratification of the water compact.

23  
24 55. The Tribes employed FARM to promote the ratification of the water  
25 compact during the 2015 session of the Montana Legislature by creating FARM,  
26 becoming a FARM member, and bankrolling its activities.



1 a "compilation of the latest news on the growing support for the CSKT Water  
2 Compact").

3

4 62. Along with this direct lobbying, FARM prepared and published mass  
5 mailings to the public in order to support and assist its direct lobbying efforts.

6

7 63. These mass mailings encouraged telephone calls by the public to legislators  
8 in order to create the appearance of widespread public support for ratification of the  
9 water compact, thereby buttressing claims of widespread support for the compact  
10 made by FARM in its emails to legislators.

11

12 64. Because the costs of these mass mailings constituted lobbying activities by  
13 FARM, the Tribes, which were the principal of FARM, violated Montana law by  
14 failing to report these costs to the Commissioner.

15

16 **PRAYER FOR RELIEF**

17 Complainants hereby respectfully request that the Commissioner promptly  
18 investigate and seek penalties against the Tribes for their violations of Montana's  
19 lobbying disclosure laws.

20

21 DATED: June 25, 2015

22 Respectfully submitted,

23 Monforton Law Offices, PLLC,

24 

25 Matthew G. Monforton  
26 Attorney for Complainants

27

28

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY this 29th day of June, 2015, that a copy of the foregoing will be delivered this day via U.S. Mail to the following:

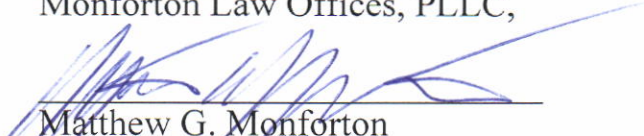
Steven Eschenbacher  
Office of the County Attorney  
106 4<sup>th</sup> Ave East  
Polson, MT 59860

Commissioner Jonathan Motl  
1205 8th Ave.  
Helena, MT 59620

Attorney General Tim Fox  
215 North Sanders  
P.O. Box 201401  
Helena, MT 59620-1401

DATED: June 29, 2015

Respectfully submitted,  
Monforton Law Offices, PLLC,

  
Matthew G. Monforton  
Attorney for Complainants

H-1

---

**From:**  
**Sent:** Tuesday, January 13, 2015 4:25 PM  
**To:**  
**Subject:** Fwd: Release: Helena Compact Commission Votes Unanimously to Support Compact

Sent from my iPad

Begin forwarded message:

**From:** Shelby DeMars <[press@montanawatercompact.com](mailto:press@montanawatercompact.com)>  
**Date:** January 13, 2015 at 2:06:39 PM CST  
**To:** <>  
**Subject:** Release: Helena Compact Commission Votes Unanimously to Support Compact  
**Reply-To:** Shelby DeMars <[press@montanawatercompact.com](mailto:press@montanawatercompact.com)>

Open this email for the latest news on the CSKT Water Compact

[View this email in your browser](#)



FOR IMMEDIATE RELEASE

January 13th, 2015

CONTACT

Shelby DeMars

[406-660-1969](tel:406-660-1969)

**Helena Compact Commission Votes Unanimously to Support Compact**  
*The Helena Compact Commission public meeting attendees show that the Compact Commission as well as farmers, ranchers, and water users are united in overwhelming support of the Compact.*



H-2

(Helena, Mont.)—Late last night the Montana Reserved Water Rights Compact Commission voted unanimously to pass the Compact on to be considered by the Montana State Legislature.

In attendance at the meeting were ranchers, farmers, landowners, and water users from across Montana that came to express their support for the Compact.

"The Montana Farm Bureau supports the Compact and supports Montana's farmers and ranchers," said Cheryl Cremer, spokesperson for the Montana Farm Bureau Federation. "It protects the property and water rights of Montanans and provides the certainty necessary for our agriculture industry to flourish."

"The Farm Bureau conducted a rigorous review of the Water Compact and came to the same conclusion that has already been voiced by our agricultural community—that the Compact provides secure and reliable access to critical water resources and should be approved," said Walt Sales, Co-chair of Farmers And Ranchers for Montana. "Our agricultural economy is essential to the livelihood of our state—and the Compact is essential to preserving that livelihood. We need to make sure that Montanans know the facts about the tremendous benefits of the Water Compact."

The Compact will be sent to legislative services for drafting and will be introduced for legislative approval. The Legislature must pass the Compact during this legislative session to avoid litigation and in order for Congress to ratify the Compact.

*Farmers And Ranchers for Montana (FARM), is a coalition of more than 250 farmers and ranchers, united with local leaders, tribal governments, businesses, water-users, and other Montanans who support the approval of a Water Compact.*

*For more information please visit [www.montanawatercompact.com](http://www.montanawatercompact.com).*

###

H-3



Facebook



Twitter



Website



Email

Farmers And Ranchers for Montana (FARM), is a coalition of over 230 farmers and ranchers, united with local leaders, tribal governments, businesses, water-users, and other Montanans who support the approval of a Water Compact.

For more information about FARM visit [www.montanawatercompact.com](http://www.montanawatercompact.com)  
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Farmers And Ranchers for Montana · 1820 N Last Chance Gulch · Helena, MT 59601 · USA



**Subject:** Analysis of the 2015 Water Compact  
**From:** Shelby DeMars (press@montanawatercompact.com)  
**To:**  
**Date:** Sunday, February 1, 2015 6:54 PM

Open this email for the latest news on the CSKT Water Compact

[View this email in your browser](#)



## ANALYSIS OF THE 2015 WATER COMPACT

### PROTECTION FOR WATER AND PROPERTY RIGHTS

- The Compact will not impact any existing water rights.
- It declares directly "Nothing in this Compact shall be construed or interpreted . . . To authorize the taking of any water right that is vested under State, Tribal or Federal law."
- Property rights will be preserved and protected under the Compact because:
  - There is no taking of property or water rights under the Compact
  - The Compact provides certainty in water rights, thus protecting property values
  - Property will not be devalued due to loss of a water right
- It will protect irrigators' ability to access water and will provide a delivery entitlement statement for the use of that water that runs with the land.
- It will be transferable when the property is sold or handed down from one generation to the next.

### LOCAL CONTROL & INPUT

EXHIBIT 2

- An irrigator will serve on the Compact Implementation Technical Team to help protect all irrigators' historic use.
- Non-tribal members of the Water Management Board will be appointed by Montana's Governor pursuant to recommendations from county commissioners in the on-reservation counties.
- The Compact puts an emphasis on local control by leaving decisions about water distribution for the Flathead Indian Irrigation Project (FIIP) in the hands of the local Project Manager—not the government or the tribes.

#### NEW RESOURCES FOR WATER USERS

- The Compact provides that 90,000 acre-feet of water from the Hungry Horse Reservoir can be used for water mitigation. 11,000 acre-feet will be controlled by the state for off-reservation use.
- It establishes protections for on-reservation irrigators in instances of water shortage or drought.

#### PROTECTS MONTANANS FROM FUTURE LITIGATION AND COSTS

- Per state law, the tribes are required to either reach an agreement through compact or file to define their water claims (around 10,000 separate claims) in court by June 30, 2015. (MT Code 85-2-702)
- These claims would include up to thousands of off-reservation instream flow claims on a variety of Montana rivers and streams both west and east of the Continental Divide with a priority date earlier than any other Montana water rights.
- If the water compact is not passed, legal action will flood the courts, which would be "time-consuming, costly, and uncertain" for water rights holders. (Dept. of Natural Resources and Conversation)
- Without the Compact, Montana's farmers, ranchers, and individual water users would be burdened with the cost of litigation, water rights uncertainty, and potential decreases in property value resulting from uncertainty of litigation and possible significant adverse effects on existing water rights.
- With the Compact, the tribes have agreed not to litigate any off-reservation instream flow claims. (The Compact does grant the tribes eight specific off-reservation instream flow rights, but the impacts to irrigators from these will be minimal to non-existent.)

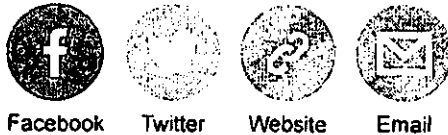
- The Compact protects those water users who do not want to subject themselves to the costs and uncertainties of litigation. However, for those water rights holders who would prefer litigation, passage of the Compact in no way precludes them from going to court.

\*\*\*\*\*

*Farmers And Ranchers for Montana (FARM), is a coalition of more than 275 farmers and ranchers, united with local leaders, tribal governments, businesses, water-users, and other Montanans who support the approval of a Water Compact.*

*For more information please visit [www.montanawatercompact.com](http://www.montanawatercompact.com).*

\*\*\*\*\*



Facebook    Twitter    Website    Email

Farmers And Ranchers for Montana (FARM), is a coalition of over 230 farmers and ranchers, united with local leaders, tribal governments, businesses, water-users, and other Montanans who support the approval of a Water Compact.

For more information about FARM visit [www.montanawatercompact.com](http://www.montanawatercompact.com)  
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This email was sent to [Matthewmonforton@yahoo.com](mailto:Matthewmonforton@yahoo.com)  
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Farmers And Ranchers for Montana · 1820 N Last Chance Gulch · Helena, MT 59601 · USA



## MINUTES

### MONTANA SENATE 64th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

**Call to Order:** Chair Scott Sales, on February 16, 2015 at 8:00 A.M., in Room 303  
Capitol

#### ROLL CALL

**Members Present:**

Sen. Scott Sales, Chair (R)  
Sen. Jennifer Fielder, Vice Chair (R)  
Sen. Robyn Driscoll (D)  
Sen. Jedediah Hinkle (R)  
Sen. Douglas (Doug) Kary (R)  
Sen. Cliff Larsen (D)  
Sen. Mary McNally (D)  
Sen. Mary Sheehy Moe (D)  
Sen. Diane Sands (D)  
Sen. Nels Swandal (R)  
Sen. Chas Vincent (R)

**Members Excused:** Sen. Kris Hansen (R)

**Members Absent:** None

**Staff Present:** Julianne Burkhardt, Legislative Branch  
Pam Schindler, Committee Secretary

**Audio Committees:** These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

**Committee Business Summary:**

Hearing & Date Posted: SB 262, 2/6/2015

**HEARING ON SB 262**

**Opening Statement by Sponsor:**

00:02:01 Sen. Chas Vincent (R), SD 1, opened the hearing on SB 262, Implement CSKT water rights settlement.

**Proponents' Testimony:**

00:24:12 Vernon Finley, chairman, Tribal Council, Confederated Salish and Kootenai Tribe (CSKT)

00:29:31 Andrew Huff, chief legal council, Governor's Office, State of Montana

00:31:57 Melissa Hornbein, staff attorney, Reserved Water Rights Compact Commission (RWRCC)

**EXHIBIT(jus35a01)**

**EXHIBIT(jus35a02)**

**EXHIBIT(jus35a03)**

00:47:28 Corey Swanson, county attorney, Broadwater County, special assistant attorney general to work on the compact, Department of Justice (DOJ)

00:57:49 Colleen Coyle, water rights attorney, Bozeman, Ponderosa Advisor, previous senior water master, Montana Water Court

01:02:57 John Youngberg, executive vice president, Montana Farm Bureau Federation (MFBF)

01:06:49 Gene Curry, president, Montana Stockgrowers Association (MSGA)

**EXHIBIT(jus35a04)**

01:10:22 Steve Hughes, Montana Water Resources Association (MWRA)

01:12:38 Jack Horner, rancher/farmer

01:14:49 Ric Smith, owner/broker, Century 21, Big Sky

01:18:35 David Mannix, self

01:20:25 Krista Lee Evans, Senior Water Rights Coalition (SRWRC)

**EXHIBIT(jus35a05)**

01:23:00 Walter Sales, Association of Gallatin Water Irrigators, Bozeman

01:24:08 Craig Woolard, public works director, City of Bozeman

01:25:44 Lorents Grosfield, rancher, Big Timber; co-chair, Farmers and Ranchers from Montana (FARM)

01:29:30 Rep. Susan Webber, HD 16, Browning

01:29:53 Wayne Scammon, St. Ignatius

01:31:27 Chris Hager, self, Flathead Lake United Methodist Camp

01:34:07 Sam Sill, Missoula Area Chamber of Commerce

01:35:12 Rick Cline, rancher/farmer; president, Westside Ditch Company

01:36:17 Karen Fagg, self, Yellowstone County; former director, Department of Natural Resources and Conservation (DNRC)

01:37:55 Roger Raynal, Tucker Crossing Ranch

**EXHIBIT(jus35a06)**

**Subject:** To Legislators, From Former Representative and State Senator Walt McNutt  
**From:** Shelby DeMars (press@montanawatercompact.com)  
**To:** [legislators@montanawatercompact.com](mailto:legislators@montanawatercompact.com)  
**Date:** Monday, February 16, 2015 12:50 PM

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Dear Members of the Legislature –

I am writing to provide a bit of historical legislative perspective on the CSKT water compact based on my experiences as a State Senator and State Representative. I served in the Montana Legislature, first in the Senate from 1997-2004, then in the House from 2005-2011. I spent a significant amount of time on water issues – most specifically water adjudication.

In 2005, after two years of interim study by the Legislative EQC, I carried HB 22 – often referred to as the “water tax” bill. The entire purpose of this bill was to provide adequate funding for Montana’s water adjudication. At that time, the process had taken over 30 years and there remained over 50,000 claims to be examined by the DNRC and entered into enforceable decrees in the MT Water Court.

HB 22 required each water right owner to pay a fee that was deposited into the Water Adjudication Account. The funds in that account can only be used for adjudication activities. In 2005, it was estimated that \$32 million was needed to get all of Montana’s basins into enforceable decrees. In the 2007 session, the legislature repealed the fee requirements of HB 22 and transferred \$25 Million from the General Fund into the Water Adjudication Account. It turns out we underestimated the cost of completing enforceable decrees in all of Montana’s basins. The adjudication program is currently seeking additional funds to complete the last 7 basins. It will take an additional \$14.6 Million to finally complete this incredibly important process.

EXHIBIT 4



I raise these points so that you, as current legislators, can fully understand the significant cost and the extensive thought and work that your predecessors committed to the Montana statewide water adjudication. Completion of the adjudication is critical to the protection of Montanan water users from claims against our water from downstream states and others.

One element of the CSKT Compact that, in my opinion, hasn't received enough attention is the impact and cost to the statewide water adjudication. If the Compact is rejected, this impact will be felt by individual water right holders as well as all citizens through their taxes.

The CSKT Compact is now in front of the 2015 Legislature. I hope that each of you takes the time to become fully informed on what the compact includes and what the impacts are to all Montana citizens if the Compact is not passed.

If the CSKT Compact fails and the CSKT are required, by our laws, to file and litigate their claims in the statewide water adjudication, the impact will be very significant. My concerns are outlined below:

1. The impact to Montana's General Fund of having to fund the adjudication for decades into the future. Exactly how much this will cost is largely unknown but based on historical funding requirements will likely exceed \$73 Million. That is on the backs of all Montana taxpayers.
2. The water that is available from Hungry Horse Reservoir, as a result of the Compact, is extremely critical in the Clark Fork Basin. The Clark Fork has been closed to new surface water appropriations for a number of years. With the 90,000 ac ft. that will be available as a result of the Compact there will now be a significant opportunity for economic development. Legislators, such as Verdell Jackson, and the State have tried for many years to acquire Hungry Horse water for use in Montana. Through the Compact this goal has finally been accomplished.
3. The costs to individual water right owners of having to go back to the Water Court to either object to a CSKT claim for instream flow or to respond to an objection by the CSKT to a state based claim filed by Montana's water users. These legal costs will be significant and if the water right is owned by a corporation the corporation must be represented by an attorney.
4. The Endangered Species Act protection of Bull Trout could have chilling effects on Montana water use as far east as Billings. If the CSKT files and litigates their claims for instream flows it is likely that the flows required will be based on the amount necessary for Bull Trout. These claims will include tributaries as well as mainstem reaches.

5. Importantly, the CSKT filing and litigation of claims is more than an empty threat. Absent a compact, the tribe will file and litigate their claims. They are required to do so by Montana's laws. It is simply shortsighted to think that the Tribe will not take action to protect their property interests.

The CSKT Compact is fair to water users both on and off the reservation. The Compact is clear in stating that no vested water rights can be taken. The Compact is clear that the Tribe's off reservation in stream flow water rights cannot be changed to consumptive uses and the ownership of the right cannot be changed.

Legislators are often faced with difficult choices and decisions. However, to truly be a statesman or stateswoman, it is critical that you as Legislators be fully informed on the issue before you and that you make your decision based on the plain language of the Compact. The rhetoric should not, and in this case cannot, win the day. This issue is too important to base your vote on guidance from any other source than your own conscience. This is a good deal for Montana and I am hopeful that the 2015 Legislature recognizes the significant opportunity that lies before you.



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EXHIBIT 4

**Subject:** Must Read Article on CSKT Compact from former Montana Water Court Senior Water Master, Colleen Coyle  
**From:** Shelby DeMars (press@montanawatercompact.com)  
**To:**  
**Date:** Friday, February 20, 2015 12:35 AM

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Please take a moment to read the following analysis on the CSKT Water Compact by Colleen Coyle, former Montana Water Court Senior Water Master, water rights attorney, and Director of Water Services for Ponderosa Advisors LLC, a technology company that specializes in analytical tools including Water Sage™ interactive mapping for water rights and land ownership.

Best Regards,

Shelby DeMars  
press@montanawatercompact.com  
406-660-1969  
\*\*\*\*\*

**CSKT Compact Passage Will Prevent Litigation & Protect Montanans**  
By Colleen Coyle

Many people have questions about the CSKT Compact, and wonder whether it will affect water users in the Gallatin Valley, southwest Montana, and other areas outside the Flathead Valley. People have also been wondering what will happen if the Compact doesn't pass and the CSKT water rights are litigated in court. At Ponderosa we believe that access to information facilitates better decision making, which benefits everyone. I formerly served as a Senior Water Master with the Montana Water Court, where some of the potential litigation would begin, so I would like to bring information to help people evaluate their positions.

**EXHIBIT 5**

The Montana Legislature is currently considering whether to pass the Compact in SB 262. If the Compact does not pass, the law states that the Tribes will have to file claim forms for their water rights by June 30, 2015. Other water users in Montana filed claim forms back in 1982. Montana law states that tribal claims have to be treated like all other water rights.

In the Compact, the Tribes reached a compromise with the State and the United States, agreeing to receive less water than they believe they could legally claim. So if the Compact does not pass, the Tribes will file their claims for all the water they believe they may have a right to, beyond what they agreed to in the Compact. The catch is, Montana law states that claims are "prima facie" proof of their contents for adjudication. This means water users do not have to "prove up" their water rights like they did before the law was passed in 1979. Because of our prima facie laws, Montana water users will have the burden to prove that any claims the Tribes file are incorrect, not just by saying "I object," but by providing enough evidence to overcome the Tribes' claims.

The prima facie law has been a benefit to Montana water users and has kept many valid senior rights from being lost, and it is important to understand how its application would work in litigation of tribal water rights. Our laws are different than some other states that have litigated tribal and reserved water rights, such as Wyoming and Idaho.

The Tribes have indicated that they will file claims for water rights both on the CSKT reservation and throughout their historical aboriginal territory, which they state could include most of Montana west of Billings. It would be up to individual water users, or groups of water users, to pursue objections in litigation and cover the costs. This is not just a matter of defending non-tribal water rights, although that is also part of the litigation process, but attempting to prove each one of the Tribes' claims wrong. No one knows how many claims the Tribes would file, but estimates have ranged conservatively in the thousands.

There are other legal issues that would arise if the Compact does not pass, and appeals to state and federal courts are likely, including the potential for appeals to the United States Supreme Court. The United States Supreme Court has stated that "Any state court decision alleged to abridge Indian water rights protected by federal law can expect to receive, if brought for review before this Court, a particularized and exacting scrutiny commensurate with the powerful federal interest in safeguarding those rights from state encroachment." 463 U.S. at 571, 103 S.Ct. at 3216. (Emphasis mine). That is a high standard of review.

If the Compact fails to pass, I could personally benefit, because the resulting years of litigation would mean a high volume of sales for Ponderosa's interactive water rights mapping technology. As a water lawyer, my colleagues and I would have plenty of work for the rest of our careers, but I am not certain that most Montanans would find this to be the best use of their money. The water rights adjudication process in Montana has currently been proceeding for over thirty years, and has cost nearly ninety million dollars in state funding so far, not counting expenses by litigants. Most people who comment on the adjudication would like to see it completed soon, and it was predicted to be completed as soon as 2028 according to recent estimates.

If the Compact does not pass, that will certainly not happen, and Montana water rights will remain unresolved in litigation for longer than anyone could have possibly predicted.

*Colleen Coyle is a water rights attorney in Bozeman. She is Director, Water Services for Ponderosa Advisors LLC, a technology company with offices in Denver and Ennis, creating analytical tools including Water Sage™ interactive mapping for water rights and land ownership. She previously served as a Senior Water Master with the Montana Water Court for over thirteen years.*

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G-1

Sent from my iPad

Begin forwarded message:

**From:**  
**Date:** March 23, 2015 at 8:59:36 PM MDT  
**To:**  
**Subject:** Fwd: Release: Agriculture, Water Use Groups Urge House Members to Pass CSKT W...

here is the email I got from FARM. I did not subscribe. Go to the bottom and click "why did I get this" - it says it was sent to me because I am a Legislator. I talked to XXXXX XXXX, received one, too, and is forwarding it to you, too.

---

From: [press@montanewatercompact.com](mailto:press@montanewatercompact.com)  
To:  
Sent: 3/6/2015 6:25:54 P.M. Mountain Daylight Time  
Subj: Release: Agriculture, Water Use Groups Urge House Members to Pass CSKT Water Compact

Open this email for the latest news on the CSKT Water Compact

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**FARMERS AND RANCHERS  
of MONTANA**

FOR IMMEDIATE RELEASE

March 5, 2015

G-2

**CONTACT**

Shelby DeMars  
406-660-1969

**Agriculture, Water Use Groups Urge House Members to Pass CSKT Water Compact as Second Half of the Session Begins**

(Helena, Mont.)—As members of the Montana State Legislature return from the transmittal recess one of the issues members of the Montana House of Representatives will be facing is the ratification of the bi-partisan Confederated Salish & Kootenai Tribes Water Compact.

The Compact passed the Senate with a 31-19 vote and a strong base of support from both sides of the political aisle.

"The Compact protects private property rights and complies with both the Montana and U.S. Constitutions, as well as Montana water law," said Attorney General Tim Fox. "We have thoroughly evaluated the long lasting and costly impacts if the Compact is not approved and believe that passing the Compact is the best option for Montanans." [Click here for more on the Montana Attorney General's support of the Compact.](#)

One of the primary reasons that the Compact is so widely supported is for the litigation that it prevents.

"It is important to realize that the cost of this litigation will fall upon water users and not the State of Montana," said former Montana Congressman Rick Hill in a statement earlier this week. "Thousands of individual claims will have to be separately quantified through costly litigation. Thousands, perhaps tens of thousands of water users will be brought into the fight. It will cost tens of millions of dollars to fund the lawyers and experts. And it will take years, perhaps decades to settle those claims." [Click here for the entire statement.](#)

Agricultural and water use groups are among the largest supporters of the

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Compact, as well as individual farmers, ranchers, and irrigators from every corner of the state.

"Certainty regarding our water resources—from the availability of stock water to irrigation water—is invaluable," said Errol Rice, Executive Vice President of the Montana Stockgrowers Association. "It is crucial that the Compact passes in order to protect the existing water rights of the ranching community. Without it, many Montana ranchers will be forced to shoulder the burden of thousands of dollars in litigation costs."

The Compact, SB 262, would prevent an onslaught of unnecessary litigation that would call the rights of water users from the Flathead, to Billings, and beyond into question.

"If the Compact fails to pass, the tribe is required to file claims to define their federally reserved water rights by June 30th of this year," explained John Youngberg, Executive Vice President of the Montana Farm Bureau Federation. "There is a lot of misinformation being circulated about the Compact, but when you move beyond the fear mongering to the facts, it's clear that a vote for the Compact is a vote to support agriculture. I urge all of the elected officials in the House to pass the Compact. The litigation that will cost our state millions if the Compact fails is not a threat—it's an inevitability." [Click here for the latest article on the Montana Farm Bureau Federation's support of the Compact and the opinion editorial by Executive Vice President John Youngberg.](#)

Many supporters of the Compact are encouraging legislators to listen to their constituents—the farmers, ranchers, and irrigators who would be directly impacted if the Compact fails.

"We have major agriculture and water use groups in the state supporting the Compact," said Mike Murphy of the Montana Water Resources Association. "A large number of those who have a significant stake in the use of irrigation water support the Compact for them and for all Montanans. It protects private property and water rights, and ensures that when you hand the farm or ranch to the next



generation the ability to access water goes with it." *Click here to view more on the support of the: Montana Water Resources Association, Bitterroot Irrigators, and Gallatin Valley Irrigators.*

Farmers and Ranchers for Montana (FARM), a coalition of farmers, ranchers, and water users from across the state voiced similar concerns, stating that when making their decision, House members should carefully consider the sources of the material provided to them from both sides of the issue.

"Many of the Compact opponents have misrepresented themselves as having the best interests of Montanans at heart," said Shelby DeMars, spokeswoman for FARM. "In reality, they are pushing an out-of-state agenda and they won't be the ones to pay the court costs when the litigation starts—it will be Montana farmers and ranchers."

For additional information on the groups that support the Compact and the reasons for their support, please take a moment to read just a few of the editorials that have been written on why it is critical that the Compact is ratified by the Montana State Legislature:

## EDITORIALS

"All Montanans Benefit From CSKT Compact" by Former Governor Marc Racicot

"CSKT Compact Will Prevent Litigation, Protect Montanans" by Colleen Coyle

"Compact Benefits Gallatin Irrigators, Future Water Users" by Walt Sales and  
Gallatin Irrigators

"Future of Bitterroot Agriculture Depends on CSKT Water Compact" by Hans  
McPherson and Bitterroot Irrigators

"A Case for the CSKT Water Compact" by John Youngberg, Executive Vice  
President of the Montana Farm Bureau Federation

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"Revised Compact Deserves the Support of Legislature. Montanans" by Former  
State Representative Scott Reichner

"CSKT Compact Matters to Billings Region" by The Billings Gazette Editorial Board

"Legislature Must Approve Water Compact" by The Bozeman Daily Chronicle  
Editorial Board

"Time to Move Forward with Water Compact" by The Missoulian Editorial Board

#### LETTERS

Letter to Legislature from the Bozeman City Commission and Mayor Jeffrey Krauss

Letter to Legislature from Former Representative Walt McNutt

#### STORIES TO NOTE

CSKT Water Compact Passes Senate, Heads to House, Northern Ag Network

"Governor: County Commission 'Significantly Misunderstands' Water Compact" by  
Molly Priddy, The Flathead Beacon

"CSKT, State Officials Reach Flathead Water Deal" by Trislan Scott, The Flathead  
Beacon

*Farmers And Ranchers for Montana (FARM) is a coalition of hundreds of farmers  
and ranchers, united with local leaders, tribal governments, businesses, water-  
users, and other Montanans who support the approval of a Water Compact.*

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**Subject:** City of Polson: Vote Yes on CSKT Water Compact  
**From:** Shelby DeMars (press@montanawatercompact.com)  
**To:**  
**Date:** Monday, March 23, 2015 1:39 PM

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FARMERS AND RANCHERS  
for MONTANA

*Below is a letter encouraging your support of SB 262, the CSKT Water Compact from the City of Polson.*

**\*\*Click [here](#) to download the PDF of the official letter from the City of Polson\*\***

Dear Chairman Bennett and House Judiciary Committee Members,

Greetings from the City of Polson. We would like to thank Representative Dan Salomon and Greg Hertz for their support to the compact. We would like to thank Senator Chas Vincent for introducing Senate Bill 262 and for his continued efforts towards passing this bill. The City Commission held a workshop in early February inviting representatives from the Montana Reserved Water Rights Commission, the Confederated Salish and Kootenai Tribes, and from a local group in opposition to the water element in the proposed CSKT Water Compact. Melissa Hornbein accepted our invitation on behalf of the Montana Reserved Water Rights Commission, Dan Decker accepted our initiation on behalf of the CSKT, and the group in opposition to the Compact elected to decline the opportunity to present to the City Commissioners.

Further to this meeting, reviewing a memo from Attorney General Tim Fox in response to the letter from Flathead County Commissioners, there are two points we found of particular interest to us in evaluating the future of the City of Polson's water supply. The first was in his response to question number 4, where he writes "Without the Compact, CSKT will be able to "call" any non-tribal user of water, including water

**EXHIBIT 7**

for homes, businesses, cities and towns, and farms both on and off the Reservation..." In his response to the question number 6, the Attorney General clarifies that the "quantification of water needs to be made for both surface and ground water," which is what the City of Polson is currently using for our water source.

The Presentations we heard were educational and informative, and were aligned with the Attorney General noted in his memo. This subject of water rights, and specifically the proposed CSKT Water Compact, is so vast and complex that it would be unreasonable to expect the City Commission to have a full understanding after one presentation. It is important to point out that this letter and position focuses solely on the municipal water portion of the Compact and does not address the irrigation or the domestic well components.

By asking the presenters to focus specifically on municipal water, we believe we have a good understanding of what the Compact means to our City. In particular, what we need to know is what the difference would be for the City if the Compact is passed versus if the Compact does not get passed.

If the Compact is passed, we are assured of two very important details: 1) Our water will be protected from the potential "calls" from the Tribe; 2) Future water needs have an identified process that once followed and approved, could provide the City with new leases lasting 99 years.

If the Compact is not passed, we would be exposed to potential "calls" and the process of attaining future water needs would be very uncertain for an unknown amount of time while adjudication is completed.

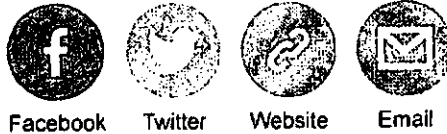
The question we have to ask ourselves is what is best for the 4,800 citizens of Polson now and into the future?

We believe that specifically with respect to municipal water, the proposed CSKT Water Compact does help address most of the City of Polson's concerns and would not jeopardize or adversely affect our City's water supply. We understand from both Ethan Mace, hydrologist for DNRC, and Daniel Decker, CSKT Attorney, that the likeliness of the Tribe placing a "call" on the City of Polson, or not allowing the City of Polson the necessary water - with or without the compact - is minimal. With that said, however, there is comfort in knowing that with the signing of the Water Compact, the structure, processes in place, and sense of stability the City would have in addressing future water needs would be advantageous.

We understand there are many other factors that will go into the final decision the Montana Legislature will ultimately make. As we indicated we cannot speak specifically to those aspects but we know, they are a large part of the decision making process. The City of Polson supports our legislators in their review of the CSKT Water Compact and their ultimate decision. We have entrusted you to make difficult decisions of this nature, and we believe you will do what is best for Montana and Montanans, including our citizens of Polson.

Sincerely,

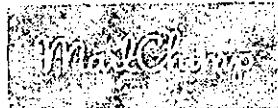
Mayor Heather Knutson and Polson City Commissioners



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**Subject:** CSKT Water Compact Update  
**From:** Shelby DeMars (press@montanawatercompact.com)  
**To:**  
**Date:** Thursday, April 2, 2015 2:04 PM

Open for important information about the CSKT Water Compact

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FARMERS AND RANCHERS  
for MONTANA

### **CSKT Water Compact Update**

A compilation of the latest news on the growing support for the CSKT  
Water Compact

#### **"MT Agriculture Business Association Announces Compact Support as SB 262 Heads to House Floor"**

*Published by The Roundup on 4/1/15*

After being passed by the Montana State Senate with strong bi-partisan support and endorsed by Montana's major agriculture and water use groups, the CSKT Water Compact begins its journey through the Montana State House with a hearing in the House Judiciary Committee. As the Compact moves through the legislative process, support for the Compact continues to grow. The Montana Agriculture Business Association (MABA) is the latest group to announce its support of the Compact.

"Our members, and their customers, rely on a healthy agriculture industry, and that hinges on water certainty," said Marty Lundstrom, President of the MABA. "The Compact provides that certainty through a contractual agreement that protects existing water rights and access to irrigation water at levels of historic use."

The MABA is comprised of more than 230 retailers, distributors, seed companies, and fertilizer suppliers that support Montana's agriculture industry.

[Click here to read more.](#)

**"Vote Yes for CSKT Water Compact" by JR Iman**

**EXHIBIT 8**

*Published by The Hungry Horse News on 4/1/15*

The Bitterroot Valley includes a diverse community of businesses and a wide variety of socio-economic backgrounds. A fundamental requirement to business success and property values alike is an assurance that core assets are viable and reasonably reliable year after year.

For those of us involved in Bitterroot agriculture, arguably the valley's largest industry, we have the most to lose of anyone in this valley if the Confederated Salish and Kootenai Tribes water compact doesn't pass.

It is our water rights, and thus the property values associated with those water rights, that are at the core of our operations. That is why we strongly support the passage of Senate Bill 262, the CSKT water compact, and the greater security and predictability it brings to our water rights and property values.

We want to take this opportunity to thank Sens. Fred Thomas and Pat Connell for standing up for Bitterroot agriculture when they voted to pass SB 262. We strongly urge Reps. Ron Ehli, Theresa Manzella, Nancy Ballance and Ed Greef to also listen to their local agricultural constituency and vote YES on SB 262, the CSKT water compact.

*JR Iman is the president of the Painted Rocks Water Users Association. The following groups have also signed on and endorsed this letter and encourage their legislators to support the CSKT water compact: Painted Rocks Water Users Association, Woodside Irrigation District, Popham Ranch, Bitterroot River Water Commissioner Al Pernichele, Jack Pfau, Teller Refuge, Trexler Ranch, Trexler Angus Ranch, Supply Ditch, Woods-Parkhurst Ditch, Etna Ditch, Tiedt-Nicholsen Ditch, Kootenai Creek Ranch, Tucker Crossing Ranch, Double Fork Ranch, Bitterroot Irrigation District, Loren Hawkinson of Hawkinson Ranch, Valley Irrigation, Tim and Dan Huls of Huls Dairy, and McPherson Farms.*  
Click here to read more.

**"Misinformation has no place in Compact debate" by Paul Guenzler, Flathead Joint Board of Control Member**

*Published by the Valley Journal on 4/1/15*

There are no winners when policy decisions are made based on misinformation. When baseless claims are presented as fact, the people who are hurt most are the people across Montana that have to deal with the fall out. Sadly, some members of the Flathead Joint Board of Control (FJBC) are perpetuating the spread of misinformation about the CSKT Water Compact.

Recently a portion of the board decided to unilaterally dedicate funds towards an

**EXHIBIT 8**



analysis on a study conducted in 1994 by Land and Water Consulting, Inc. The report was completed by Barry Dutton and was commissioned without the full consent or knowledge of the FJBC.

Unfortunately, many of the conclusions Mr. Dutton draws are incorrect and misleading. Chief among that are his inaccurate claims that water will not be provided to irrigators at levels of historic use if the Compact passes.

[Click here to read more.](#)

### **“Supporting Compact is the Fiscally Responsible Choice for Montana” by Rick Hill**

*Published in the Billings Gazette on 3/30/15*

After extensively reviewing the Water Compact agreement and its related appendices, I have come to the conclusion that it is time for the Legislature to approve the Water Compact negotiated by the state of Montana and the Confederated Salish Kootenai Tribes.

There are certain realities that the compact requires us to recognize. These realities have been difficult for some to accept, but they are realities nonetheless. The first is that the Treaty of Hellgate grants the CSKT certain rights including the right to claims for water on and off the reservation. Secondly, these rights were established well before Montana gained statehood.

The purpose of the compact is to quantify the tribe’s water claims, to create a mechanism to resolve conflicts over future water needs, to protect existing water rights and ensure that irrigators have access to water at levels of historic consumption.

[Click here to read more.](#)

### **“Water Compact Agreement Helps Hi Line” by Arleen Rice**

*Published by the Havre Daily News on 3/12/15*

The decision that our legislators make on the Confederated Salish and Kootenai Tribe Water Compact could shape the future of our state for decades to come. While many would have you believe that the compact only impacts the Flathead and areas west of the Continental Divide, this couldn’t be further from the truth. If the compact fails, there will be far-reaching consequences that will be felt by all Montanans, chief of which is the massive cost of litigation that not passing the compact would cost water users.

[Click here to read more](#)

### **“CSKT Compact: Legislators Have Clear Choice” by Walt Sales**

*Published by the Missoulian on 3/26/15*

The future of our water resources hangs in the balance. The decision that legislators

make on the Confederated Salish and Kootenai Tribes Water Compact will either provide water and property rights certainty or condemn thousands of farmers, ranchers, and irrigators to decades of legal battles and millions of dollars of unnecessary legal costs.

Unfortunately, out-of-state activists are spreading misinformation about the compact to further their own agenda. They think they know what's best for our state and are trying to dictate the future of our water resources by bullying Montana legislators into voting against the compact.

[Click here to read more.](#)

**“CSKT Water Compact: Avoid Costly, Unnecessary Litigation” by Alfred DuMontier**

*Published by the Missoulian on 3/31/15*

Nobody should have to waste their hard-earned money on unnecessary and avoidable litigation. Not passing the Confederated Salish and Kootenai Tribes Water Compact will make it necessary for water users to appear in court to defend their water rights. This will cost taxpayers millions and individual farmers and ranchers thousands, not to mention the decades it will take to see that litigation to an end.

[Click here to read more.](#)

**“Compact Provides Protection for Existing Water Rights” by Lorraine Yde**

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The Compact was passed through the Senate with strong bipartisan support—showcasing the growing understanding and support behind the Compact. Senator Chas Vincent has gone to great lengths to ensure that all Montanans understand the components of this bill. However, you can't teach people who don't want to listen. A vocal few who are opposing the Compact have chosen to base their opposition in rhetoric and scare tactics —not facts.

[Click here to read more.](#)

*Farmers And Ranchers for Montana (FARM) is a coalition of hundreds of farmers and ranchers, united with local leaders, tribal governments, businesses, water-users, and other Montanans who support the approval of a Water Compact.*

*For more information please visit [www.montanawatercompact.com](http://www.montanawatercompact.com)*



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Farmers And Ranchers for Montana (FARM), is a coalition of over 230 farmers and ranchers, united with local leaders, tribal governments, businesses, water-users, and other Montanans who support the approval of a Water Compact.

For more information about FARM visit [www.montanawatercompact.com](http://www.montanawatercompact.com)  
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**Gallatin Irrigators Support CSKT Water Compact  
By Walt Sales**

We take many things in our society for granted — but we can't afford our water to be one of them.

Irrigators in the Gallatin Valley, and across the state, don't just depend on access to water, they depend on the certainty of being able to use it now and in the future. Our family farms and ranches, municipalities, and industrial users rely on our water rights for our livelihood. Montana's water users need to know whether they will be able to utilize water at historic levels, even in times of water shortage and whether that access/use can be transferred from one generation to the next.

The Confederated Salish & Kootenai Tribes Reserved Water Compact provides this certainty and protects the water users of today and tomorrow.

The Compact protects all existing water rights. It doesn't create new water rights or alter existing ones in the Gallatin, but ensures that the existing rights and historical uses of Montana's water users are upheld and protected. Through the Compact the tribes have agreed to co-own a few specific in-stream flow rights with Montana Fish, Wildlife & Parks instead of seeking sole ownership. None of the co-owned instream rights are in the Gallatin.

Additionally, with the Compact the tribes have agreed that they will not litigate instream flows that exist off of the reservation—meaning Gallatin irrigators won't have to go back to the Water Court, again.

By releasing more water from Hungry Horse Reservoir to be used on tribal lands and in other water short basins, Montana water users will benefit from the availability of additional water resources that the Compact provides. Without the Compact the use of this water remains at the discretion of the Federal Government.

However, should the Compact fail, irrigators will be subject to more uncertainty than perhaps any other stakeholder group impacted by the CSKT Water Compact. If the Compact does not pass, much of the adjudication that has already been settled by the Montana Water Court will have to be revisited and a minimum of 35 basin decrees will have to be reopened – including the Gallatin.

This will unquestionably hurt irrigators, individually forcing us back into the adjudication process – even though we thought we were done. Not only will much of the work done by the Montana Water Court have to be reexamined, but with the filing of an overwhelming number of new claims it will take decades to complete the adjudication process.

The Compact has many benefits that are the product of extensive negotiations and cooperative efforts between all parties involved. With input from irrigators, farmers, ranchers, and water users from every corner of the state, the CSKT Water Compact is the best option for all Montanans. With such positive impacts on the line and the future of our water hanging in the balance, we have an obligation to pass the CSKT Water Compact—not just for the protections that it will offer to water users across the state today, but for the opportunities it preserves for the farmers, ranchers, and irrigators of tomorrow.

*Walt Sales is a fourth-generation farmer in the Gallatin Valley near Bozeman, Montana. He is a current director and a founding member of the Association of Gallatin Agricultural irrigators (AGAI) and a co-chair of Farmers And Ranchers for Montana (FARM).*

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The above opinion was also signed and is supported by the following irrigators and water users in the Gallatin Valley:

Al Lien, Alan English, Alan Venema, Becky Weed, Bill Kimm, Bill Tatarka, Brian Dunning, Chris Stucky, Clark V. Johnson, Curtis Dykstra, Cynthia K. Johnson, Dale Flikkema, Dan McReynolds, Dan Triemstra, Dan Triemstra, Darren Braaksma, David Pruitt, Don Vaniman, Doug Alberda, Doug Braaksma, Doug Dyk, Duane Burkenpas, Eileen Flikkema, Elizabeth Triemstra, Eugene Cole, Gabriel Ditch, Gallatin Conservation District, Gary Paulson, George Alberda, Glen Droge, Glen Droge, Greg Braaksma, Greg Leep, Ilene Casey, James House, Jason Kimm, Jennifer Mohler, Joe Axtell, John Hunziker, John Mahoney, John Schutter, John Venhuizen, Jon Alberda, Knife River, Larry Klompien, LaVonne Stucky, Les McCartney, Louise Smith, Mark Huyser, Mark Kimm, Maynard Flikkema, Mick Seeburg, Mike Gaffke, Pamea Hainsworth, Rick Braaksma, Rod Triestra, Sherwin Leep, Sid Kamps, Sid Schutter, Spain Ferris Ditch Company, Spencer Smith, Spring Creek Farms, Steve VanDyken, Susan Duncan, and White Ditch Company.