

FILED
FEB 07 2023
Montana Water Court

**IN THE WATER COURT OF THE STATE OF MONTANA
CONFEDERATED SALISH AND KOOTENAI TRIBES
MONTANA – UNITED STATES COMPACT**

CASE NO. WC-0001-C-2021

NOTICE OF OBJECTION AND REQUEST FOR HEARING

1. Objector's Name, Address, and Phone Number:

Mineral County Political Subdivision
LAST NAME FIRST NAME MID. INITIAL
300 River Street
STREET ADDRESS OR PO BOX
Superior MT 59872
CITY STATE ZIP CODE
(406) 822-3537
PHONE NUMBER E-MAIL

2. Objector's Attorney name, address, and phone number:

Mineral County - Debra Jackson & Walter Congdon
LAST NAME FIRST NAME MID. INITIAL
P.O. Box 339
STREET ADDRESS OR PO BOX
Superior, Montana 59872
CITY STATE ZIP CODE
(406) 822-3535 djackson@co.mineral.mt.us
PHONE NUMBER E-MAIL

3. State the specific part(s) of the Preliminary Decree objected to. Identify the specific ground(s) and evidence on which the objection(s) are based. (Use additional paper if necessary)

Please see attached -Objection # 1

4. If you are objecting to a specific water right number, identify the water right number, decree page number, and the water source. If you are objecting to more than one water right number, use a separate form for each water right number.

Water Right #: See Attached
(One Number Per Form)

Page number in Decree: _____
Source: _____

DATED this 19 day of January, 2023.

[Signature]
SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

(TURN FORM OVER AND COMPLETE OTHER SIDE)

OBJECTION #1 – DISCOVERY & A HEARING MAY BE NECESSARY

This objection is to the contents and claims of Appendix 38 of the Compact and to the water rights and administration of Appendix 1 through 38, inclusive, and the undetermined water rights of the Montana Water Rights Protection Act, dated December 27, 2020, (P.L. 116-260, Title V, Division DD) and the July 1, 2015 water rights of the CSKT and United States of America (USA) filed per MCA § 85-20-1901 for itself or on behalf of others and their administration.

This objection is to all water rights of the Confederated Salish and Kootenai Tribes (CSKT) and the United States (USA), itself or on behalf of, others, filed in:

- A) Appendices 1 through 38 of the *Preliminary Decree* filed by the Water Court in this matter, with order for commencement filed June 9, 2022; and
- B) All claims of the CSKT and USA itself or on behalf of others filed by July 1, 2015, per MCA § 85-20-1901 Title VII, Division DD; and
- C) Those claims listed in the Montana Water Rights Protection Act (MWRPA) dated December 27, 2020 (P.L. 116-260, Title V, Division DD Section 10. C i B as follows; consisting of claims related to water quality; and

D) Those provisions of the MWRPA (P.L. 116-260, Title V, Division DD, and the Compact, MCA § 85-20-1901, relating to the administration of waters of the CSKT or Allottees or the USA on behalf of the same.

This objection is also based upon the claims retained by the Tribes, members of the Tribes and the USA as Trustee for one or both set forth in the Montana Water Rights Protection Act, Section 10(C), 1(B) *(i) and (ii), and (iii) D and (iv) relating to activities affecting the quality of water including any claims under CERCLA, Clean Water Act and/or the Safe Drinking Water Act.

The fact that MWRPA sought to resolve issues and claims raised in the “Damages Reports” is significant. However, according to MWRPA, the “Damages Report” consists of the following:

“Damages Report” means the report entitled, “Damages of the Confederated Salish and Kootenai Tribes Due to Actions by the United States”, volume 1 (March 2011), volume II (March 2011), volume III (October 2011), and the final supplement and economic valuation (February 2016), which is on file at the Department of Justice.

No one would provide the public with a copy of the reports. Until the claims are disclosed and compared to the water quality claims retained by the tribes, no Final Decree that results in dismissal of tribal claims not

disclosed in the Montana Compact can occur. A review of the Damages Report may provide information about basin, source, priority, flow rate, period of use, and a basis for substantive objections.

As these claims are not identified by priority date, source, location, volume, flow rate, or period of use, or basin, it is impossible to object to or identify them individually or by basin, until the information is provided.

Also, this reservation of claims granted by the MWRPA Act appears to be an amendment, change, or modification of the Montana – CSKT Water Compact. No record of such change exists in the State statutes, no record of the amendment occurring as provided in MCA § 85-20-1901 exists. This problem was noticed to, and not addressed by, the USA, per the attached Exhibit 1, letter of July 1, 2020, paragraph 2.

Evidence supporting this objection is the non-existence of an amendment record by the State or CSKT and the fact that no water quality claims are identified in Appendices 1 through 38 as being for water quality.

These added claims are not included in the Appendices 1 through 38 of the Compact. Are they then an amendment or modification? Are these claims part of the July 1, 2015 claims and not identified?

Identification of these claims as part of the Appendix 1 through 38 claims, part of the July 1, 2015 filed claims, or a stand alone set of claims would also facilitate review of the modified Compact, ratified by MWRPA.

Additionally, the process or a process for administration of the water quality related claims is not included in the Compact of MCA 85-20-1901 or in MWRPA. (P.L. 116-260, Title V, Division DD). The Uniform Management Board (UMB) Administration language for administration include a tribal water quality ordinance. Disclosure about what it is and who on and off Reservation is subject to that will allow meaningful objections, and discussion regarding administration of those claims.

This objection should be addressed by disclosure and review of the relevant information. If the solution to pollution is great quantities of dilution, it impacts all parties. This type of claim is of significant concern to many parties. If source regulation is the solution to pollution, disclosure and review will resolve some objections.

This objection is founded in large part upon Mont. Code Ann 85-20-1901 Article VII C and D, which sections are problematic due to questions about what is the Compact.

Part C provides for dismissal of various suits and claims on issuance of a Final Decree by the Water Court. We see no path to a Final Decree until the terms of the Compact are defined or determined, the modifications of MWRPA are disclosed, the objections are made and resolved, and any appeal is exhausted..

Similarly, Part D provides for dismissal of all July 1, 2015 claims from VII D(2) pursuant to Part VII C 1 c upon entry of a Final Decree that survives any appeal or avenues of appeal. A Final Decree based upon a Compact ratified with terms that are modified, inconsistent, amended, and unknown causes concern to many persons, hence these objections need to be addressed, and the information disclosed for meaningful discussions.

DATED this 3 day of January, 2022.

MINERAL COUNTY COMMISSIONERS



Dawn Terrill, County Commissioner



Roman Zylawy, County Commissioner



Duane Simons, County Commissioner



Lake County Commissioners

406-893-7204



LAKE COUNTY

106 4th Ave. E.

Folsom, MT. 59860

July 1, 2020

Senate Committee on Indian Affairs
8383 Hart Senate Office Building
Washington, D.C. 20510

RE: SB-3019 - Supplement to the record

Dear Committee and Staff,

In particular, in respect to the record created June 24, 2019 in the Senate Indian Affairs Committee hearing, we offer the following comments;

- 1) SB3019 does not ratify and confirm the Montana Compact; S. 3019 provides as follows:
Page 7, Sec. 4. RATIFICATION OF THE COMPACT. (a) (1) of 3019 states "As modified by this Act; the Compact is authorized, ratified and confirmed."
We wonder "what modifications "have been made to the CSKT Water Compact? In spite of numerous requests by the County, no list of specific changes to the CSKT Compact have been provided.
Page 7, Sec. 4 RATIFICATION OF THE COMPACT. (a) (2) states "Any amendment to the compact is authorized, ratified and confirmed to ensure the compact is consistent with this Act."
What amendments have been made to the CSKT Compact? Again, no list of amendments has been provided to stakeholders.
Pages 9 and 10, SEC. 5. TRIBAL WATER RIGHT (b) (3) states "In the event of a conflict between the Compact and this Act the provisions of this Act shall control."
Specifically, what will the Settlement Act control? Does the Settlement Act control funding, enforcement of water rights, assessments of fees, etc. and does that change the CSKT Compact?
Page 7, SEC. 4 RATIFICATION OF THE COMPACT (b) (1) states "To the extent that the Compact does not conflict with this Act, the Secretary shall execute the Compact."
Have the conflicts between the Compact and Act been identified? If so, the County has not been provided any list of conflicts. What is the deal - i.e. Compact - what modifications, what conflicts? We don't know - clearly the bill does not ratify the Compact as passed by the Montana Legislature in 2015.

- 2) The Act is unclear about waiver of water claims by CSKT and USA; and the bill expands claims to include those relating to water quality per page 37, section (c) (1) (B) (i), (ii), (iii), (iv), including claims under CERCLA, Clean Water Act, or Safe Drinking Water Act.

The CSKT Compact did not include CERCLA, Clean Water Act or Safe Drinking Water Act claims, hence the Compact does not quantify or clarify the claims. The result of no

quantification or clarification of claims is that litigation will be necessary to adjudicate those claims, and those related claims are not relinquished by CSKT or USA. This impacts not only water rights but all projects using or impacting water and related resources in the Columbia and Missouri drainages.

- 3) During the hearing on S. 3019 on June 24, a representative of the Department of the Interior indicated that "an amendment with CSKT tribes as a redline amendment has been reached."

We have no idea what the amendments are and desire to reserve the ability to comment on these for the record when made available. Amendment without public review and approval of the Tribe only frustrates our ability to make substantive comments or proposals regarding the legislation and its impact on our citizens.

- 4) The Act takes private property and public property from local citizens and local governments.

a. Lake County Private property rights are affected:

SEC. 7. IRRIGATION ACTIVITIES (2) page 22, requires an easement be given by landowners, who shall as a condition of MVP service or Flathead Indian Irrigation Project shall, "grant, at no cost to USA or Tribes such easements and rights of way as may be necessary for: A. Construction activities

B. Operation of FIIP or Mission Valley Power

This increases the scope of easements far beyond rehabilitation of ditches or canals. This congressional mandate that a landowner "shall grant" Page 22, (B) (2) is a taking and does not require the Secretary of the Interior action.

It also is ironic in that Section 7, part (d) 1, (A), page 21, requires the CSKT to only give easements to USA for construction only, and only to USA.

The consequence is that landowners must give much broader rights for nothing while CSKT does not.

b) Our community assets and public property rights are affected:

SEC. 8. SETTLEMENT TRUST FUND, page 29, provides the Tribes may spend funds to "plan, design, construct, operate, maintain, and replace community water distribution and wastewater treatment facilities on the Reservation."

This may include loss of existing community drinking and wastewater systems with no compensation. This will include fees for service, but how do citizens set those or afford them? This impacts both water and wastewater to include drinking water, industrial and sewage and storm water. The Act provides no process to appeal, or determine compensation to the taxpayers, entities, and fee payers who own the systems?

c) This impacts all public roads:

SEC. 8. SETTLEMENT TRUST FUNDS page 29, part (G) 14, provides, "within the supply and distribution area of FIIP or if it intersects with", Tribes may repair, rehabilitate or replace "any public or tribal culverts, bridges and roads." "Supply" is upstream sources. *No plan or contract or participation guarantee is provided for repair, rehabilitation or replacement activities for local government, or the state, or USA. Public roads include city streets, county roads, state highways like MT28, MT35, etc. and US highways 93 and 2. The concerns of convenience, planning and necessity are all real to local and other government units, who own and manage these structures. No appeal, no rules, no mechanisms for local participation in these projects are provided for in the Settlement Act. This provision violates both treaties as a right to build roads and travel is provided therein, and this provision makes impossible one or both things. This converts public property – Improvements to CSKT – USA control or use.*

5) Why is this legislation being conducted in secret?

Lake County has tried to obtain a copy of the "CSKT Damages Report" referenced in the Act. In spite of requests to Montana Attorney General Tim Fox, Congressman Greg Gianforte, the US Department of Justice, Senator Daines, Senator Tester and the regional BIA office in Portland, no copy has been provided.

The Act is a release for claims encompassed within the Damages Report, see page 35, SEC. WAIVERS AND RELEASES. (10) (a) 3 (D).

What damages, what amount, what offsets, what interest rate? Is there an offset for deprecations by either party per the treaties, an offset for reparations as provided in the treaties? Why are these questions being ignored? We cannot make substantive comments on the record for the bill without review of the "Comprehensive Damages Report" that contains the record of damages compiled by CSKT.

6) Land title acquisition by USA in Trust hurts local government including schools, fire, etc., and taxpayers. First SEC.12. MISCELLANEOUS PROVISIONS, page 50, (1), (G), (i) provides lands acquired pursuant to exchange will be vested in USA trust, as does private exchange, page 52, (2) (F) (i).

This provides no PILT or property tax payments for lands put in trust thereby impairing all taxpayers. Converting public land of State Trust per Section 12, 11, page 48, to USA in Trust for CSKT impairs public use, public utilization, and public access to navigate waterways, etc., recognized by Treaties.

This may limit access by all of the public if limits similar to some existing sites limiting access to Tribal Members only are implemented.

7) These concerns are also summarized in the letter from Montana Cattlemen's Association that is attached, including issues surrounding a transfer of the National Bison Range.

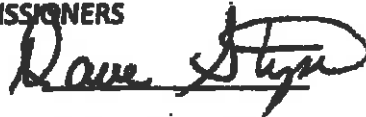
Thank you for your consideration of these issues.

Very Truly Yours,

BOARD OF LAKE COUNTY COMMISSIONERS



William D. Barron, Chairman



Dave Stipe, Member



Gale Decker, Member

enc

CERTIFICATE OF MAILING

I, Walter E. Congdon, declare under penalty of perjury, that on the 19 day of January, 2023, I mailed a copy of this Objection postage prepaid, addressed to the following attorneys for the Federal, State, and Tribal Agencies:

Daniel J. Decker
Confederated Salish & Kootenai
Tribes
Tribal Legal Department
PO Box 278
Pablo, MT 59855
objections@cskt.org

David W. Harder
U.S. Department of Justice
Indian Resources Section
Environment & Natural
Resources Div.
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South Terrace, Suite 370
Denver, Colorado 80202
efile_denver.enrd@usdoj.gov

Molly M. Kelly
Montana Department of
Natural Resources and
Conservation
1539 Eleventh Avenue
PO Box 201601
Helena, MT 59601
Jean.Saye@mt.gov

Courtesy Copy:
United States Senator Steve Daines
United States Senator Jon Tester
United States Representative Ryan Zinke
United States Representative Matt Rosendale

Montana Attorney General Austin Knudsen
Montana Governor Greg Gianforte

Dated this 19 day of January, 2023.


SIGNATURE FOR CERTIFICATE OF MAILING

IN THE WATER COURT OF THE STATE OF MONTANA
CONFEDERATED SALISH AND KOOTENAI TRIBES
MONTANA – UNITED STATES COMPACT

CASE NO. WC-0001-C-2021

NOTICE OF OBJECTION AND REQUEST FOR HEARING

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LAST NAME FIRST NAME MID. INITIAL
300 River Street
STREET ADDRESS OR PO BOX
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CITY STATE ZIP CODE
(406) 822-3537
PHONE NUMBER E-MAIL

2. Objector's Attorney name, address, and phone number:

Mineral County - Debra Jackson & Walter Congdon
LAST NAME FIRST NAME MID. INITIAL
P.O. Box 339
STREET ADDRESS OR PO BOX
Superior, Montana 59872
CITY STATE ZIP CODE
(406) 822-3535 djackson@co.mineral.mt.us
PHONE NUMBER E-MAIL

3. State the specific part(s) of the Preliminary Decree objected to. Identify the specific ground(s) and evidence on which the objection(s) are based. (Use additional paper if necessary)

Please see attached -Objection # 2

4. If you are objecting to a specific water right number, identify the water right number, decree page number, and the water source. If you are objecting to more than one water right number, use a separate form for each water right number.

Water Right #: See Attached
(One Number Per Form)

Page number in Decree: _____
Source: _____

DATED this 10 day of January, 2023.

[Signature]
SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

(TURN FORM OVER AND COMPLETE OTHER SIDE)

OBJECTION #2 – DISCOVERY & A HEARING MAY BE NECESSARY

This objection is to the contents and claims of Appendix 38 of the Compact and to the water rights and administration of Appendix 1 through 38, inclusive, and the undetermined water rights of the Montana Water Rights Protection Act, dated December 27, 2020, (P.L. 116-260, Title V, Division DD) and the July 1, 2015 water rights of the CSKT and United States of America (USA) filed per MCA § 85-20-1901 for itself or on behalf of others and their administration. This objection highlights and is based upon an issue of what controls the water rights and their administration? This applies to both CSKT and USA itself and in trust for claims and administration.

This objection is to all water rights of the Confederated Salish and Kootenai Tribes (CSKT) and the United States (USA), itself or on behalf of, othersm, filed in :

A) Appendices I through 38 of the *Preliminary Decree* filed by the Water Court in this matter, with order for commencement filed June 9, 2022; and

B) All claims of the CSKT and USA itself and on behalf of others filed by July 1, 2015, per MCA § 85-20-1901 Title VII, Division DD; and

C) Those claims listed in the Montana Water Rights Protection Act (MWRPA) dated December 27, 2020 (P.L. 116-260, Title V, Division DD Section 10. C i B as follows; consisting of claims related to water quality; and

D) Those provisions of the MWRPA (P.L. 116-260, Title V, Division DD, and the Compact, MCA § 85-20-1901, relating to the administration of waters of the CSKT or Allottees or the USA on behalf of the same or others.

This objection is based upon MWRPA, dated December 27, 2020 (P.L. 116-260) Title V, Division DD, Section 5, (b)(3) which provides that, "In the event of a conflict between the Compact and this Act, the provisions of this Act shall control."

This provision makes plain the fact that the Compact is not the controlling document. Conversely, the CSKT-Montana Compact at 85-20-1901, MCA, provides that a Compact is entered into "to settle all existing claims to water of or on behalf of CSKT within the State of Montana."

It is difficult to settle all existing claims with a USA ratification document that controls the Compact agreement. No document or list identifying conflicts between the Act and Compact has been provided to the public, as shown by the Appendix I, attached, paragraph 1. Until a determination is

made about what the Act controls and if the Compact is ratified and valid, we accordingly make these objections.

Does the MWRPA Act control administration of the Compact water? Does the Act control the assessment of fees and funding of activities or the water claims? Does the Act control the July 1, 2015 filed claims of the tribe? Does the Act control the “clean water claims” of the tribe? Does the Act control what enforcement or remedies are available? Until these are defined and answered we object as provided herein We also reserve the right to file further objections if the Compact is not controlling.

This problem is complicated by the fact that the Compact is ratified by the USA as “modified by this Act.” MWRPA, P.L. 116-260, Title V, Division DD.

It is only after an explanation and disclosure of all water claims and the rules and process of administration of water claims is defined that a final settlement can occur. These objections will probably require a full disclosure of what the conflicts are – (Act vs. Compact) - and how they are resolved.

This objection is founded in large part upon Article VII C and D, part of 85-20-1901, which sections are problematic due to questions about what is the Compact.

Part C provides for dismissal of various suits and claims on issuance of a Final Decree by the Water Court. We see no path to a Final Decree until the terms of the Compact are defined or determined, what it controls is decided, and objections are heard and resolved with any appeals.

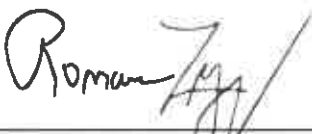
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DATED this 13 day of January, 2022.

MINERAL COUNTY COMMISSIONERS



Dawn Terrill, County Commissioner



Roman Zylawy, County Commissioner



Duane Simons, County Commissioner



Lake County Commissioners

406-883-7204

EXHIBIT

LAKE COUNTY

106 4th Ave. E.

Polson, MT. 59060

July 1, 2020

Senate Committee on Indian Affairs
8383 Hart Senate Office Building
Washington, D.C. 20510

RE: SB-3019 - Supplement to the record

Dear Committee and Staff,

In particular, in respect to the record created June 24, 2019 in the Senate Indian Affairs Committee hearing, we offer the following comments;

- 1) SB3019 does not ratify and confirm the Montana Compact; S. 3019 provides as follows:
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Page 7, Sec. 4 RATIFICATION OF THE COMPACT. (a) (2) states "Any amendment to the compact is authorized, ratified and confirmed to ensure the compact is consistent with this Act."
What amendments have been made to the CSKT Compact? Again, no list of amendments has been provided to stakeholders.
Pages 9 and 10, SEC. 5. TRIBAL WATER RIGHT (b) (3) states "In the event of a conflict between the Compact and this Act the provisions of this Act shall control."
Specifically, what will the Settlement Act control? Does the Settlement Act control funding, enforcement of water rights, assessments of fees, etc. and does that change the CSKT Compact?
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Have the conflicts between the Compact and Act been identified? If so, the County has not been provided any list of conflicts. What is the deal – I.e. Compact – what modifications, what conflicts? We don't know – clearly the bill does not ratify the Compact as passed by the Montana Legislature in 2015.
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This provides no PILT or property tax payments for lands put in trust thereby impairing all taxpayers. Converting public land of State Trust per Section 12, I I, page 48, to USA in Trust for CSKT impairs public use, public utilization, and public access to navigate waterways, etc., recognized by Treaties.

This may limit access by all of the public if limits similar to some existing sites limiting access to Tribal Members only are implemented.

7) These concerns are also summarized in the letter from Montana Cattleman's Association that is attached, including issues surrounding a transfer of the National Bison Range.

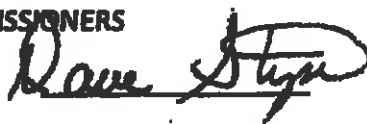
Thank you for your consideration of these issues.

Very Truly Yours,

BOARD OF LAKE COUNTY COMMISSIONERS



William D. Barron, Chairman



Dave Stipe, Member



Gale Decker, Member

enc

CERTIFICATE OF MAILING

I, Walter E. Conly, declare under penalty of perjury, that on the 20 day of January, 2023, I mailed a copy of this Objection postage prepaid, addressed to the following attorneys for the Federal, State, and Tribal Agencies:

Daniel J. Decker
Confederated Salish & Kootenai
Tribes
Tribal Legal Department
PO Box 278
Pablo, MT 59855
objections@cskt.org

David W. Harder
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Indian Resources Section
Environment & Natural
Resources Div.
999 18th St.
South Terrace, Suite 370
Denver, Colorado 80202
efile_denver.enrd@usdoj.gov

Molly M. Kelly
Montana Department of
Natural Resources and
Conservation
1539 Eleventh Avenue
PO Box 201601
Helena, MT 59601
Jean.Saye@mt.gov

Courtesy Copy:
United States Senator Steve Daines
United States Senator Jon Tester
United States Representative Ryan Zinke
United States Representative Matt Rosendale

Montana Attorney General Austin Knudsen
Montana Governor Greg Gianforte

Dated this 20 day of January, 2023.


SIGNATURE FOR CERTIFICATE OF MAILING

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CONFEDERATED SALISH AND KOOTENAI TRIBES
MONTANA – UNITED STATES COMPACT**

CASE NO. WC-0001-C-2021

NOTICE OF OBJECTION AND REQUEST FOR HEARING

1. Objector's Name, Address, and Phone Number:

Mineral County Political Subdivision
LAST NAME FIRST NAME MID. INITIAL
300 River Street
STREET ADDRESS OR PO BOX
Superior MT 59872
CITY STATE ZIP CODE
(406) 822-3537
PHONE NUMBER E-MAIL

2. Objector's Attorney name, address, and phone number:

Mineral County - Debra Jackson & Walter Congdon
LAST NAME FIRST NAME MID. INITIAL
P.O. Box 339
STREET ADDRESS OR PO BOX
Superior, Montana 59872
CITY STATE ZIP CODE
(406) 822-3535 djackson@co.mineral.mt.us
PHONE NUMBER E-MAIL

3. State the specific part(s) of the Preliminary Decree objected to. Identify the specific ground(s) and evidence on which the objection(s) are based. (Use additional paper if necessary)

Please see attached -Objection # 3

4. If you are objecting to a specific water right number, identify the water right number, decree page number, and the water source. If you are objecting to more than one water right number, use a separate form for each water right number.

Water Right #: See Attached
(One Number Per Form)

Page number in Decree: _____
Source: _____

DATED this 20 day of January, 2023.

[Signature]
SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

(TURN FORM OVER AND COMPLETE OTHER SIDE)

OBJECTION #3 – DISCOVERY & A HEARING MAY BE NECESSARY

This objection is to the contents and claims of Appendix 38 of the Compact and to the water rights and administration of Appendix 1 through 38, inclusive, and the undetermined water rights of the Montana Water Rights Protection Act, dated December 27, 2020, (P.L. 116-260, Title V, Division DD) and the July 1, 2015 water rights of the CSKT and United States of America (USA) filed per MCA § 85-20-1901 for itself or on behalf of others and their administration. This objection highlights and is based upon an issue of what and who controls the water rights and their administration? This applies to both CSKT and USA in trust, or for itself or on behalf of others and for claims and administration. This objection is based upon the conflicts between the MWRPA claims and their administration and the Compact claims and their administration and any conflicts.

This objection is to all water rights of the Confederated Salish and Kootenai Tribes (CSKT) and the United States (USA) filed, itself or on behalf of, others in :

A) Appendices I through 38 of the *Preliminary Decree* filed by the Water Court in this matter, with order for commencement filed June 9, 2022; and

B) All claims of the CSKT and USA for itself or for others filed by July 1, 2015, per MCA § 85-20-1901 Title VII, Division D2; and

C) Those claims listed in the Montana Water Rights Protection Act (MWRPA) dated December 27, 2020 (P.L. 116-260, Title V, Division DD Section 10. C i B as follows; consisting of claims related to water quality; and

D) Those provisions of the MWRPA (P.L. 116-260, Title V, Division DD, and the Compact, MCA § 85-20-1901, relating to the administration of waters of the CSKT or Allottees or the USA itself or on behalf of the same.

This objection is based upon the issue that the Montana Water Rights Protection Act (P.L. 116-260, Title V, Division DD) provides that “To the extent that the Compact does not conflict with this Act, the Secretary shall execute the Compact.” MWRPA, Section 4, (b)(1). No list or disclosure of conflicts between the Act and Compact has been provided to the public. Exhibit 1, at paragraph 1, makes clear the problem. What parts of the Compact are ratified? What parts are not ratified because they conflict? Who gets to decide? What is the process to determine and administer the conflicts?

Evidence of the problem came forth in the Senate hearing on the act on June 24, 2020, as noted in Exhibit 1, paragraph 3 “an amendment with

CSKT tribes as a redline amendment has been reached." The amendment is unknown and may have resolved or complicated the conflicts.

Until a complete disclosure of what is ratified and what is not due to conflicts between the Act and Compact, meaningful evaluation of what parts of the CSKT-State Compact are ratified by the USA cannot occur. Our objections may be resolved if that occurs. If the "redline amendment" resolved the issues, disclosure would shed light on what is ratified, or upon what is not.

This objection is founded in large part upon Article VII C and D, part of 85-20-1901, which sections are problematic due to questions about what is the Compact.

Does the language "to the extent that the Compact does not conflict with this Act" mean we have 40% approval?, 60% approval?, 85% approval?, or an unknown amount. Our objection should state, "To the extent" that we have no idea of what is ratified.

Part C provides for dismissal of various suits and claims on issuance of a Final Decree by the Water Court. We see no path to a Final Decree until the terms of the Compact are defined or determined, which means conflicting items that are not ratified should be addressed.

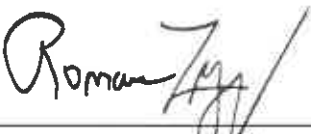
Similarly, Part D provides for dismissal of all July 1, 2015 claims from VII D(2) pursuant to Part VII C 1 c upon entry of a Final Decree that survives any appeal or avenues of appeal. A Final Decree based upon a Compact ratified with terms that are modified, inconsistent, amended, unknown and not ratified due to inconsistencies causes concern to many persons, hence these objections need to be addressed. If determined, we believe we should reserve a right to additional objections or to appeal to address priority not determined issues.

DATED this 13 day of January, 2022.

MINERAL COUNTY COMMISSIONERS



Dawn Terrill, County Commissioner



Roman Zylawy, County Commissioner

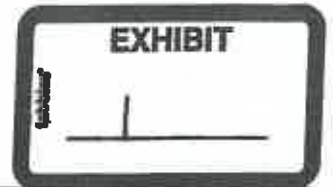


Duane Simons, County Commissioner



Lake County Commissioners

406-883-7204



LAKE COUNTY

106 4th Ave. E.

Folsom, MT. 59860

July 1, 2020

Senate Committee on Indian Affairs
8383 Hart Senate Office Building
Washington, D.C. 20510

RE: SB-3019 - Supplement to the record

Dear Committee and Staff,

In particular, in respect to the record created June 24, 2019 in the Senate Indian Affairs Committee hearing, we offer the following comments;

- 1) SB3019 does not ratify and confirm the Montana Compact; S. 3019 provides as follows:
Page 7, Sec. 4. RATIFICATION OF THE COMPACT. (a) (1) of 3019 states "As modified by this Act; the Compact is authorized, ratified and confirmed."
We wonder "what modifications "have been made to the CSKT Water Compact? In spite of numerous requests by the County, no list of specific changes to the CSKT Compact have been provided.
Page 7, Sec. 4 RATIFICATION OF THE COMPACT. (a) (2) states "Any amendment to the compact is authorized, ratified and confirmed to ensure the compact is consistent with this Act."
What amendments have been made to the CSKT Compact? Again, no list of amendments has been provided to stakeholders.
Pages 9 and 10, SEC. 5. TRIBAL WATER RIGHT (b) (3) states "In the event of a conflict between the Compact and this Act the provisions of this Act shall control."
Specifically, what will the Settlement Act control? Does the Settlement Act control funding, enforcement of water rights, assessments of fees, etc. and does that change the CSKT Compact?
Page 7, SEC. 4 RATIFICATION OF THE COMPACT (b) (1) states "To the extent that the Compact does not conflict with this Act, the Secretary shall execute the Compact."
Have the conflicts between the Compact and Act been identified? If so, the County has not been provided any list of conflicts. What is the deal – i.e. Compact – what modifications, what conflicts? We don't know – clearly the bill does not ratify the Compact as passed by the Montana Legislature in 2015.
- 2) The Act is unclear about waiver of water claims by CSKT and USA, and the bill expands claims to include those relating to water quality per page 37, section (c) (1) (B) (i), (ii), (iii), (iv), including claims under CERCLA, Clean Water Act, or Safe Drinking Water Act.

The CSKT Compact did not include CERCLA, Clean Water Act or Safe Drinking Water Act claims, hence the Compact does not quantify or clarify the claims. The result of no

quantification or clarification of claims is that litigation will be necessary to adjudicate those claims, and those related claims are not relinquished by CSKT or USA. This impacts not only water rights but all projects using or impacting water and related resources in the Columbia and Missouri drainages.

- 3) During the hearing on S. 3019 on June 24, a representative of the Department of the Interior indicated that "an amendment with CSKT tribes as a redline amendment has been reached."

We have no idea what the amendments are and desire to reserve the ability to comment on these for the record when made available. Amendment without public review and approval of the Tribe only frustrates our ability to make substantive comments or proposals regarding the legislation and its impact on our citizens.

- 4) The Act takes private property and public property from local citizens and local governments.

a. Lake County Private property rights are affected:

SEC. 7. IRRIGATION ACTIVITIES (2) page 22, requires an easement be given by landowners, who shall as a condition of MVP service or Flathead Indian Irrigation Project shall, "grant, at no cost to USA or Tribes such easements and rights of way as may be necessary for: A. Construction activities

B. Operation of FIIP or Mission Valley Power

This increases the scope of easements far beyond rehabilitation of ditches or canals. This congressional mandate that a landowner "shall grant" Page 22, (B) (2) is a taking and does not require the Secretary of the Interior action.

It also is ironic in that Section 7, part (d) 1, (A), page 21, requires the CSKT to only give easements to USA for construction only, and only to USA.

The consequence is that landowners must give much broader rights for nothing while CSKT does not.

b) Our community assets and public property rights are affected:

SEC. 8. SETTLEMENT TRUST FUND, page 29, provides the Tribes may spend funds to "plan, design, construct, operate, maintain, and replace community water distribution and wastewater treatment facilities on the Reservation."

This may include loss of existing community drinking and wastewater systems with no compensation. This will include fees for service, but how do citizens set those or afford them? This impacts both water and wastewater to include drinking water, industrial and sewage and storm water. The Act provides no process to appeal, or determine compensation to the taxpayers, entities, and fee payers who own the systems?

c) This impacts all public roads:

SEC. 8. SETTLEMENT TRUST FUNDS page 29, part (G) 14, provides, "within the supply and distribution area of FIIP or if it intersects with", Tribes may repair, rehabilitate or replace "any public or tribal culverts, bridges and roads." "Supply" is upstream sources. *No plan or contract or participation guarantee is provided for repair, rehabilitation or replacement activities for local government, or the state, or USA. Public roads include city streets, county roads, state highways like MT28, MT35, etc. and US highways 93 and 2. The concerns of convenience, planning and necessity are all real to local and other government units, who own and manage these structures. No appeal, no rules, no mechanisms for local participation in these projects are provided for in the Settlement Act. This provision violates both treaties as a right to build roads and travel is provided therein, and this provision makes impossible one or both things. This converts public property – improvements to CSKT – USA control or use.*

5) Why is this legislation being conducted in secret?

Lake County has tried to obtain a copy of the "CSKT Damages Report" referenced in the Act. In spite of requests to Montana Attorney General Tim Fox, Congressman Greg Gianforte, the US Department of Justice, Senator Daines, Senator Tester and the regional BIA office in Portland, no copy has been provided.

The Act is a release for claims encompassed within the Damages Report, see page 35, SEC. WAIVERS AND RELEASES. (10) (a) 3 (D).

What damages, what amount, what offsets, what interest rate? Is there an offset for deprecations by either party per the treaties, an offset for reparations as provided in the treaties? Why are these questions being ignored? We cannot make substantive comments on the record for the bill without review of the "Comprehensive Damages Report" that contains the record of damages compiled by CSKT.

6) Land title acquisition by USA in Trust hurts local government including schools, fire, etc., and taxpayers. First SEC.12. MISCELLANEOUS PROVISIONS, page 50, (1), (G), (I) provides lands acquired pursuant to exchange will be vested in USA trust, as does private exchange, page 52, (2) (F) (I).

This provides no PILT or property tax payments for lands put in trust thereby impairing all taxpayers. Converting public land of State Trust per Section 12, I I, page 48, to USA in Trust for CSKT impairs public use, public utilization, and public access to navigate waterways, etc., recognized by Treaties.

This may limit access by all of the public if limits similar to some existing sites limiting access to Tribal Members only are implemented.

7) These concerns are also summarized in the letter from Montana Cattlemen's Association that is attached, including issues surrounding a transfer of the National Bison Range.

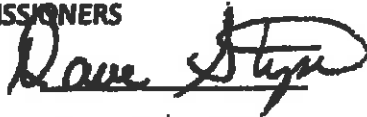
Thank you for your consideration of these issues.

Very Truly Yours,

BOARD OF LAKE COUNTY COMMISSIONERS



William D. Barron, Chairman



Dave Stipe, Member



Gale Decker, Member

enc

CERTIFICATE OF MAILING

I, Walter E. Conly, declare under penalty of perjury, that on the 10 day of January, 2023, I mailed a copy of this Objection postage prepaid, addressed to the following attorneys for the Federal, State, and Tribal Agencies:

Daniel J. Decker
Confederated Salish & Kootenai
Tribes
Tribal Legal Department
PO Box 278
Pablo, MT 59855
objections@cskt.org

David W. Harder
U.S. Department of Justice
Indian Resources Section
Environment & Natural
Resources Div.
999 18th St.
South Terrace, Suite 370
Denver, Colorado 80202
efile_denver.enrd@usdoj.gov

Molly M. Kelly
Montana Department of
Natural Resources and
Conservation
1539 Eleventh Avenue
PO Box 201601
Helena, MT 59601
Jean.Saye@mt.gov

Courtesy Copy:
United States Senator Steve Daines
United States Senator Jon Tester
United States Representative Ryan Zinke
United States Representative Matt Rosendale

Montana Attorney General Austin Knudsen
Montana Governor Greg Gianforte

Dated this 10 day of January, 2023.


SIGNATURE FOR CERTIFICATE OF MAILING

OBJECTION #4 – DISCOVERY & A HEARING MAY BE NECESSARY

This objection is to the contents and claims of Appendix 38 of the Compact and to the water rights and administration of Appendix 1 through 38, inclusive, and the undetermined water rights of the Montana Water Rights Protection Act (MWRPA), dated December 27, 2020, (P.L. 116-260, Title V, Division DD) and the July 1, 2015 water rights of the CSKT and United States of America (USA) itself and on behalf of others filed per MCA § 85-20-1901 and their administration. This objection highlights and is based upon an issue of what controls the water rights and their administration? This applies to both CSKT and USA itself and “in trust for” others claims and their administration. This objection is based upon the conflicts between the MWRPA claims and their administration and the Compact claims and their administration and any conflicts. This objection highlights the problem of added claims for tribal and USA itself and trust water under MWRPA and no provision for administration of the same.

Although the Water Court’s review of the Compact is limited to the contents of Appendix 38, its review may nevertheless extend to other sections of the Compact to the extent that they relate to the determination of water rights and their administration. Mont. Code Ann., § 85-20-1901, Art. VII – Finality B.2. This objection is to all water rights of the Confederated

Salish and Kootenai Tribes (CSKT) and the United States (USA), itself or on behalf of, others filed in :

A) Appendices I through 38 of the *Preliminary Decree* filed by the Water Court in this matter, with order for commencement filed June 9, 2022; and

B) All claims of the CSKT and USA itself or on behalf of others filed by July 1, 2015, per MCA § 85-20-1901 Title VII, Division DD; and

C) Those claims listed in the Montana Water Rights Protection Act (MWRPA) dated December 27, 2020 (P.L. 116-260, Title V, Division DD Section 10. C i B as follows; consisting of claims related to water quality; and

D) Those provisions of the MWRPA (P.L. 116-260, Title V, Division DD, and the Compact, MCA § 85-20-1901, relating to the administration of waters of the CSKT or Allottees or the USA itself or on behalf of others.

This objection is based upon the claims retained by the Tribes, members of the Tribes and the USA itself and for others as Trustee for one or both set forth in the Montana Water Rights Protection Act, Section 10(C), 1(B) *(i) and (ii), and (iii) D and (iv) relating to activities affecting the quality of water including any claims under CERCLA, Clean Water Act and/or the Safe Drinking Water Act.

The State of Montana ratified and enacted the Compact in 2015. Congress did not act until December 27, 2020, and CSKT did not act until December 29, 2020.

Ratification of the Compact presumed ratification by the State of Montana, the CSKT and Congress *as agreed to by* those entities. Ratification was not intended as *modified* by any of those entities. See, Mont. Code Ann., § 85-20-1901, Art. VII – Finality A.1. The MWRPA contains numerous provisions that are either inconsistent with or otherwise conflict with the agreed upon provisions of the Compact. In that regard, the MWRPA also provides internally inconsistent provisions. First the MWRPA provides that, “[t]o the extent that the Compact does not conflict with **this Act**, the Secretary shall execute the Compact, including all exhibits to, appendices to, and parts of the Compact requiring the signature of the Secretary.” P.L. 116-260, Title V, Division DD Section 4(b) (emphasis added). The MWRPA then inconsistently provides, “[i]n the event of a **conflict** between the Compact and this Act, **the provisions of this Act shall control.**” P.L. 116-260, Title V, Division DD Section 5(b)(3)) (emphasis added.)

The language of MWRPA Section 4 states: "As modified by this Act, the Compact is authorized, ratified and confirmed." (P.L. 116-260, Title V, Division DD, Section 4(a)(1).

Whatever unexplained "modifications" occurred were done *after* the State of Montana ratified the Compact in 2015, and accordingly were never agreed to. Congress' purported "ratification," and the subsequent purported "ratification" by CSKT, were accordingly ineffective since the State of Montana was not a party to those unidentified "modifications."

Examples of inconsistencies between the Compact and the MWRPA and apparent modifications are noted elsewhere in the accompanying objections, but include provisions in the MWRPA that purportedly expand the definition of "Tribal Water Right," as that term is defined in the Compact. See, e.g., P.L. 116-260, Title V, Division DD Section 5(c). Another example is the reservation of claims under CERCLA, the Clean Water Act and/or the Safe Drinking Water Act contained at P.L. 116-260, Title V, Division DD Section 10(c)(1)(B).

The issue was addressed to the United States Senate and House for the record and no answer has been provided. See attached, Exhibit 1, paragraph 1. The objection process provided by the original Compact at

MCA § 85-20-1901 provides for a review and objection process in front of the Montana Water Court. As we have no index of, or statement about, the Congressional modifications of the Compact by MWRPA, a meaningful and substantive review of the Compact agreement and its impacts is illusive if not impossible. Thorough and complete objections are also impossible.

This problem is highlighted by Section 4, (a)(d) of MWRPA that provides, "Any amendment to the Compact is authorized, ratified and confirmed." What amendments? What modifications? Does this include subsequent modifications? What changes are needed to "ensure that the Compact is consistent with this Act?" MWRPA Section 4(a)(d).

Until identified and distributed to all persons impacted by the Compact no meaningful evaluation or review of the agreement can occur. Our objections may be addressed when the "Compact as modified" is reviewed by all persons involved and potentially impacted by those "modifications," including the State of Montana, since the unidentified "modifications" could not have occurred until after the State's "ratification in 2015.

Congressional and CSKT "ratification" as contemplated by the State of Montana, CSKT, and Congress simply has not occurred since the Compact purportedly "ratified" by Congress and CSKT, is apparently not the same

"Compact" that was ratified by the State of Montana. A review of the record shows no amendment by the State of Montana of the Compact between 2015 and December 27, 2020, or to date.

As these claims are not identified by priority date, source, location, volume, flow rate, or period of use, or basin, it is impossible to object to or identify them individually or by basin.

Also, this reservation of claims granted by the MWRPA Act appears to be an amendment, change, or modification of the Montana – CSKT Water Compact. No record of such change exists in the State statutes, no record of the amendment occurring as provided in MCA § 85-20-1901 exists. This problem was noticed to, and not addressed by, the USA, per the attached Exhibit 1, letter of July 1, 2020, paragraph 2.

Evidence supporting this objection is the non-existence of an amendment record by the State or CSKT and the fact that no water quality claims are identified in Appendices 1 through 38 as being for water quality.

These added claims are not included in the Appendices 1 through 38 of the Compact. Are they then an amendment or modification? Are these claims part of the July 1, 2015 claims and not identified?

Identification of these claims as part of the Appendix 1 through 38 claims, part of the July 1, 2015 filed claims, or a stand alone set of claims would also facilitate review of the modified Compact, and meaningful objections thereto.

Additionally, the process or a process for administration of the water quality related claims is not included in the Compact of MCA 85-20-1901 or in MWRPA. (P.L. 116-260, Title V, Division DD)

This objection may be addressed by disclosure and review of the relevant information. If the solution to pollution is great quantities of dilution, it impacts all parties. This type of claim is of significant concern to many parties. If source regulation is the solution to pollution, disclosure and review will resolve some objections.

This objection is founded in large part upon Article VII C and D, part of 85-20-1901, which sections are problematic due to questions about what is the Compact.

Part C provides for dismissal of various suits and claims on issuance of a Final Decree by the Water Court. We see no path to a Final Decree until the terms of the Compact are defined or determined, objected to and appeals exhausted. We cannot object to what is not disclosed..


Similarly, Part D provides for dismissal of all July 1, 2015 claims from VII D(2) pursuant to Part VII C 1 c upon entry of a Final Decree that survives any appeal or avenues of appeal. A Final Decree based upon a Compact ratified with terms that are modified, inconsistent, amended, not ratified as inconsistent and unknown causes concern to many persons, hence these objections need to be addressed.

DATED this 13 day of January, 2023.

MINERAL COUNTY COMMISSIONERS



Dawn Terrill, County Commissioner



Roman Zylawy, County Commissioner



Duane Simons, County Commissioner



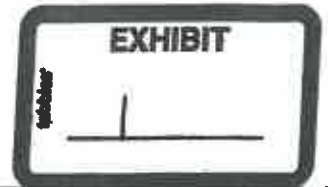
Lake County Commissioners

406-833-7204

LAKE COUNTY

106 4th Ave. E.

Polson, MT. 59060



July 1, 2020

Senate Committee on Indian Affairs
8383 Hart Senate Office Building
Washington, D.C. 20510

RE: SB-3019 - Supplement to the record

Dear Committee and Staff,

In particular, in respect to the record created June 24, 2019 in the Senate Indian Affairs Committee hearing, we offer the following comments;

- 1) SB3019 does not ratify and confirm the Montana Compact; S. 3019 provides as follows:
Page 7, Sec. 4. RATIFICATION OF THE COMPACT. (a) (1) of 3019 states "As modified by this Act, the Compact is authorized, ratified and confirmed."
We wonder "what modifications "have been made to the CSKT Water Compact? In spite of numerous requests by the County, no list of specific changes to the CSKT Compact have been provided.
Page 7, Sec. 4 RATIFICATION OF THE COMPACT. (a) (2) states "Any amendment to the compact is authorized, ratified and confirmed to ensure the compact is consistent with this Act."
What amendments have been made to the CSKT Compact? Again, no list of amendments has been provided to stakeholders.
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Specifically, what will the Settlement Act control? Does the Settlement Act control funding, enforcement of water rights, assessments of fees, etc. and does that change the CSKT Compact?
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- 2) The Act is unclear about waiver of water claims by CSKT and USA, and the bill expands claims to include those relating to water quality per page 37, section (c) (1) (B) (i), (ii), (iii), (iv), including claims under CERCLA, Clean Water Act, or Safe Drinking Water Act.

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We have no idea what the amendments are and desire to reserve the ability to comment on these for the record when made available. Amendment without public review and approval of the Tribe only frustrates our ability to make substantive comments or proposals regarding the legislation and its impact on our citizens.

- 4) The Act takes private property and public property from local citizens and local governments.

a. Lake County Private property rights are affected:

SEC. 7. IRRIGATION ACTIVITIES (2) page 22, requires an easement be given by landowners, who shall as a condition of MVP service or Flathead Indian Irrigation Project shall, "grant, at no cost to USA or Tribes such easements and rights of way as may be necessary for:

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The consequence is that landowners must give much broader rights for nothing while CSKT does not.

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SEC. 8. SETTLEMENT TRUST FUND, page 29, provides the Tribes may spend funds to "plan, design, construct, operate, maintain, and replace community water distribution and wastewater treatment facilities on the Reservation."

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5) Why is this legislation being conducted in secret?

Lake County has tried to obtain a copy of the "CSKT Damages Report" referenced in the Act. In spite of requests to Montana Attorney General Tim Fox, Congressman Greg Gianforte, the US Department of Justice, Senator Daines, Senator Tester and the regional BIA office in Portland, no copy has been provided.

The Act is a release for claims encompassed within the Damages Report, see page 35, SEC. WAIVERS AND RELEASES. (10) (a) 3 (D).

What damages, what amount, what offsets, what interest rate? Is there an offset for deprecations by either party per the treaties, an offset for reparations as provided in the treaties? Why are these questions being ignored? We cannot make substantive comments on the record for the bill without review of the "Comprehensive Damages Report" that contains the record of damages compiled by CSKT.

6) Land title acquisition by USA in Trust hurts local government including schools, fire, etc., and taxpayers. First SEC.12. MISCELLANEOUS PROVISIONS, page 50, (1), (G), (i) provides lands acquired pursuant to exchange will be vested in USA trust, as does private exchange, page 52, (2) (F) (i).

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7) These concerns are also summarized in the letter from Montana Cattlemen's Association that is attached, including issues surrounding a transfer of the National Bison Range.

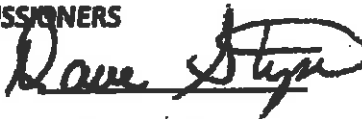
Thank you for your consideration of these issues.

Very Truly Yours,

BOARD OF LAKE COUNTY COMMISSIONERS



William D. Barron, Chairman



Dave Stipe, Member



Gale Decker, Member

enc

CERTIFICATE OF MAILING

I, Walter E. Conner, declare under penalty of perjury, that on the 23 day of January, 2023, I mailed a copy of this Objection postage prepaid, addressed to the following attorneys for the Federal, State, and Tribal Agencies:

Daniel J. Decker
Confederated Salish & Kootenai
Tribes
Tribal Legal Department
PO Box 278
Pablo, MT 59855
objections@cskt.org

David W. Harder
U.S. Department of Justice
Indian Resources Section
Environment & Natural
Resources Div.
999 18th St.
South Terrace, Suite 370
Denver, Colorado 80202
efile_denver.enrd@usdoj.gov

Molly M. Kelly
Montana Department of
Natural Resources and
Conservation
1539 Eleventh Avenue
PO Box 201601
Helena, MT 59601
Jean.Saye@mt.gov

Courtesy Copy:

United States Senator Steve Daines
United States Senator Jon Tester
United States Representative Ryan Zinke
United States Representative Matt Rosendale

Montana Attorney General Austin Knudsen
Montana Governor Greg Gianforte

Dated this 23 day of January, 2023.


SIGNATURE FOR CERTIFICATE OF MAILING

**IN THE WATER COURT OF THE STATE OF MONTANA
CONFEDERATED SALISH AND KOOTENAI TRIBES
MONTANA – UNITED STATES COMPACT**

CASE NO. WC-0001-C-2021

NOTICE OF OBJECTION AND REQUEST FOR HEARING

1. Objector's Name, Address, and Phone Number:

Mineral County Political Subdivision
LAST NAME FIRST NAME MID. INITIAL
300 River Street
STREET ADDRESS OR PO BOX
Superior MT 59872
CITY STATE ZIP CODE
(406) 822-3537
PHONE NUMBER E-MAIL

2. Objector's Attorney name, address, and phone number:

Mineral County - Debra Jackson & Walter Congdon
LAST NAME FIRST NAME MID. INITIAL
P.O. Box 339
STREET ADDRESS OR PO BOX
Superior, Montana 59872
CITY STATE ZIP CODE
(406) 822-3535 djackson@co.mineral.mt.us
PHONE NUMBER E-MAIL

3. State the specific part(s) of the Preliminary Decree objected to. Identify the specific ground(s) and evidence on which the objection(s) are based. (Use additional paper if necessary)

Please see attached -Objection # 5

4. If you are objecting to a specific water right number, identify the water right number, decree page number, and the water source. If you are objecting to more than one water right number, use a separate form for each water right number.

Water Right #: See Attached
(One Number Per Form)

Page number in Decree: _____
Source: _____

DATED this 24 day of January, 2023.

[Signature]
SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

(TURN FORM OVER AND COMPLETE OTHER SIDE)

OBJECTION #5 – DISCOVERY & A HEARING MAY BE NECESSARY

This objection is to the contents and claims of Appendix 38 of the Compact and to the water rights and administration of Appendix 1 through 38, inclusive, and the undetermined water rights of the Montana Water Rights Protection Act, dated December 27, 2020, (P.L. 116-260, Title V, Division DD) and the July 1, 2015 water rights of the CSKT and United States of America (USA) itself or on behalf of others filed per MCA § 85-20-1901 and their administration. This objection highlights and is based upon an issue of who and what controls the water rights and their administration? This applies to both CSKT and USA itself and on behalf of others and in trust for claims and administration. This objection is based upon the conflicts between the MWRPA claims and their administration and the Compact claims and their administration and any conflicts. The objection highlights the issues created between the Compact, MWRPA, the water rights filings, and the treaties executed by CSKT and the USA.

This objection is to all water rights of the Confederated Salish and Kootenai Tribes (CSKT) and the United States (USA), itself or on behalf of, others filed in :

- A) Appendices I through 38 of the *Preliminary Decree* filed by the Water Court in this matter, with order for commencement filed June 9, 2022; and
- B) All claims of the CSKT and USA itself and on behalf of others filed by July 1, 2015, per MCA § 85-20-1901 Title VII, Division D2; and
- C) Those claims listed in the Montana Water Rights Protection Act (MWRPA) dated December 27, 2020 (P.L. 116-260, Title V, Division DD Section 10. C i B as follows; consisting of claims related to water quality; and
- D) Those provisions of the MWRPA (P.L. 116-260, Title V, Division DD, and the Compact, MCA § 85-20-1901, relating to the administration of waters of the CSKT or Allottees or the USA itself or on behalf of others.

This objection is based upon the language and forms of the Treaty with the Flat Head, 1855, dated July 16, 1855 at 12 Stats. 975, ratified March 8, 1859.

This objection is in respect to wetlands, riparian, and fisheries water claims on lakes on and off the Flathead Mountain and on rivers and streams off the Flathead Recreation as set forth in Appendix 10, 18, 21, 23, 25, 26, 27, 35, 36 and 38 of the Compact and Preliminary Decree filed June 9, 2022.

Article 3 of the Treaty provides the Indians an exclusive right of taking fish in streams running through or bordering said Reservation. 12 Stat. 975,

Art. 3. The Treaty further provides in Article 3 for Indians, "the right of taking fish out of usual and accustomed places, in common with citizens of the Territory." 12 Stat. 975, Art 3.

Given that the referenced treaty provides a riparian fishing right in common with the citizens of the Territory, we object to the ownership of those claims independently by CSKT or USA itself or on behalf of others for benefit of tribes, as the claims should be held "in common with" the citizens of the Territory, now the State of Montana, as is the right of taking fish, aka fishing, on lakes, rivers and streams off the Reservation.

The Murphy rights co-owned off reservation with the State harm the citizens of the territory if the "time in memorial" date remains. The citizens of the territory contemplate many uses as statutes indicate, and the super priority date harms many citizens for one purpose.

This objection is also related to ownership of fisheries and water claims and related riparian water claims on mountain, and other lakes, as the Treaty did not reserve to the Indians "exclusive" fishing rights on lakes but only on streams on the reservations. 12 Stats. 975, Art. 3. These waters have no volumes, period of use, or basins or flow rate in the treaties.

We also object to the Remarks portion of these claims, in that they should include a note that the claims are subject to: 1) The terms and conditions of the Boundary or Oregon Treating of 1846, 12 Bevans 95. 2) Subject to the terms and conditions of the Hellgate Treaty of July 16, 1855, 12 Stats. 975. 3) Subject to the terms and conditions of the Treaty of Peace and Friendship, dated October 17, 1855, 11 Stat. 657; three separate treaties that give context to the terms and conditions of the claims.

This addition to Remarks provides clear reference to the context of the water claims and their use. The Treaty of Peace and Friendship, 11 Stat. 657, 1855, also is consistent with ownership in common with citizens of the Territory as it provides in Article 7 that, The aforesaid nations and tribes of Indians agree that citizens of the United States may live in and pass unmolested through the countries respectively occupied and claimed by them." Article 7, 11 Stat. 657.

Correcting the ownership of the claims and supplementing the Remarks will resolve these objections.

This objection is founded in large part upon Article VII C and D, part of 85-20-1901, which sections are problematic due to questions about what is the Compact, what undisclosed modifications occurred, what are the terms?

Part C provides for dismissal of various suits and claims on issuance of a Final Decree by the Water Court. We see no path to a Final Decree until the terms of the Compact are defined or determined and its ratification as approved by the Montana Legislature is confirmed, without undisclosed modifications.

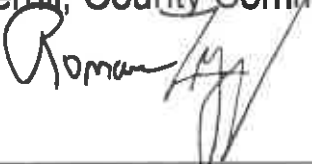
Similarly, Part D provides for dismissal of all July 1, 2015 claims from VII D(2) pursuant to Part VII C 1 c upon entry of a Final Decree that survives any appeal or avenues of appeal. A Final Decree based upon a Compact ratified with terms that are modified, inconsistent, amended, unknown and not ratified because of inconsistencies causes concern to many persons, hence these objections need to be addressed.

DATED this 13 day of January, 2023.

MINERAL COUNTY COMMISSIONERS



Dawn Terrill, County Commissioner



Roman Zylawy, County Commissioner



Duane Simons, County Commissioner

CERTIFICATE OF MAILING

I, Walter E. Coyne, declare under penalty of perjury, that on the 24 day of January, 2023, I mailed a copy of this Objection postage prepaid, addressed to the following attorneys for the Federal, State, and Tribal Agencies:

Daniel J. Decker
Confederated Salish & Kootenai
Tribes
Tribal Legal Department
PO Box 278
Pablo, MT 59855
objections@cskt.org

David W. Harder
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efile_denver.enrd@usdoj.gov

Molly M. Kelly
Montana Department of
Natural Resources and
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1539 Eleventh Avenue
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Helena, MT 59601
Jean.Saye@mt.gov

Courtesy Copy:
United States Senator Steve Daines
United States Senator Jon Tester
United States Representative Ryan Zinke
United States Representative Matt Rosendale

Montana Attorney General Austin Knudsen
Montana Governor Greg Gianforte

Dated this 24 day of January, 2023.


SIGNATURE FOR CERTIFICATE OF MAILING

IN THE WATER COURT OF THE STATE OF MONTANA
CONFEDERATED SALISH AND KOOTENAI TRIBES
MONTANA – UNITED STATES COMPACT

CASE NO. WC-0001-C-2021

NOTICE OF OBJECTION AND REQUEST FOR HEARING

1. Objector's Name, Address, and Phone Number:

Mineral County Political Subdivision
LAST NAME FIRST NAME MID. INITIAL
300 River Street
STREET ADDRESS OR PO BOX
Superior MT 59872
CITY STATE ZIP CODE
(406) 822-3537
PHONE NUMBER E-MAIL

2. Objector's Attorney name, address, and phone number:

Mineral County - Debra Jackson & Walter Congdon
LAST NAME FIRST NAME MID. INITIAL
P.O. Box 339
STREET ADDRESS OR PO BOX
Superior, Montana 59872
CITY STATE ZIP CODE
(406) 822-3535 djackson@co.mineral.mt.us
PHONE NUMBER E-MAIL

3. State the specific part(s) of the Preliminary Decree objected to. Identify the specific ground(s) and evidence on which the objection(s) are based. (Use additional paper if necessary)

Please see attached -Objection # 6

4. If you are objecting to a specific water right number, identify the water right number, decree page number, and the water source. If you are objecting to more than one water right number, use a separate form for each water right number.

Water Right #: See Attached
(One Number Per Form)

Page number in Decree: _____
Source: _____

DATED this 14 day of January, 2023.

[Signature]
SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

(TURN FORM OVER AND COMPLETE OTHER SIDE)

OBJECTION #6 – DISCOVERY & A HEARING MAY BE NECESSARY

This objection is to the contents and claims of Appendix 38 of the Compact and to the water rights and administration of Appendix 1 through 38, inclusive, and the undetermined water rights of the Montana Water Rights Protection Act, dated December 27, 2020, (P.L. 116-260, Title V, Division DD) and the July 1, 2015 water rights of the CSKT and United States of America (USA) for itself and on behalf of others filed per MCA § 85-20-1901 and their administration. This objection highlights and is based upon an issue of what controls the water rights and their administration? This applies to both CSKT and USA for itself, and others in trust for both claims and administration. This objection is based upon the conflicts between the MWRPA claims and their administration and the Compact claims and their administration and any conflicts. This objection is founded upon the parameters of the CSKT tribal and USA itself and others and “in trust” water claims, and the consequences of what occurs if no ratified Compact exists.

This objection is to all water rights of the Confederated Salish and Kootenai Tribes (CSKT) and the United States (USA), itself or on behalf of, others filed in :

- A) Appendices I through 38 of the *Preliminary Decree* filed by the Water Court in this matter, with order for commencement filed June 9, 2022; and
- B) All claims of the CSKT and USA itself and on behalf of others filed by July 1, 2015, per MCA § 85-20-1901 Title VII, Division D2; and
- C) Those claims listed in the Montana Water Rights Protection Act dated December 27, 2020 (P.L. 116-260, Title V, Division DD Section 10. C i B as follows; consisting of claims related to water quality; and
- D) Those provisions of the MWRPA (P.L. 116-260, Title V, Division DD, and the Compact, MCA § 85-20-1901, relating to the administration of waters of the CSKT or Allottees or the USA itself or others on behalf of the same.

This objection is to the Remarks portion of the claims listed in Appendix I through 38 inclusive of the Preliminary Decree and to any Remarks attached to as for the other water rights identified in A, B, C, and D above.

The Remarks should include reference to the context and history of these water rights and their administration.

An addition may be as follows:

This claim or these claims are subject to the terms and conditions of various acts and laws, including but not limited to:

1) The provisions and conditions of the Boundary or Oregon Treaty (12 Bevans 95, 1846);

2) The provisions and conditions of the Hellgate Treaty(12 Stat. 975, 1855, ratified in 1859); and

3) The provisions and conditions of the Peace and Friendship Treaty (11 Stat. 657, 1855).

These additions to the Remarks provide not only a historic reference but also knowledge of all parties' rights and responsibilities and of remedies available to all affected persons, including the remedies provided by the Treaties.

This objection is founded in large part upon Article VII C and D, part of 85-20-1901, which sections are problematic due to questions about what is the Compact.

Part C provides for dismissal of various suits and claims on issuance of a Final Decree by the Water Court. We see no path to a Final Decree until the terms of the Compact are defined or determined, and its ratification as approved by the State of Montana is confirmed.

Similarly, Part D provides for dismissal of all July 1, 2015 claims from Article VII D(2) pursuant to Part VII C 1 c upon entry of a Final Decree that

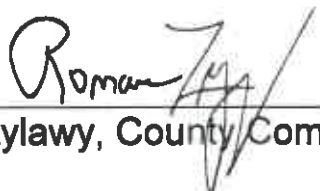
survives any appeal or avenues of appeal. A Final Decree based upon a Compact ratified with terms that are modified, inconsistent, amended, and unknown causes concern to many persons, and includes non-disclosure of inconsistent portions not ratified per the MWRPA Bill. These objections need to be addressed, in light of the issues objected to and the terms and conditions of the rules or parameters surrounding the Compact, whatever it is.

DATED this 13 day of January, 2023.

MINERAL COUNTY COMMISSIONERS



Dawn Terrill, County Commissioner



Roman Zylawy, County Commissioner



Duane Simons, County Commissioner

CERTIFICATE OF MAILING

I, Walter E. Lynch, declare under penalty of perjury, that on the 24 day of January, 2023, I mailed a copy of this Objection postage prepaid, addressed to the following attorneys for the Federal, State, and Tribal Agencies:

Daniel J. Decker
Confederated Salish & Kootenai
Tribes
Tribal Legal Department
PO Box 278
Pablo, MT 59855
objections@cskt.org


David W. Harder
U.S. Department of Justice
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Courtesy Copy:
United States Senator Steve Daines
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United States Representative Matt Rosendale

Montana Attorney General Austin Knudsen
Montana Governor Greg Gianforte

Dated this 24 day of January, 2023.


SIGNATURE FOR CERTIFICATE OF MAILING

**IN THE WATER COURT OF THE STATE OF MONTANA
CONFEDERATED SALISH AND KOOTENAI TRIBES
MONTANA – UNITED STATES COMPACT**

CASE NO. WC-0001-C-2021

NOTICE OF OBJECTION AND REQUEST FOR HEARING

1. Objector's Name, Address, and Phone Number:

Mineral County Political Subdivision
LAST NAME FIRST NAME MID. INITIAL
300 River Street
STREET ADDRESS OR PO BOX
Superior MT 59872
CITY STATE ZIP CODE
(406) 822-3537
PHONE NUMBER E-MAIL

2. Objector's Attorney name, address, and phone number:

Mineral County - Debra Jackson & Walter Congdon
LAST NAME FIRST NAME MID. INITIAL
P.O. Box 339
STREET ADDRESS OR PO BOX
Superior, Montana 59872
CITY STATE ZIP CODE
(406) 822-3535 djackson@co.mineral.mt.us
PHONE NUMBER E-MAIL

3. State the specific part(s) of the Preliminary Decree objected to. Identify the specific ground(s) and evidence on which the objection(s) are based. (Use additional paper if necessary)

Please see attached -Objection # 7

4. If you are objecting to a specific water right number, identify the water right number, decree page number, and the water source. If you are objecting to more than one water right number, use a separate form for each water right number.

Water Right #: See Attached
(One Number Per Form)

Page number in Decree: _____
Source: _____

DATED this 14 day of January, 2023.

[Signature]
SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

(TURN FORM OVER AND COMPLETE OTHER SIDE)

OBJECTION #7 – DISCOVERY & A HEARING MAY BE NECESSARY

This objection is to the contents and claims of Appendix 38 of the Compact and to the water rights and administration of Appendix 1 through 38, inclusive, and the undetermined water rights of the Montana Water Rights Protection Act, dated December 27, 2020, (P.L. 116-260, Title V, Division DD) and the July 1, 2015 water rights of the CSKT and United States of America (USA) itself and on behalf of others filed per MCA § 85-20-1901 and their administration. This objection highlights and is based upon an issue of what controls the water rights and their administration? This applies to both CSKT and USA itself and others and rights in trust for claims and administration. This objection is based upon the conflicts between the MWRPA claims and July 1, 2015 claims and their administration and the Compact claims and their administration and any conflicts. This objection is based on the rights of tribal and non-tribal users of land and water, off and on the reservation. The objection seeks to correct and clarify the respective rights of all affected parties statewide.

This objection is to all water rights of the Confederated Salish and Kootenai Tribes (CSKT) and the United States (USA), itself or on behalf of, others filed in :

- A) Appendices I through 38 of the *Preliminary Decree* filed by the Water Court in this matter, with order for commencement filed June 9, 2022; and
- B) All claims of the CSKT and USA itself or on behalf of others filed by July 1, 2015, per MCA § 85-20-1901 Title VII, Division D2; and
- C) Those claims listed in the Montana Water Rights Protection Act (MWRPA) dated December 27, 2020 (P.L. 116-260, Title V, Division DD Section 10. C i B as follows; consisting of claims related to water quality; and
- D) Those provisions of the MWRPA (P.L. 116-260, Title V, Division DD, and the Compact, MCA § 85-20-1901, relating to the administration of waters of the CSKT or Allottees or the USA itself or others on behalf of the same.

This objection is based upon three (3) Treaties entered into by the United States of America. This objection relates to surface waters in lakes, rivers and streams that can be traveled or navigated by persons.

The objection is best explained by the fact that waterways are a public highway historically and are a historic and still utilized mode of travel. Cruises on lakes and rivers and shipping by barge or boat is navigation.

This is memorialized for example by The Treaty of Peace and Friendship, Article 9, 11 Stat. 657, wherein the tribes, which included CSKT, "consent and agree" "within the respective Country claimed by them," "that

the navigation of all lakes and streams shall be forever free to citizens of the United States.”

Claims to surface water such as those in Appendix 12, Flathead Lake, should include ownership with the CSKT by the State and United States of America for free navigation is important and a condition of the Treaty agreement. Further, the Hellgate Treaty, 12 Stat. 975, Article 3, made clear that “the right in common with citizens of the United States to travel upon the public highways” was secured to them. This is consistent with our history providing that navigable waters, were public ways or water highways.

The Boundary Treaty, 12 Bevans 95, acknowledged in 1846 that the Columbia river system is navigable for citizens of Great Britain and the United States of America. As that agreement pre-dates the Treaties with the CSKT and other tribes, it is not a surprise and is therefore consistent, that the later treaties with the tribes include navigation.

The Remarks on the water claims shall also include the following references to establish a clear understanding of our respective rights and obligations:

This objection is founded in large part upon Article VII C and D, part of 85-20-1901, which sections are problematic due to questions about what is the Compact.

Part C provides for dismissal of various suits and claims on issuance of a Final Decree by the Water Court. We see no path to a Final Decree until the terms of the Compact are defined or determined and its ratification as approved by the Montana Legislature is confirmed.

Similarly, Part D provides for dismissal of all July 1, 2015 claims from VII D(2) pursuant to Part VII C 1 c upon entry of a Final Decree that survives any appeal or avenues of appeal. A Final Decree based upon a Compact ratified with terms that are modified, inconsistent, amended, and unknown or not ratified as inconsistent causes concern to many persons, hence these objections need to be addressed.

DATED this 13 day of January, 2023.

MINERAL COUNTY COMMISSIONERS



Dawn Terrill, County Commissioner



Roman Zylawski, County Commissioner



Duane Simons, County Commissioner

CERTIFICATE OF MAILING

I, Walter E. Condon, declare under penalty of perjury, that on the 24 day of January, 2023, I mailed a copy of this Objection postage prepaid, addressed to the following attorneys for the Federal, State, and Tribal Agencies:

Daniel J. Decker
Confederated Salish & Kootenai
Tribes
Tribal Legal Department
PO Box 278
Pablo, MT 59855
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David W. Harder
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Courtesy Copy:
United States Senator Steve Daines
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United States Representative Matt Rosendale

Montana Attorney General Austin Knudsen
Montana Governor Greg Gianforte

Dated this 24 day of January, 2023.



SIGNATURE FOR CERTIFICATE OF MAILING

IN THE WATER COURT OF THE STATE OF MONTANA
CONFEDERATED SALISH AND KOOTENAI TRIBES
MONTANA – UNITED STATES COMPACT

CASE NO. WC-0001-C-2021

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2. Objector's Attorney name, address, and phone number:

Mineral County - Debra Jackson & Walter Congdon
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(406) 822-3535 djackson@co.mineral.mt.us
PHONE NUMBER E-MAIL

3. State the specific part(s) of the Preliminary Decree objected to. Identify the specific ground(s) and evidence on which the objection(s) are based. (Use additional paper if necessary)

Please see attached -Objection # 8

4. If you are objecting to a specific water right number, identify the water right number, decree page number, and the water source. If you are objecting to more than one water right number, use a separate form for each water right number.

Water Right #: See Attached
(One Number Per Form)

Page number in Decree: _____
Source: _____

DATED this 15 day of January, 2023.

[Signature]
SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

(TURN FORM OVER AND COMPLETE OTHER SIDE)

OBJECTION #8 – DISCOVERY & A HEARING MAY BE NECESSARY

This objection is to the contents and claims of Appendix 38 of the Compact and to the water rights and administration of Appendix 1 through 38, inclusive, and the undetermined water rights of the Montana Water Rights Protection Act, dated December 27, 2020, (P.L. 116-260, Title V, Division DD) and the July 1, 2015 water rights of the CSKT and United States of America (USA) itself and on behalf of others filed per MCA § 85-20-1901 and their administration. This objection highlights and is based upon an issue of what and who controls the water rights and their administration? This applies to both CSKT and USA itself and for others and in trust for claims and administration. This objection is based upon the conflicts between the MWRPA claims and their administration and the Compact claims and their administration and any conflicts. This objection seeks to define, correct and make consistent the administration problems created by the Compact, its appendices, and the MWRPA alleged notification Act.

This objection is to all water rights of the Confederated Salish and Kootenai Tribes (CSKT) and the United States (USA), itself and on behalf of, others filed in :

- A) Appendices I through 38 of the *Preliminary Decree* filed by the Water Court in this matter, with order for commencement filed June 9, 2022; and
- B) All claims of the CSKT and USA itself and on behalf of others filed by July 1, 2015, per MCA § 85-20-1901 Title VII, Division D2; and
- C) Those claims listed in the Montana Water Rights Protection Act (MWRPA) dated December 27, 2020 (P.L. 116-260, Title V, Division DD Section 10. C i B as follows; consisting of claims related to water quality; and their application to other water claims or rights on or off the Flathead Reservation, including, MCA 85-20-1902.
- D) Those provisions of the MWRPA (P.L. 116-260, Title V, Division DD, and the Compact, MCA § 85-20-1901, relating to the administration of waters of the CSKT or Allottees or the USA itself or others on behalf of same.

This objection is based upon the rules set up and their application to other water claims or rights on or off the Flathead Reservation. This includes the rules provided by MWRPA and those set forth at MCA 85-20-1902.

The provisions of 85-20-1902 Unitary Administration and Management Ordinance, including Chapter III, Enforcement does not identify what Court is a Court of competent jurisdiction, though Section 3-1-108 provides for an appeal pursuant to section 2-2-112 of the ordinance. It refers to Section (V)

I 6a of the Compact which also does not identify the Court of competent jurisdiction. The administration portion of the Compact and the enforcement ordinance frustrates due process and access to a speedy remedy by not disclosing the appropriate venue.

Additionally, both Treaties with the CSKT provide remedies that are administrative and judicial or quasi-judicial in nature. The Compact, 85-20-1901 and 1902, the MWRPA (P.L. 116-260, Title V, Division DD, and the Compact, MCA § 85-20-1901 and the water claims enforcement language does not recognize, incorporate, preserve or authorize these remedies or eliminate them from recognized treaty rights of all citizens.

The fact that the Compact at 85-20-1901 and 1902 does not recognize the remedy provided by the Hellgate Treaty ratified March 8, 1859 at 12 Stat. 975, in Article 8 providing a depredation remedy denies all citizens, tribal or not, on or off the Reservations the right of that administrative and judicial process, provided by Treaty, which denies citizens both procedural and substantive due process.

The fact that the Compact at 85-20-1901 and 1902 does not recognize the remedy provided by the Treaty of Peace and Friendship, ratified April 25, 1856, at 11 Stat. 657, Article II, providing a depredation remedy, denies all

citizens, tribal or not, on or off the Reservation, the right of that administrative and judicial process provided by treaty, which denies citizens both procedural and substantive due process.

This objection can only be remedied by modification of the administration and enforcement provisions of the Compact and its administrative ordinance to include the remedies provided by the Treaties for all persons on and off the Reservation. No record of treaty amendment, abrogation, or repeal exists.

This objection is founded in large part upon Article VII C and D, part of 85-20-1901, which sections are problematic due to questions about what is the Compact.

Part C provides for dismissal of various suits and claims on issuance of a Final Decree by the Water Court. We see no path to a Final Decree until the terms of the Compact are defined or determined, thereby allowing meaningful objections and discussions.

Similarly, Part D provides for dismissal of all July 1, 2015 claims from VII D(2) pursuant to Part VII C 1 c upon entry of a Final Decree that survives any appeal or avenues of appeal. A Final Decree based upon a Compact ratified with terms that are modified, inconsistent, amended, and unknown or

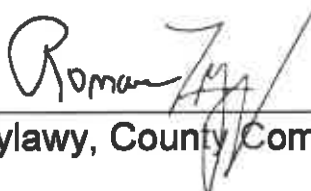
not ratified as inconsistent causes concern to many persons, hence these objections need to be addressed. A corrected Decree with terms that function will result in an approved reviewed Compact, with dismissal of suits, claims and water rights as originally contemplated, and adequate remedies for all.

DATED this 13 day of January, 2023.

MINERAL COUNTY COMMISSIONERS



Dawn Terrill, County Commissioner



Roman Zylawy, County Commissioner



Duane Simons, County Commissioner

CERTIFICATE OF MAILING

I, Walter E. Coughlin, declare under penalty of perjury, that on the 25 day of January, 2023, I mailed a copy of this Objection postage prepaid, addressed to the following attorneys for the Federal, State, and Tribal Agencies:

Daniel J. Decker
Confederated Salish & Kootenai Tribes
Tribal Legal Department
PO Box 278
Pablo, MT 59855
objections@cskt.org

David W. Harder
U.S. Department of Justice
Indian Resources Section
Environment & Natural Resources Div.
999 18th St.
South Terrace, Suite 370
Denver, Colorado 80202
efile_denver.enrd@usdoj.gov

Molly M. Kelly
Montana Department of Natural Resources and Conservation
1539 Eleventh Avenue
PO Box 201601
Helena, MT 59601
Jean.Saye@mt.gov

Courtesy Copy:
United States Senator Steve Daines
United States Senator Jon Tester
United States Representative Ryan Zinke
United States Representative Matt Rosendale

Montana Attorney General Austin Knudsen
Montana Governor Greg Gianforte

Dated this 25 day of January, 2023.



SIGNATURE FOR CERTIFICATE OF MAILING

**IN THE WATER COURT OF THE STATE OF MONTANA
CONFEDERATED SALISH AND KOOTENAI TRIBES
MONTANA – UNITED STATES COMPACT**

CASE NO. WC-0001-C-2021

NOTICE OF OBJECTION AND REQUEST FOR HEARING

1. Objector's Name, Address, and Phone Number:

Mineral County Political Subdivision
LAST NAME FIRST NAME MID. INITIAL
300 River Street
STREET ADDRESS OR PO BOX
Superior MT 59872
CITY STATE ZIP CODE
(406) 822-3537
PHONE NUMBER E-MAIL

2. Objector's Attorney name, address, and phone number:

Mineral County - Debra Jackson & Walter Congdon
LAST NAME FIRST NAME MID. INITIAL
P.O. Box 339
STREET ADDRESS OR PO BOX
Superior, Montana 59872
CITY STATE ZIP CODE
(406) 822-3535 djackson@co.mineral.mt.us
PHONE NUMBER E-MAIL

3. State the specific part(s) of the Preliminary Decree objected to. Identify the specific ground(s) and evidence on which the objection(s) are based. (Use additional paper if necessary)

Please see attached -Objection # 9

4. If you are objecting to a specific water right number, identify the water right number, decree page number, and the water source. If you are objecting to more than one water right number, use a separate form for each water right number.

Water Right #: See Attached
(One Number Per Form)

Page number in Decree: _____
Source: _____

DATED this 24 day of January, 2023.

Walter E. Congdon
SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

(TURN FORM OVER AND COMPLETE OTHER SIDE)

OBJECTION #9 – DISCOVERY & A HEARING MAY BE NECESSARY

This objection is to the contents and claims of Appendix 38 of the Compact and to the water rights and administration of Appendix 1 through 38, inclusive, and the undetermined water rights of the Montana Water Rights Protection Act, dated December 27, 2020, (P.L. 116-260, Title V, Division DD) and the July 1, 2015 water rights of the CSKT and United States of America (USA) itself and on behalf of others filed per MCA § 85-20-1901 and their administration. This objection highlights and is based upon an issue of what and who controls the water rights and their administration? This applies to both CSKT and USA for itself and others and in trust claims and their administration. This objection is based upon the conflicts between the MWRPA claims and their administration and the Compact claims and their administration and any conflicts. This objection is to better define the problem of comment on a ratified as modified water Compact.

This objection is to all water rights of the Confederated Salish and Kootenai Tribes (CSKT) and the United States (USA), itself or on behalf of, others filed in :

A) Appendices I through 38 of the *Preliminary Decree* filed by the Water Court in this matter, with order for commencement filed June 9, 2022; and

B) All claims of the CSKT and USA itself and on behalf of others filed by July 1, 2015, per MCA § 85-20-1901 Title VII, Division D2; and

C) Those claims listed in the Montana Water Rights Protection Act (MWRPA) dated December 27, 2020 (P.L. 116-260, Title V, Division DD Section 10. C i B as follows; consisting of claims related to water quality; and

D) Those provisions of the MWRPA (P.L. 116-260, Title V, Division DD, and the Compact, MCA § 85-20-1901, relating to the administration of waters of the CSKT or Allottees or the USA itself or others on behalf of the same.

This objection is based upon the administration of water rights provided by Article V, of MCA 85-20-1901. Section A 1 notes that the relationship between the tribal water right and other water rights shall be determined by the rule of priority. 85-20-1901 1 A, MCA.

This rule that is applied to the compact and MWRPA “established” tribal water right and others creates a priority problem for many water right holders. In particular, the Hellgate Treaty was an allotment Treaty. 12 Stat. 975, Article 6. The nearly concurrent Treaty of Peace and Friendship acknowledged that citizens of the United States “may live and and pass through” the tribes respective countries. 11 Stat. 657, Article 7.

As the Treaty contemplated allotments to tribal members could be or were sold to other persons. The Walton and Winters rules that provided water for the purpose of the Reservation imply that allotment lands have a priority as part of or some of the tribal water rights. Unless severed, the grant of the allotment includes water as the tail is attached to a dog.

An Allottee received the land, then held and later sold or transferred the land, and unless reserved, it seems the water for the land went with the land. The allotment was contemplated by the Hellgate Treaty. The question becomes if the priority date is the same as the "tribal water right." Is the water for the allotted land a part of the tribal right, or is it used independent of, but with similar standing as that of the newly established tribal water right.

This objection is founded in large part upon Article VII C and D, part of 85-20-1901, which sections are problematic due to questions about what is the Compact.


Part C provides for dismissal of various suits and claims on issuance of a Final Decree by the Water Court. We see no path to a Final Decree until the terms of the Compact are defined or determined.

Similarly, Part D provides for dismissal of all July 1, 2015 claims from VII D(2) pursuant to Part VII C 1 c upon entry of a Final Decree that survives

any appeal or avenues of appeal. A Final Decree based upon a Compact ratified with terms that are modified, inconsistent, amended, and unknown or not ratified as inconsistent, causes concern to many persons, hence these objections need to be addressed. If ratification of a Compact "as modified by this Act" is a modified Compact, how can we object as we have no modification list. If fisheries and navigation per the Treaties belong to all citizens we should own in common with the CSKT those claims. In reality we have no information or list because it was not provided when requested. See Exhibit 1) This is a clear sign that the alleged Federal ratification was an obvious way to frustrate substantive and meaningful participation and discussion by the public, the water claim holders, and all other parties, including downstream water users. No information means no process which denies due process.

DATED this 13 day of January, 2023.

MINERAL COUNTY COMMISSIONERS


Dawn Terrill, County Commissioner


Roman Zylawy, County Commissioner


Duane Simons, County Commissioner

CERTIFICATE OF MAILING

I, Walter E. Coyd, declare under penalty of perjury, that on the 24 day of January, 2023, I mailed a copy of this Objection postage prepaid, addressed to the following attorneys for the Federal, State, and Tribal Agencies:

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Tribes
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1539 Eleventh Avenue
PO Box 201601
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Jean.Saye@mt.gov

Courtesy Copy:

United States Senator Steve Daines
United States Senator Jon Tester
United States Representative Ryan Zinke
United States Representative Matt Rosendale

Montana Attorney General Austin Knudsen
Montana Governor Greg Gianforte

Dated this 24 day of January, 2023.



SIGNATURE FOR CERTIFICATE OF MAILING

IN THE WATER COURT OF THE STATE OF MONTANA
CONFEDERATED SALISH AND KOOTENAI TRIBES
MONTANA – UNITED STATES COMPACT

CASE NO. WC-0001-C-2021

NOTICE OF OBJECTION AND REQUEST FOR HEARING

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Mineral County - Debra Jackson & Walter Congdon
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PHONE NUMBER E-MAIL

3. State the specific part(s) of the Preliminary Decree objected to. Identify the specific ground(s) and evidence on which the objection(s) are based. (Use additional paper if necessary)

Please see attached -Objection # 10

4. If you are objecting to a specific water right number, identify the water right number, decree page number, and the water source. If you are objecting to more than one water right number, use a separate form for each water right number.

Water Right #: See Attached
(One Number Per Form)

Page number in Decree: _____
Source: _____

DATED this 06 day of January, 2023.

[Signature]
SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

(TURN FORM OVER AND COMPLETE OTHER SIDE)

OBJECTION #10 – DISCOVERY & A HEARING MAY BE NECESSARY

This objection is to the contents and claims of Appendix 38 of the Compact and to the water rights and administration of Appendix 1 through 38, inclusive, and the undetermined water rights of the Montana Water Rights Protection Act, dated December 27, 2020, (P.L. 116-260, Title V, Division DD) and the July 1, 2015 water rights of the CSKT and United States of America (USA) itself and on behalf of others filed per MCA § 85-20-1901 and their administration. This objection highlights and is based upon an issue of what controls the water rights and their administration? This applies to both CSKT and USA itself and for others in trust for claims and administration. This objection is based upon the conflicts between the MWRPA claims and their administration and the Compact claims and their administration and any conflicts. This objection seeks to ratify what portions of the tribal water right and others and USA in trust and itself claims that provide for the treaty contemplated amenities and necessities.

This objection is to all water rights of the Confederated Salish and Kootenai Tribes (CSKT) and the United States (USA), itself or on behalf of, others filed in :

- A) Appendices I through 38 of the *Preliminary Decree* filed by the Water Court in this matter, with order for commencement filed June 9, 2022; and
- B) All claims of the CSKT and USA itself and on behalf of others filed by July 1, 2015, per MCA § 85-20-1901 Title VII, Division D2; and
- C) Those claims listed in the Montana Water Rights Protection Act (MWRPA) dated December 27, 2020 (P.L. 116-260, Title V, Division DD Section 10. C i B as follows; consisting of claims related to water quality; and
- D) Those provisions of the MWRPA (P.L. 116-260, Title V, Division DD, and the Compact, MCA § 85-20-1901, relating to the administration of waters of the CSKT or Allottees or the USA itself or on behalf of others.

This objection is based upon the provisions of The Hellgate Treaty of 1855, 12 Stat. 975, Article 5, which provides for the provision of schools for children of the tribes.

This is also acknowledged by this State in public school funding educational equalization, and in reduced tuition for colleges and other programs.

Because the Treaty contemplated advantages for the tribes through the related schools, including erecting buildings, it is reasonable to object to

the Compact as it does not insure water is available for this purpose, water for the schools.

As Winters and Walton rights were to meet the purpose of the Reservation, it would seem that the tribal water right or USA reserved rights for itself or others should provide or include the water rights for schools on the Reservation.

This includes schools such as Ronan, 2 Eagle River, Charlo, Polson, St. Ignatius, Valley View, Dayton, Hot Springs, Camas, McCone, Dixon, Arlee, Ravalli and others. The schools that did exist should retain the needed water, as they could re-open. This is consistent with and accomplishes the purposes of the Parties to the Treaty and Reservation.

In this respect, a comment or note should be added to the Remarks regarding the relevant water rights that the claim is subject to the provisions of Article 5 of the Hellgate Treaty, 12 Stat. 975, to provide water for the school facilities contemplated by the Treaties.

This objection is intended to facilitate accomplishing the purposes set forth in the Treaty agreement between CSKT and the USA.

This objection is founded in large part upon Article VII C and D, part of 85-20-1901, which sections are problematic due to questions about what is the Compact.

Part C provides for dismissal of various suits and claims on issuance of a Final Decree by the Water Court. We see no path to a Final Decree until the terms of the Compact are defined or determined.

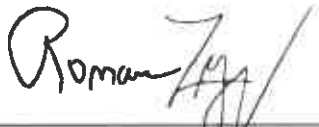
Similarly, Part D provides for dismissal of all July 1, 2015 claims from VII D(2) pursuant to Part VII C 1 c upon entry of a Final Decree that survives any appeal or avenues of appeal. A Final Decree based upon a Compact ratified with terms that are modified, inconsistent, amended, and unknown and that ignores Treaty rights of all citizens causes concern to many persons, hence these objections need to be addressed.

DATED this 13 day of January, 2023.

MINERAL COUNTY COMMISSIONERS



Dawn Terrill, County Commissioner



Roman Zylawy, County Commissioner

Duane H. Simons

Duane Simons, County Commissioner

CERTIFICATE OF MAILING

I, Valto G, declare under penalty of perjury, that on the 26 day of January, 2023, I mailed a copy of this Objection postage prepaid, addressed to the following attorneys for the Federal, State, and Tribal Agencies:

Daniel J. Decker
Confederated Salish & Kootenai
Tribes
Tribal Legal Department
PO Box 278
Pablo, MT 59855
objections@cskt.org

David W. Harder
U.S. Department of Justice
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Molly M. Kelly
Montana Department of
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1539 Eleventh Avenue
PO Box 201601
Helena, MT 59601
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Courtesy Copy:
United States Senator Steve Daines
United States Senator Jon Tester
United States Representative Ryan Zinke
United States Representative Matt Rosendale

Montana Attorney General Austin Knudsen
Montana Governor Greg Gianforte

Dated this 26 day of January, 2023.

Valto G
SIGNATURE FOR CERTIFICATE OF MAILING

**IN THE WATER COURT OF THE STATE OF MONTANA
CONFEDERATED SALISH AND KOOTENAI TRIBES
MONTANA – UNITED STATES COMPACT**

CASE NO. WC-0001-C-2021

NOTICE OF OBJECTION AND REQUEST FOR HEARING

1. Objector's Name, Address, and Phone Number:

Mineral County Political Subdivision
LAST NAME FIRST NAME MID. INITIAL
300 River Street
STREET ADDRESS OR PO BOX
Superior MT 59872
CITY STATE ZIP CODE
(406) 822-3537
PHONE NUMBER E-MAIL

2. Objector's Attorney name, address, and phone number:

Mineral County - Debra Jackson & Walter Congdon
LAST NAME FIRST NAME MID. INITIAL
P.O. Box 339
STREET ADDRESS OR PO BOX
Superior, Montana 59872
CITY STATE ZIP CODE
(406) 822-3535 djackson@co.mineral.mt.us
PHONE NUMBER E-MAIL

3. State the specific part(s) of the Preliminary Decree objected to. Identify the specific ground(s) and evidence on which the objection(s) are based. (Use additional paper if necessary)

Please see attached -Objection # 11

4. If you are objecting to a specific water right number, identify the water right number, decree page number, and the water source. If you are objecting to more than one water right number, use a separate form for each water right number.

Water Right #: See Attached
(One Number Per Form)

Page number in Decree: _____
Source: _____

DATED this 16 day of January, 2023.


SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

(TURN FORM OVER AND COMPLETE OTHER SIDE)

OBJECTION #11 – DISCOVERY & A HEARING MAY BE NECESSARY

This objection is to the contents and claims of Appendix 38 of the Compact and to the water rights and administration of Appendix 1 through 38, inclusive, and the undetermined water rights of the Montana Water Rights Protection Act, dated December 27, 2020, (P.L. 116-260, Title V, Division DD) and the July 1, 2015 water rights of the CSKT and United States of America (USA) itself and on behalf of others filed per MCA § 85-20-1901 and their administration. This objection highlights and is based upon an issue of what controls the water rights and their administration? This applies to both CSKT and USA in trust for claims and administration. This objection is based upon the conflicts between the MWRPA claims and their administration and the Compact claims and their administration and any conflicts. This objection seeks to resolve conflicts of ownership, administration and use created by the Compact and MWRPA ratification Act evidenced in Appendix 38.

This objection is to all water rights of the Confederated Salish and Kootenai Tribes (CSKT) and the United States (USA), itself or on behalf of, others filed in :

- A) Appendices I through 38 of the *Preliminary Decree* filed by the Water Court in this matter, with order for commencement filed June 9, 2022; and
- B) All claims of the CSKT and USA for itself or on behalf of others filed by July 1, 2015, per MCA § 85-20-1901 Title VII, Division D2; and
- C) Those claims listed in the Montana Water Rights Protection Act (MWRPA) dated December 27, 2020 (P.L. 116-260, Title V, Division DD Section 10. C i B as follows; consisting of claims related to water quality; and
- D) Those provisions of the MWRPA (P.L. 116-260, Title V, Division DD, and the Compact, MCA § 85-20-1901, relating to the administration of waters of the CSKT or Allottees or the USA itself or on behalf of others.

This objection is to the administration of the claims based upon the provisions of the Compact set forth in MCA 85-20-1901, III D5 a(iv) and III 6 G 1 and 2, and all similar provisions regarding the call for water.

This portion of administering the Compact is in breach of State law. MCA 1-3-216 which provides that, "Between rights otherwise equal, the earliest is preferred." The use of water is further controlled by this concept at MCA 85-2-401, which provides, at (1) "As between appropriations, the first in time is the first in right."

The Compact limits call on water by CSKT or the MWRPA based claims on use type of claim first, that being irrigation. As noted in 85-20-1901, Article III 7 e, call is against only irrigation surface water and irrigation ground water more than 100 GPM, that are junior in date. The limitations in the Compact based on irrigation use is only subject to call, no others, violates the rule of the State regarding priority based on date, not use.

This provision of administration also pits neighbor against neighbor. If CSKT calls the irrigation water of user A, who uses irrigation water, user A will only have water to use if user A calls the other users that are junior, regardless of the nature or purpose of the right.

The mechanism where the USA or State or Tribe calls only irrigation water denies irrigation users equal protection of the law provided by the first in time rule of State law. This provision of administration of the water rights provided by the Compact also puts irrigation users at a disadvantage regarding other users, as the irrigation will call other users based on priority date, not volume of or type of claim.

Simply put, the irrigation user of surface water, or the irrigation using more than 100 gpm ground water gets shut off by the State, the Tribe or the United States of America, or all of these. The irrigator to have water has to

shut off the other lower priority users, so reality becomes the irrigation gets the call, the irrigation then calls other users of lower priority, who get shut off, and the USA or State or Tribe gets the water.

The violations of priority rules by the administration of the water of the Compact jeopardizes the Compact and its legal defensibility. If no final decree, problems occur.

Part C provides for dismissal of various suits and claims on issuance of a Final Decree by the Water Court. We see no path to a Final Decree until the terms of the Compact are defined or determined.

Similarly, Part D provides for dismissal of all July 1, 2015 claims from VII D(2) pursuant to Part VII C 1 c upon entry of a Final Decree that survives any appeal or avenues of appeal. A Final Decree based upon a Compact ratified with terms that are modified, inconsistent, amended, and unknown or not ratified as inconsistent causes concern to many persons, hence these objections need to be addressed.

A Compact changing State law without notice is not a defensible product. Additionally, a priority date ignoring other obligations to other citizens seems hardly defensible.

DATED this 13 day of January, 2023.

MINERAL COUNTY COMMISSIONERS

Dawn Terrill

Dawn Terrill, County Commissioner

Roman Zylawy

Roman Zylawy, County Commissioner

Duane H. Simons

Duane Simons, County Commissioner

CERTIFICATE OF MAILING

I, Walter E. Gray, declare under penalty of perjury, that on the 26 day of January, 2023, I mailed a copy of this Objection postage prepaid, addressed to the following attorneys for the Federal, State, and Tribal Agencies:

Daniel J. Decker
Confederated Salish & Kootenai
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Dated this 26 day of January, 2023.


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IN THE WATER COURT OF THE STATE OF MONTANA
CONFEDERATED SALISH AND KOOTENAI TRIBES
MONTANA – UNITED STATES COMPACT

CASE NO. WC-0001-C-2021

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Please see attached -Objection # 1d

4. If you are objecting to a specific water right number, identify the water right number, decree page number, and the water source. If you are objecting to more than one water right number, use a separate form for each water right number.

Water Right #: See Attached
(One Number Per Form)

Page number in Decree: _____
Source: _____

DATED this 27 day of January, 2023.

[Signature]
SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

(TURN FORM OVER AND COMPLETE OTHER SIDE)

OBJECTION #12 – DISCOVERY & A HEARING MAY BE NECESSARY

This objection is to the contents and claims of Appendix 38 of the Compact and to the water rights and administration of Appendix 1 through 38, inclusive, and the undetermined water rights of the Montana Water Rights Protection Act, dated December 27, 2020, (P.L. 116-260, Title V, Division DD) and the July 1, 2015 water rights of the CSKT and United States of America (USA) itself and on behalf of others filed per MCA § 85-20-1901 and their administration. This objection highlights and is based upon an issue of what or who controls the water rights and their administration? This applies to both CSKT and USA itself and for others in trust for both claims and administration. This objection is based upon the conflicts between the MWRPA claims and their administration and the Compact claims and their administration and any conflicts. This objection seeks to resolve conflicts of ownership, administration and use created by the Compact and MWRPA ratification Act evidenced in Appendix 38.

This objection is to all water rights of the Confederated Salish and Kootenai Tribes (CSKT) and the United States (USA) filed, itself or on behalf of others, in :

- A) Appendices I through 38 of the *Preliminary Decree* filed by the Water Court in this matter, with order for commencement filed June 9, 2022; and
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This objection is founded in large part upon Article VII C and D, part of 85-20-1901, which sections are problematic due to questions about what is the Compact.

Part C provides for dismissal of various suits and claims on issuance of a Final Decree by the Water Court. We see no path to a Final Decree until the terms of the Compact are defined or determined.

Similarly, Part D provides for dismissal of all July 1, 2015 claims from VII D(2) pursuant to Part VII C 1 c upon entry of a Final Decree that survives any appeal or avenues of appeal. A Final Decree based upon a Compact

ratified with terms that are modified, inconsistent, amended, and unknown causes problems for many persons, hence these objections need to be addressed. No information and no disclosure regarding a modified Compact frustrates a meaningful process. No meaningful process rights and a poor product denies all parties due process and the contemplated review by the Montana Water Courts.

We object because doing less in Water Court review frustrates the purpose of the Compact and of MWRPA.

DATED this 13 day of January, 2023.

MINERAL COUNTY COMMISSIONERS



Dawn Terrill, County Commissioner



Roman Zylawy, County Commissioner



Duane Simons, County Commissioner

CERTIFICATE OF MAILING

I, Walter E. Graydon, declare under penalty of perjury, that on the 27 day of January, 2023, I mailed a copy of this Objection postage prepaid, addressed to the following attorneys for the Federal, State, and Tribal Agencies:

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Dated this 27 day of January, 2023.


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