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1 Reid Peyton Chambers
2 SONOSKY, CHAMBERS, SACHSE
& ENDRESON
3 Suite 1000
4 1250 Eye Street, NW
Washington, D.C. 20005
(202) 682-0240

Native American Rights Fund

5 Attorneys for the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation

6
7 **IN THE WATER COURTS OF THE STATE OF MONTANA**
8 **UPPER AND LOWER MISSOURI RIVER DIVISIONS**
9 **FORT PECK COMPACT SUBBASIN**

10 In the Matter of the
11 Adjudication of Existing
and Reserved Rights to the
12 Use of Water, Both Surface
and Underground, of the
13 Assiniboine and Sioux Tribes
of the Fort Peck Indian
Reservation Within the
14 State of Montana.

Cause No. WC-92-1

15
16 **ASSINIBOINE AND SIOUX TRIBES' OF THE FORT PECK RESERVATION**
17 **JOINDER TO STATE'S MOTION TO DISMISS OBJECTIONS AND**
TO APPROVE THE FORT PECK-MONTANA COMPACT

18
19 The Assiniboine and Sioux Tribes of the Fort Peck Reservation (Tribes) join in the State's Motion
20 to Dismiss Objections and to Approve the Fort Peck-Montana Compact for the following reasons.

21 The Tribes generally agree with the arguments presented by the State concerning the dismissal
22 of the objections (State Mem. pp. 3-6). The Tribes also support approval of the Compact.^{1/} The
23 Compact's fundamental fairness, reasonableness and conformity to applicable law is demonstrated by the
24 facts that (1) the United States, Tribes and State engaged in nearly five years of intense, adversarial
25 negotiations leading to the Compact, and (2) at the end of these negotiations in April 1985, the final
26 Compact was ratified by both the Montana Legislature and Fort Peck Tribal Executive Board, and

27 ^{1/} The Tribes do not, by joining in the State's Motion, subscribe to every word in
28 the State's Memorandum. For example, the Tribes do not agree that their quantified water right
is in any way "conditional" (State Mem. p. 10).

1 approved for the United States by the Attorney General and Secretary of the Interior. The course of
2 these negotiations is fully described in the "Final Report of the Tribal Negotiating Team to Fort Peck
3 Tribal Executive Board on Fort Peck-Montana Water Compact" dated April 19, 1985, which is attached
4 to the Affidavit of Tribal Chairman Caleb Shields. (Exhibit 1). The Affidavit of the Tribes' expert
5 hydrologist, Thomas Stetson (Exhibit 2), delineates how the quantification of the Tribes' water right and
6 protection of certain existing uses were arrived at.^{2/}

7 The Tribes agree that the Compact should be approved and join in the State's motion.

8 RESPECTFULLY SUBMITTED this 17th day of March, 1997.

9 /s/ Reid Peyton Chambers

10
11 Reid Peyton Chambers
12 SONOSKY, CHAMBERS, SACHSE
13 & ENDRESON
14 Suite 1000
15 1250 Eye Street, NW
16 Washington, D.C. 20005
17 (202) 682-0240

18 Attorneys for the Assiniboine and Sioux
19 Tribes of Fort Peck Reservation

20 CERTIFICATE OF SERVICE

21 I hereby certify that I caused to be mailed a true and accurate copy of the foregoing
22 Joinder of Assiniboine and Sioux Tribes of the Fort Peck Reservation to State's Motion to Dismiss
23 Objections and to Approve Fort Peck-Montana Compact, postage prepaid, by U.S. mail, to the following:

24
25 Mrs. Gladys Connie Flygt
26 1626 Capital Avenue
27 Madison, WI 53705

28
^{2/} Mr. Stetson's affidavit references a series of 27 maps he developed showing the irrigable lands on the Reservation by classification. Mr. Brown's affidavit for the State likewise references these maps. The Tribes have obtained these original maps from Mr. Stetson's office, and will present them to the Court at the hearing on the Motion so that they may be part of the Court's permanent record.

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Mr. Jeff D. Weimer
208 Park Avenue
Lewistown, MT 59457

Mr. Paul B. Tihista
240 Third Avenue North
Glasgow, MT 59230

Honorable Joseph P. Mazurek
Harley R. Harris, Esq.
Attorney General
State of Montana
Justice Building
215 North Sanders
Helena MT 59620-1401

F. Patrick Barry, Esq.
United States Department of Justice
Environment & Natural Resources Division
Indian Resources Section
10th and Pennsylvania Avenue
Washington, D.C. 20530

Richard Aldrich, Esq.
Field Solicitor
United States Department of the Interior
P.O. Box 31394
Billings, MT 59107-1394

DATED: March 17, 1997

 /s/ Reid Peyton Chambers
Reid Peyton Chambers