

**IN THE WATER COURT OF THE STATE OF MONTANA
BLACKFEET TRIBE-STATE OF MONTANA-UNITED STATES COMPACT**

CASE WC-2018-06

NOTICE OF ENTRY OF THE BLACKFEET TRIBE-STATE OF MONTANA-UNITED STATES COMPACT PRELIMINARY DECREE AND NOTICE OF AVAILABILITY

AS A WATER USER YOU MUST READ ALL OF THIS NOTICE

The Montana Water Court has been asked to approve a Compact settling the water rights claims of the Blackfeet Tribe of Indians (“Tribe”). The Blackfeet Tribe, the State of Montana, and the United States (hereinafter collectively referred to as the “Compacting Parties”) entered into a Compact (“Blackfeet Compact”) settling the reserved water right claims of the Tribe, its members, and allottees, and the United States on behalf of the Tribe, its members, and allottees, in accordance with § 85-2-702, MCA. The Blackfeet Compact was ratified by the Montana Legislature on April 15, 2009 (codified at § 85-20-1501, MCA), by the Congress of the United States on December 16, 2016 (P.L. 114-332, Title III, Subtitle G), by members of the Tribe in a referendum vote held on April 2, 2017 and certified by the Secretary on May 30, 2017, and signed by the Compacting Parties on June 12, 2018. The Blackfeet Compact needs your review before the Court determines whether to approve the Blackfeet Compact in accordance with applicable law.

The Blackfeet Compact defines the reserved water rights of the Tribe within the State of Montana and will entitle the Tribe to divert and use water in accordance with the Blackfeet Compact within all or part of the following basins: Basin 40F, the mainstem of the Milk River and its tributaries above Fresno Reservoir; Basin 40T, the mainstem of the St. Mary River and its tributaries; Basin 41L, the mainstem of Cut Bank Creek and its tributaries; and Basin 41M, the mainstem of Birch Creek, Badger Creek, Two Medicine River and their respective tributaries. A summary of the Tribal water right within these basins is enclosed with this notice.

You are receiving this Notice because the State’s water rights records indicate you have filed a statement of claim, applied for or received a permit to appropriate water, or own a water reservation in the vicinity of the area in which a reserved water right quantified in the Blackfeet Compact is located. Since you may have an interest affected by the Blackfeet Compact, you should review the Compact. Accordingly,

YOU ARE HEREBY NOTIFIED that the Montana Water Court has entered a Preliminary Decree and Order for the Commencement of Special Proceedings for Consideration of the Blackfeet Tribe-State of Montana-United States Compact in the affected basins, which includes the Blackfeet Compact, in order to determine whether it should be approved in accordance with

applicable law. If the Court approves the Blackfeet Compact, it will enter a Final Decree adjudicating the water rights of the Tribe as they are recognized in the Blackfeet Compact. That Final Decree will be binding on all water users in the Montana water rights adjudication.

*What Is a Preliminary Decree and What Are Your Rights
And Obligations to Object to the Blackfeet Compact?*

This Preliminary Decree is a decree entered by the Water Court in accordance with § 85-2-231(2), MCA. As explained in Article VII.B.2 of the Compact, the Water Court's review of the Compact is "limited to Article III and Appendix 5 [of the Compact], and may extend to other sections of the Compact only to the extent that they relate to the determination of existing water rights." The Preliminary Decree sets forth the entire Blackfeet Compact and the specific provisions of the Blackfeet Compact that the Court will review in the proceeding. The Court's review will be conducted pursuant to the standard previously identified by the Water Court for the review of Tribal-State water compacts, which treats a compact as "closely analogous to a consent decree." *Chippewa Cree Tribe Water Compact*, 2002 WL 34947007, *3, Case No. WC-2000-01. The Court's review of the Compact is to allow the Court "to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between the negotiating parties." *Id.* (internal quotations omitted). "The purpose of this kind of judicial review is not to ensure that the settlement is fair or reasonable between the negotiating parties, but that it is fair and reasonable to those parties and the public interest who were not represented in the negotiation, but have interests that could be materially injured by operation of the compact." *Id.* at *4.

At this stage in the adjudication, all affected persons are required to state any objections that they may have to the Preliminary Decree. Your water usage may be affected by the Blackfeet Compact. If you do not agree with the Tribal Water Rights recognized in the Blackfeet Compact, you may file an objection and request a hearing and the Water Court will hear your objection. **This will be your only opportunity to object to the Preliminary Decree. If you do not file an objection at this time, you will not be able to object to the Preliminary Decree in any other proceedings before the Water Court and you will be bound by any final decree entered by the Water Court approving the Tribal Water Rights quantified in the Blackfeet Compact.**

Right to Appeal

If you do not participate in Water Court proceedings, your right to appeal an adverse decision is limited. Section 85-2-235, MCA, provides that:

(1) A person whose existing rights and priorities are determined in a final decree may appeal the determination only if: (a) the person requested a hearing and appeared and entered objections to the temporary preliminary decree or the preliminary decree; (b) the person's rights or priorities as determined in the temporary preliminary decree or the preliminary decree were affected as the result of an objection filed by another person; (c) the person requested a hearing and appeared before the water court to finally resolve an issue remark, as defined in 85-2-250; or (d) the person is a claimant appealing an adverse decision when the water court issued the decision as the result of an evidentiary hearing or as the result of calling the claim in on the court's own motion.

(2) The attorney general may appeal a determination made in a final decree if the attorney general participated as an intervenor as provided in 85-2-248.

(3) An interlocutory ruling by the water judge upon a question of law may be appealed by any party who is affected by the decision and who participated in the matter in which the ruling was issued.

Should You File an Objection?

Only you can answer this question. To help you determine whether you should file an objection to the Preliminary Decree, you should examine the enclosed summary and the Blackfeet Compact. Your examination should not stop there, however. You should also compare the Tribal Water Rights with the claims that you have filed with the Water Court, the water right permits or certificates that you have received from the Montana Department of Natural Resources and Conservation, and possibly the other claims, permits, certificates, and reservations of water within the diversionary basins. All of the water rights claims filed and all of the water right permits, certificates, or reservations of water that have been granted in the diversionary basins are on record with the Montana Department of Natural Resources and Conservation. You might also review the entire Preliminary Decree and Order for the Commencement of Special Proceedings (Preliminary Decree and Commencement Order). Some or all of the documents referenced in this paragraph can be reviewed during business hours at the following offices:

1. The Montana Water Court, 1123 Research Drive, Bozeman, MT 59718 (Preliminary Decree and Commencement Order only).
2. The Montana Department of Natural Resources & Conservation, Water Resources Regional Office, 210 Sixth Avenue, Havre, MT 59501; (406) 265-5516 (all documents).
3. The Montana Department of Natural Resources & Conservation, Water Resources Regional Office, 222 Sixth Street South, Glasgow, MT 59230; (406) 228-2561 (all documents).
4. Glacier County Clerk's Office, Cut Bank, MT; Pondera County Clerk's Office, Conrad, MT; Toole County Clerk's Office, Shelby, MT; Liberty County Clerk's Office, Chester, MT; Hill County Clerk's Office, Havre, MT; Blaine County Clerk's Office, Chinook, MT; Phillips County Clerk's Office, Malta, MT; Valley County Clerk's Office, Glasgow, MT; Roosevelt County Clerk's Office, Wolf Point, MT (Preliminary Decree and Commencement Order only).
5. Bureau of Indian Affairs, Blackfeet Agency, 531 SE Boundary Street, Browning, MT 59417; (406) 338-7544 (Preliminary Decree and Commencement Order only).
6. Blackfeet Tribal Headquarters, 640 All Chiefs Road, Browning, MT 59417; (406) 338-7522 (Preliminary Decree and Commencement Order only).

You may obtain a paper or electronic copy of the Preliminary Decree and Commencement Order from the Department of Natural Resources and Conservation, Water Rights Bureau, P.O. Box 201601, Helena, MT, 59620-1601. The cost of a paper copy of the Preliminary Decree and Commencement Order, the Summary of Water Rights and this Notice (approximately 43 pages) is \$10.00. An electronic copy of those documents on CD is also \$10.00.

The Preliminary Decree and Commencement Order is also available on the DNRC website at <http://dnrc.mt.gov/divisions/reserved-water-rights-compact-commission/blackfeet-tribe-compact>. The Blackfeet Compact is published in section 85-20-1501 of the Montana Code Annotated, which can be found on the Internet at https://leg.mt.gov/bills/mca/title_0850/chapter_0200/part_0150/section_0010/0850-0200-0150-0010.html. The Montana Code Annotated can also be found in many public offices and public libraries.

Public Meetings

Public meetings to explain Water Court procedures will be held by Stephen R. Brown, Associate Water Judge of the Montana Water Court. Representatives of the Compacting Parties will also be present to explain the Blackfeet Compact. The meetings will be held:

- April 30, 2019, 7:00 p.m., Browning High School, 105 Highway 89, Browning, Montana;
- May 1, 2019, 7:00 p.m., Valier High School Gym, 804 4th Street, Valier, Montana;
- May 2, 2019, 7:00 p.m., Hilton Garden Inn, 2520 14th Street SW, Great Falls, Montana.
- May 7, 2019, 7:00 p.m., Valley County Courthouse, 501 Court Square, Glasgow, Montana; and
- May 8, 2019, 7:00 p.m., Best Western Plus Havre Inn & Suites, 1425 U.S. Highway 2 NW, Havre, Montana.

How to File An Objection and Request a Hearing

An objection to the Blackfeet Compact must be filed on the form provided by the Montana Water Court. Objection forms can be found at the Water Court and the DNRC office in Havre and at <https://courts.mt.gov/courts/water/legal>. Any objection to the procedure being followed in this matter may be filed in any format which is in compliance with the Montana Rules of Civil Procedure. **All objections must be filed and received by the Montana Water Court, P.O. Box 1389, Bozeman, MT 59771-1389, on or before October 1, 2019. LATE OBJECTIONS WILL NOT BE CONSIDERED.**

Extensions

The Water Judge may grant a request for an extension of the time for filing objections. A request for an extension must be received by the Water Court on or before **October 1, 2019**. Use the Water Court's Request for Extension form found at <https://courts.mt.gov/courts/water/legal>. If an extension is granted, it will apply to everyone. Any extension will be posted at the offices listed above and will be advertised once in the *Great Falls Tribune*, the *Glacier Reporter*, the *Cut Bank Pioneer Press*, the *Valerian*, *Havre Daily News* and the *Billings Gazette*.

Any Questions?

Use our toll-free number 800-624-3270. Our regular office number is (406) 586-4364, and is not toll-free. Or call the Havre DNRC Regional Office at (406) 265-5516.

DATED this 4th day of April, 2019.

/s/ Stephen R. Brown
Associate Water Judge
Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389

REMEMBER: OBJECTIONS MUST BE RECEIVED BY THE WATER COURT BY OCTOBER 1, 2019.