

MEMORANDUM

TO: Susan Cottingham, Jay Weiner, Sonja Hoeglund, CSKT Negotiating Team; CSKT Minute Files
FROM: Joan Specking
RE: Draft CSKT Minute Summary from February 8, 2008 Negotiating Session, Pablo, Montana
DATE February 08, 2008

Chair: James Steele, Tribal Chair
Agenda (**Attachment 1**)

1. **Opening Prayer**

The introductory prayer and song was presented by CSKT Elder Francis Auld.

2. **Introductions**

Chairman Steele welcomed the public to the negotiating session and started introductions around the room. (**Sign-in sheets Attachment 2**)

3. **Opening Statements**

Duane Mecham said he had several items to address as the parties go through the agenda and commended the Tribes and the State for developing arrangements to do technical work and said the federal government plans to join in that effort.

Chris Tweeten said the Commission is pleased and excited to go forward with joint technical work and to have a schedule of monthly meetings.

Chairman Steele welcomed everyone to the council chambers. He read verbatim from the 1855 Treaty of Hellgate – he reminded folks that the area is a reservation and that the CSKT people have been a sovereign people for thousands of years. He noted that the people did not take up arms against the U.S. government as some other Indian nations did. They gave up what today is most of western Montana. He applauded the funds that the governor announced yesterday will be spent to recover much of the area from mining damage. He said when the Salish and Kootenai gave that area over to the U.S. it was in fine shape. Although the Tribes were not mentioned regarding mitigation, they are vital to the restoration of the Butte, Anaconda and Upper Clark Fork areas. He reminded people of past fights with the State and United States over many issues on the Reservation, and comments about the Tribes not knowing how to run things such as Mission Valley Power which he said is probably one of the most successfully run federal utilities in the United States. The majority of people served by Mission Valley are not Tribal and it is a sign of the Tribal people reaching out to the greater society on their Reservation. He said they are meeting because they have an issue and a need for water. Recently they went through a bruising Class III gaming negotiation with the State of Montana and he told the governor not to doubt the CSKT resolve to stand firm. In the last session of the legislature the CSKT presented a bill to extend the sunset of the Compact Commission and the governor, the attorney general and the Compact Commission opposed the bill. The bill passed the Senate but when it moved to the House the reception was less than appropriate and the bill was lost. They will be drafting another bill to extend the sunset of the Commission. The reasons they were given for opposition of the last bill was that the State needed to put pressure on the negotiations. He

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said the pressure is on. The Tribes, federal government and the State know that there are 4,000 claims on the reservation that will have to be filed if they do not come to a negotiated settlement and those making the claims will have to find water attorneys specializing in Indian water law. He encouraged everyone in the room to realize that the Salish, Kootenai, Pondera people have a proposal on the table. Although he was not on the Council at the time, they were told that the proposal did not form the basis for negotiations. The Tribes are also in the middle of Bison Range discussions. He said he appreciated the opportunity to speak about his feelings on the process and said the Indians are not out to get people; if they were people would not have cheap power being delivered for almost 20 years; great cooperation amongst law enforcement; collaboration on water quality and the shoreline protection board; Tribal and non-Tribal people on the Superintendent's consumer protection board; and a hunting and fishing agreement that has been working. He said in the middle of the water rights negotiations they need to step back and start hearing each other their proposals. To the Compact Commission he said the Tribe does not want to go to court. Wyoming and the Wind River Reservation are an example of what happens in court. He thanked everyone for listening. Chris Tweeten thanked Chairman Steele for his remarks.

4. Technical/Legal items for discussion

a. CSKT report on Outline for Proposed Unitary Administration

Clayton Matt reminded people that the water rights negotiations began in the early 1980s. The negotiations did not continue as there were other priorities such as the Milk River. They see the Commission has been very successful and has negotiated with almost all the other Tribes and federal agencies in the State. In 2001 the Tribes put a proposal forward which included protecting existing uses and developing a water administration plan. On December 20, 2007, the Tribal Council authorized sending the outline of the Unitary Administration Ordinance to the United States and the Compact Commission. **(Attachment 3)** He said there would be copies available for people at the meeting. This continues with the protection of existing uses and begins to lay out a framework for such protection; managing new uses and conservation plans and enforcement.

Rhonda Swaney explained that this is the first proposal outline and was approved by the Tribal Council. Specific provisions are subject to negotiations so she talked about the overview of what they hope to accomplish. The Tribe acknowledges existing uses. They are assuming that they are starting with the status quo and are not cutting everyone off although the Tribe believes they have senior rights. They will defer instant exercise of those reserved and original rights to keep everyone whole on the Reservation the best they can. They hope, over time, through improvements in infrastructure, the irrigation project, conservation planning and mitigation; water development and purchase and lease of water to eventually meet the needs of the CSKT people and once that happens, future development can occur as water is available. They are talking concepts right now. This proposal provides a process; a five-member board so that together they can accomplish a desired future condition where the Tribe's reserved water rights can be met, existing uses can continue and future development can occur. In terms of the five-member board they are proposing that two members be from the Tribal Council, two are appointed by the governor and that one is a federal appointee. They are proposing local residency requirements and experience and knowledge in water issues providing for local control. Some of the words she said she would use to describe the approach is that it is very pragmatic and makes sense: the Tribes are willing to wait to deal with priority dates, high value rights, and aboriginal rights so people can continue to use what they have now. It provides local control which is

important because people working here on the management of such a life-sustaining resource have a vested interest in that resource. It is flexible and they hope they can accommodate changes in climatic conditions that may occur; certainly all of the agricultural economy is facing changes. She said a component provides protection of all the senior existing uses and will put junior water users or appropriators on notice that there may not be water available; i.e., first in time, first in right. One section Clayton had mentioned previously was enforcement and they hope to have a water engineer hired that would hold people accountable to water uses they need.

Clayton said if this is something they are going to accomplish they have a deadline of July 2009. They may be able to get a long ways and they may be able to complete this by 2009 but this is not the only work that needs to be done. They will continue to have monthly meetings. As the chairman indicated, if the Commission sunsets by July 2009 and there is not an alternative method, they have six months to file their claims in the Montana Water Court and this would be the only reservation in Montana to do that. It is important that the parties have the time to get through this and they think the Unitary Administration proposal begins to clearly define what the Tribes mean by recognizing and protecting existing uses.

Chris Tweeten said the Commission appreciates the time and effort put into this thoughtful proposal and acknowledged that a tremendous amount of work has gone into it. The Commission is continuing to study it and have asked the other State agencies they work with to review it as well. He said the Commission's preference would be to collect their internal thoughts among the State agencies they answer to and hope that at another meeting this month they could give an answer. He said he appreciates Rhonda's understanding that it is a first proposal and that points of discussion will be present with respect to some of the things in the proposal. They hope to identify those points and begin discussions about them and present other ideas to achieve the same objective to provide a system that is workable and recognizes and protects existing uses; provides a workable system for creating future uses and how small domestic uses will be treated which is a critical point. They would prefer not to go into any more detail than that at this point. The other issue they will look at is the question of how the management structure they put in place becomes law. Will it be part of the compact or will it be some other Tribal law that would be beyond the compacting process. He said there are a number of fundamental issues and details and the State looks forward to having those discussions with the other parties in the future.

Duane Mecham said a key fundamental goal the federal government has in proceeding to work through these issues in settlement is that at the end of the day the parties understand the respective rights of each party, acknowledge those and that the Tribes and their water resources are ensured of having the proper governance tools needed to use and protect those water resources. He listened to a presentation on the Unitary Administration Ordinance in January when the Flathead Joint Board of Control hosted a meeting with the Tribes and it was very informative and useful. He said he has worked through these issues of Tribal water codes and administration in other settings and some of that experience will be helpful but there are unique circumstances on this Reservation and they will be forging new ground and looking forward to being creative. He said like the State, they also are identifying issues and hope to work through their list of responses and concerns in a holistic fashion in the future.

Clayton Matt said he wanted to make sure everyone understands that what they propose should be a subject of negotiations; not a take it or leave it proposal. He asked if the other parties

would have a response by the next meeting. Chris said that is their hope but they have to discuss the issues with the Governor, officials in DNRC and FW&P and the Attorney General's office. They are hopeful that they can gather those reactions and come back to the next meeting and be able to begin discussions on a substantive basis. Duane indicated they would stay on the same track.

b. Report from State of Montana and the United States on Confederated Salish and Kootenai Tribes definition of Shared Shortages.

Rhonda said there are a number of concepts they introduced in the negotiation process to date which will fit into the Unitary Administration proposal and one of those is the definition of shared shortages. Others include the ongoing negotiations between the Flathead Joint Board of Control and the Tribes and the Dept. of the Interior over operation and management of the Project along with a review of the endangered bull trout and how their habitat is impacted. It will be a complex few months ahead of them.

Clayton pointed out is that if there are questions about the Unitary Proposal, people should feel free to contact them – they may not have the immediate answers as to how this will affect people today but that is why this is the subject of negotiations.

Clayton said there would be pieces of the outline worked on at different times. They put together a description of shared shortages. Jay Weiner asked if they would do a brief overview. Ron Billstein said the proposal is more of a set of bullet points at this state. **(Attachment 4)** The technical teams are in the process of identifying a system to share shortages and excesses among different classes of water use. During some years there will not be enough water and in other there may be too much for agricultural purposes and it will get used somewhere else. The effort is to figure out a science-based approach to a just allocation between various uses. Given the Tribes' priority there will be a certain point below which flows will not be allowed to drop. There are about 10 or 12 points which Ron explained per the attachment on shared shortages which the Tribe put forth for the State to look at. The premise protects existing rights.

Clayton said if you look at in purest form the way water rights are administered in the west, this is a way they break the mold. By talking about shared shortages they are trying to find a way to administer water resources during the ups and downs seen in water supplies.

Jay said the Commission appreciates the thought and work that went into this proposal. They have had a little more time to look at this which is more of a straight technical proposed process and they are generally encouraged by the concepts put forth. They see a science-based system as being a reasonable way to allocate shortages or surpluses certainly between fisheries and irrigation needs, particularly as pertains to the Flathead Irrigation Project. There are questions they will need to work through to see if this can work for non-irrigation uses. Because they are talking about a science-based approach it puts a high premium on joint technical work. The Commission is gratified that the Tribal Council agreed to the process. It puts a premium on the need to ensure that they are all sharing data as fully as possible so they can collectively work through issues to have the fullest understanding possible of existing uses, how shortages are allocated and understanding of flow data to see what kinds of water years they are looking at. Jay said they recognize it is appropriate to have a level below which base flows can't fall and thus there is a high premium placed on joint technical work. There is excellent technical staff for the Tribes and their consultants, and the Commission is very confident in its technical people and

has good buy-in to the process from FW&P and DNRC to contribute resources to the process. A question that will remain as they work through the technical issues is that of incorporating technical issues into an administrative scheme they are able to agree on. The Commission is a little bit away from being ready to engage fully on the question of administrative scheme but they are hoping to be able to do that as soon as possible. They all share the goal of moving the process along with all deliberate speed and are cautiously optimistic that this is a process they can bring to successful conclusion by 2009.

Duane Mecham said they had concluded the exceptional outline put forth by the Tribes on shared shortages was a good basis for proceeding with negotiations on this set of issues. He is excited that examination of the proposal is shifting. He said Jay had some good comments on how that goes forward.

c. Report from Tribes on Tribal Council Direction regarding a joint technical team.

Clayton said the Tribal Council formally established a Tribal technical team working with the State technical team and they have several technical people formally on the federal team. They will also have the legal support they need to get legal review of technical issues done, for example on existing uses as an item they need to define. As Jay indicated they have been having regular meetings as the technical work proceeds.

Jay said the Commission's core technical team consists of Stan Jones, hydrologist; Bill Greiman, agricultural engineer; Sonja Hoeglund, GIS; Ethan Mace, surface water hydrologist from Missoula Water Resources; and Brian Marotz, FWP fisheries biologist and instream flow specialist from Kalispell and some others they are working with including Bill Schultz, regional manager of the DNRC Missoula regional office. They have State agencies they report to as they proceed and there are other resources available as the Commission needs them. They are comfortable that they have good Tribal, State and federal people to do the technical work. If the federal team can identify additional technical team members who would like to participate, that will be good.

Clayton said the technical teams will be useful in a practical process, for example looking at data that exists, if they are sharing data finding out what that data is; coming to some agreement and understanding on common sets of data; solving some technical questions and providing technical support as they move through administration. He encouraged the federal team's technical participation in the process. Jay said from the State's technical perspective on technical needs, one of the critical pieces of data they would like to receive would be access to HKM's existing use data from 1992, as a source to develop the existing uses. The second part would be the Tribal data on stream flows and there are some key streams they would have much interest in. He said he would put the requests into a letter. He invited the Tribe's technical team to come to the Commission's office and go over what technical information the Commission has and hear what the Tribe would like to see from the Commission's technical information. Clayton thanked him and said through the process the technical teams would need to have common sets of data. They have been working with their attorneys to put a list together of what they have and will talk about interest in coming to Helena.

Duane said they are impressed by the experience and dedication of the Tribal and State technical teams. On the federal front most of their technical expertise is arranged through the

BIA who contracts for their technical resources. At this time they have put all their financial resources to contract to prepare claims. It takes time to focus the experts from litigation to the activities in a settlement. They will have allocations of funding for BIA, within the next three weeks. He will also be checking with FWS for expertise in flows and bull trout and other information relevant to instream flows and with the BOR for hydrology experience. He said on the technical side the federal government will have experts available to confirm that information developed can be endorsed by the United States, and that they will have people attending the meetings. Clayton said that some data sharing and technical review by the federal team has been ongoing for some time. A lot of technical information such as the hydrology model has been shared.

d. Report from State of Montana on proposed scope of work for digitizing assessed acreage for the Flathead Indian Irrigation Project

Clayton said it will be good to hear the proposal from the State. Jay said they are focused on Project water use as a significant factor of consumptive use on the Reservation. One thing they recognized, when discussing universal existing uses, efficiencies to satisfy Tribal fisheries goals, etc., is that they need to get a good handle on existing Project use and operation. There is interplay between this data and the transfer talks. This has gone to a process of a joint Tribal State request to the BIA for some records to help understand the parties' knowledge of existing uses. Seth Makepeace and Bill Greiman have taken lead roles at the staff level to figure out what they want to request from the BIA. Chairman Steele and Chris Tweeten have signed the request letter to the BIA. Jay said he viewed this as a signal indication that the parties are working well together with a common goal to put concepts together. Duane will be responsible for the follow up. He said they have to be cognizant of federal privacy law; however they have worked through such requests for other tribes. Two other items have been discussed, including that the information being developed will be available for all parties; the federal team also has to look at how the information would be handled if the parties went to litigation. He said if claims proceed to litigation, as they are based on claims up through 1973, maybe current snapshots on claims would not be used at all, but looking at the relevance of the information if they should go to litigation will be helpful for the federal team.

Jay asked if Duane has any sense of how long data turn around might take because of the timeline. Duane said he would come back at the next meeting with an answer to that after he talks to other colleagues knowledgeable on the privacy act. The Project BIA information is pretty well mobilized as they talked to the Project in December and have a better sense of what information is available.

e. Discuss other technical work

i. Groundwater

ii. Canal seepage

Clayton said the CSKT has been putting a lot of resources into a groundwater project, and he thinks they have joined a request for seeking federal assistance for some additional groundwater information, at least in-house. He said there have been some technical discussions on that and asked to hear where the other parties are. Duane said they indicated the BOR would have potential resources including equipment that could be of assistance. Seth or other Tribal staff would evaluate whether the equipment or human resources could be beneficial. He said if the BOR had data gathering information or resources the federal team would make arrangements to get that. Clayton asked if the Tribes needed to pay for any of that and Duane said the goal

would be to use BOR funding to assist Indian water settlement activity which is the fund they tapped into to do Hungry Horse modeling. Clayton asked after the technical team worked through what they need what process they should go through. Duane said they could get a better idea from Norbert Reis, but to request something either in writing or by conference call. Clayton asked if they could drill test wells and Duane said yes. Jay said it is his understanding that the Tribes have groundwater modeling going on and that is a time and money intensive task. He said one thing discussed at the technical meeting is whether there are targeted watersheds relating to irrigation and whether there might be state funding or contract services money to be put into those particular efforts. One thing they recognize as a critical issue, when looking at balancing fisheries vs. Project flows and mitigation or augmentation, is that the Project in its leaky condition has some benefits for fish. They were hoping to probably internally visit and to visit with the Tribes and see if there are priority streams where concentrated groundwater studies might be worth doing and whether the contribution of state dollars might be appropriate. Clayton said procedurally they will task the technical people with looking at initial priority areas where they could potentially drill some wells to get some additional data that would contribute possibly to conceptual modeling or computer modeling.

Regarding canal seepage, Clayton said he is not sure where the parties are on that. Jay said perhaps his last comments go more toward the canal seepage question than the broader groundwater question. As they look at groundwater Reservation-wide, it different and broader and more complicated than looking at targeted areas of canal seepage and groundwater. He said the technical groups will need to look at this. Clayton asked if there was a mechanism for funding canal work if they have to rely on anything beyond internal resources. Jay said the Commission has some contracted services funds. It comes back to the technical group refining what needs to be done and at what stage of the process. Clayton said they may be able to work on canal seepage and groundwater together. Jay said he would be interested in potential federal participation particularly through the FWS to see what resources they might have to look at some groundwater questions.

There was a brief caucus break.

5. Other

Chris Tweeten said they had consulted with the Commission team to see if there were any other matters to discuss. Duane asked if he could get a copy of the letter to the BIA. Clayton said he would get Duane a copy. Duane also said they discussed some ways to get information in terms of the privacy act. Clayton said they are starting to get into more complicated technical work and suggested on future meeting agendas they detail a place for the technical teams to report on what they have done. He said he had brief discussions with the attorneys and the chairman regarding public information about this process and water rights on the Reservation. He asked the State and United States to work with them and begin putting together educational materials and for public meetings that will give a different format for providing education. **(Attachment 5)** As long as water rights have been going on in Montana there is still little common, clear understanding of what the process is. Chris said the State would be interested in having those discussions and it is an interesting idea. Clayton said they would call or put something in writing and that they could benefit from the Commission's expertise also.

6. Public Comment

Clayton opened the public comment and invited people to step up to the provided microphone and give their name and comments or questions.

Stephen Small Salmon: He said he had lived there all his life and that it is their land and a lot of people don't know this is the Reservation. The water belongs to the Tribe and they are fighting for it. They know there is a shortage of water looking at the lakes and ponds. Today they can't just drink the water; they have to get bottled water. There are a lot of times they almost lost their lands. Today they fight for lands, water and timber. He said he is glad he doesn't have cattle or horses. He goes down the road on cold days and the farmers are still using the water; they should shut them off. Lots of things; water, timber, land – they need these things and should not negotiate for them. Others should all go home and leave them the water. How many years have they been fighting for their water rights? Pretty soon there will be no water to fight for. He said he just wanted to get his voice out there. This is the Tribe's land, water, air, timber; and it is beautiful here – they are getting crowded out. If people don't like their Reservation they can move out.

George Culpepper, Northwest Montana Association of Realtors: He said his organization will allow the parties to use their facility in Kalispell free of charge for meetings such as public outreach. He asked if there was some way to have public service announcements if meetings were cancelled such as the last one was - about six of their members went to Polson and the meeting had been cancelled. He asked about the minutes – are there minutes and if not, why not? He said that the Governor was opposed to extending the water Compact Commission and he offered support to extend the Commission and said they would work with both parties to make sure a bill is adopted. He said it is important because while negotiations are going on it is important to get it right. He knows the State, federal and Tribal people are represented in the negotiations but there is no representation for homeowners and his association represents the homeowners in northwestern Montana and the interests of all homeowners, Tribal and non-Tribal. They will appreciate it if their comments are looked at and taken into consideration. He said they have an interest in Hungry Horse Reservoir and will have comments on that – they suggest that if the parties look at Hungry Horse as a water source they should also look at other sources around the Reservation. Clayton said they really haven't had minutes. Chris Tweeten said the meetings are recorded and in the old days there were written transcripts done from the recordings, which was expensive. Commission staff will make copies of the digital recordings for anyone who wants them. They do not keep formal.

Dan Decker: He said it was good to see the parties at the table. It is frustrating to watch the process when you see how slow the movement has been over 25 years. At the same time, the Tribe is making a huge compromise to put a unitary system of management on the table. Part of the frustration is to see his Tribe expend its time and resources, some with the assistance of the federal government, and have the State ask when the Tribe will share that information; that is of some concern to him. He said he supports the concept of Unitary Management and would like to see more about it especially in terms of shared shortages. At the same time it is a difficult situation to look at climatic changes – the whole environment of the Reservation has changed since the Montana Water Use Act. The demographics of the Reservation have changed. The agriculture vs. homeowner interests have definitely changed. The realtor saying they want to be part of the process shows the changes in the domestic households. The Tribes are now the majority landowner on the Reservation; they are the largest water use on the Reservation. Tribal members are engaged in the business of agriculture. He is encouraged by the process and would

really encourage the Commission to consider what is on the table. He said the Tribe having to file their claims in a short time frame begins to open the door to litigation. It makes much more sense to come to the table and to do a unitary management scheme; the Tribes have proven their management capability. The Tribes are generous in allowing an open door to participate in that management. It is recognition of who the residents of the Reservation are. He looks forward to see what the code will actually look like. People need to recognize that there are 6,000-7,000 Tribal members and that this is their home and the land is reserved for them, along with the water and they have senior priority dates. The fish are part of that priority system. When they come to the table and he hears the concepts talked about such as shared management and shortages, those are huge compromises from the Tribes' side of the table. He has not seen that from the State's side of the table. The Tribes have said since the 1970s it is not their intent to deprive anyone of water. It is their intent to see that the water is protected. He appreciated Chairman Steele reminding people to not underestimate the Tribe's resolve to protect those things.

_____, water user and Tribal member (can't understand name): He said he does not see things in terms of water compacts and compromise because the compromise that he sees is on the Tribe's part, not the State or feds. It is the Tribe's water and watershed. Why are they negotiating with other people over their water rights? They know how to protect the water and land and they've done it for thousands of years, yet they are compromising and negotiating with people who don't really have a right to it. As far as white people using the water on the Reservation for irrigation he will defend their rights to use the water for irrigation as much as Indians. If they think the Indians will take their rights away they are wrong. He does not want to compromise with anyone. It is the Tribal Council's decision to make; the people's decision. To quantify their waters is way out of reason. They don't know what their water needs will be 50 years from now. As needs grow there are different needs for different kinds of water. They could get the BOR to fix all the seepage problems but all the springs and swamps in the lower valley weren't there before the canal was put in. To try to solve canal seepage problems, look at what will happen down in the valley. He does not see them negotiating with anyone but themselves. They have tried to negotiate and they have lost every time. Their traditional boundaries went as far as Billings or farther. They settled for west of the divide...they lost the Bitterroot – they opened the Reservation in 1910 against the Tribe's wishes. They have lost from 1855 on. They need to study the water, understand the hydrology and the hydrogeology of the water; the irrigable acres and the potentially irrigable acreage, under new technology that's evolving every day. etc., but it is their problems and issues and it does not belong to the State, feds or the Joint Board who has sued the Tribe's 27 times and lost 27 times. It's the fox in the chicken house.

Margie Hendricks: She has been involved for three years in water issues in Polson and in this area developers are behind an effort to get as much development in the pipeline as possible so their projects will have to be negotiated by the State. This local effort to grab the water that needs to be negotiated has caused citizen participation and environmental protections to be compromised. It is an important issue and no one is paying attention to it. She hopes someone will see their participation and environmental protection is compromised. (hard to hear)

Pat _____, fairly new to the area and from Texas. She said when they came to the Reservation they came because it was unique; beautiful mountains and waters, etc. was preserved. She is thankful that she lives in such a wonderful place and urged the room to make this a win-win situation for everyone.

Thompson Smith (?), Charlo: He said that the State representatives on the Commission need to realize that there are many non-Indians who live on the Reservation who don't oppose the Tribe or the Tribe's proposal of unitary management. He does not know how the State decides what stance to take but it is immensely representative of non-Tribal residents on the Reservation. It may be a majority now of non-Indians on the Reservation who came there with full knowledge that this is a Reservation and different from the rest of Montana and sovereign territory. If the Tribe's proposal is not responded to more positively, then as Dan Decker said, things could end up like seven years ago – or it could end up in a giant legal morass, litigated forever, costing huge amounts of money. He said there seems to be a locked in knee-jerk reaction sometimes on the part of the State to these kinds of issues. When the Tribes' assert their management of natural resources there is an automatic response to oppose that. That needs to be re thought in a hurry in this case. Keeping the historical perspective in mind, this needs to be welcomed rather than opposed for the benefit of the resources and everyone. The Tribal proposal is moderate in protecting uses on the Reservation... in spite of the fact that the opening of the Reservation in 1910 was a breach of the Hellgate Treaty.

Walter Bigby ?. He said they should not be negotiating with the State or the feds. The feds set up the Reservation for the Indians. The feds say this is yours, live here; the State comes in and starts taking land. The State moves in, takes some of the land to homestead in and opens it up; now they want the water which is rightfully the Tribes'. The Council he respects, but to negotiate with these people, he says no, the water is theirs and theirs alone. What is next, capture the oxygen they breathe?

_____ ? He said he is partial to Stephen's remarks. He remembers the day he could go to the Flathead Lake or any stream and drink water; Hungry Horse was drinkable. Progress comes and they can't drink the water any more. He did not think there would be a day when he would buy bottled water in this town. He does not think they should have to negotiate for their water rights. There should be another issue to look at – that's where the pollution is coming from in upper Hungry Horse. How much money does the Tribe have to give up negotiating; how much money does the State have to give up negotiating this issue. Why can't it be worked out with very little money? They will spend another million or so to come to a conclusion. They need to look at the water coming into Flathead Lake. He misses the day he could drink water from Flathead Lake. Look at where all the pollution is from. The Tribe should be able to control its own water. Their Tribe has come a long way and grown and educated. They should be working to make the water clean.

_____ ?. He said we are here approaching a crisis. When there is a crisis people help each other and support each other and that is where people are with the water: approaching a crisis. As the audience has heard from other speakers, there should be no negotiations. Negotiations have been done since 1855; Indian people have been compromising for over 500 years and they survived through all those compromises. It is time to stop compromising and think of future generations and not about ourselves; about greed. As people look around at the environment greed has destroyed. What will be passed down to our children? Most people are getting up in age and all think they will live forever but life is short. They have to think of those generations yet to come who will live with what is left to them. We didn't learn and now we are here at a crisis. If we'd paid attention as the ancestors counseled, not to have more...they taught us how to live in the means around us. We can't demand getting so much water; we have to

adjust and operate with what's here. We need to look at this as a crisis and find solutions. If we listen to our ancestors we will continue to be able to manage for future generations. It's time to protect what we have left. What we can control is to learn from history and learn from it and know our ancestors set down and agreed; made the agreement and we can't change that. Think about what will benefit your grandchildren and great grandchildren.

Clayton thanked everyone for their time and comments.

7. Set next negotiating date (tentatively February 27, 2008)

Clayton noted they had talked about having monthly meetings so on that time line the next tentative date would be Feb. 27th. Duane said it was a good session today and thought it would be worth considering whether one in three weeks was necessary. The last Wednesday in March will not work for him. He proposed the variation of having one meeting mid-March and then in April going back to the last Wednesday in the month. Chris said he didn't have a problem with that but Jay would be gone most of March. He could probably be there via conference call. March 12 may be problematic for most of the Tribal Council but Chairman Steele said to proceed with that date. The State will chair the next negotiating session. There will not be a meeting on February 27th. The teams have agreed to have all the negotiation sessions on the Flathead Reservation. April 30 would be the date in April.

8. Closing comments by the negotiation teams.

Duane said they are working out the arrangements to keep on track. Chris said they were optimistic the State will have something substantive to talk about with respect to administration at the next meeting;

Pat _____, a CSKT team member, asked for some time to speak. He noted negotiations have been ongoing for awhile, perhaps too long. Talking about when the environment is all gone; it is very appropriate that they have the meeting here today. In his time, as mentioned before, this reservation used to enjoy good clean water everywhere. You could see the bottom of the river but you can't any more. All because of pollution. What will it be like 20 years from today if we don't take care of what we have? We travel too much, too fast. Everywhere you look, devastation, destruction...when the people quit working together they fall apart. Negotiation is compromise. He told a story from 1935 and growing up in a friendly community and a land owner selling a piece of land with springs on it so no one could use it any more... and his grandmother whacking the fellow with a wet towel until he left. If they do not sit down as a Tribe and start thinking ahead...he said they would not be negotiating. They are through giving; they have lost a great land, the United States of America. Reservations are little tiny dots spread out around America. We have to protect this little tiny dot; we will do our best, whatever it takes to protect this land. There are generations to come that need to enjoy this land the mountains and the streams...he talked about the possible mine in Canada. His main concern is remember to work to protect this little piece of land and the water and how precious and sacred water is. He said hopefully he won't have to use a wet towel approach but he will if he has to.

Clayton thanked everyone and said he would see them on March 12 for the next meeting.

Meeting adjourned.