

RESERVED WATER RIGHTS COMPACT COMMISSION



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STATE OF MONTANA

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Jack Salmond
Representative Matt McCann
Representative Cindy Younkin

TO: Fred Matt, Tribal Chairman, CSKT

FROM: Sonja Hoeglund, RWRCC

DATE: January 25, 2002

RE: CSKT letter of 12-20-01 requesting copies of public comment

Dear Chairman Matt:

Per your request, enclosed you will find copies of written comments on the Tribes' proposal the Compact Commission has received in the last week:

Neiman January 15, 2002

Dowser January 18, 2002

Brown January 20, 2002

Adams January 21, 2002

La Barrer January 21, 2002

Gregory January 21, 2002

DeGrandpre January 22, 2002

Richardson January 22, 2002

Hoversland January 23, 2002

Hoversland January 23, 2002

Palmer January 23, 2002

Gustafson January 23, 2002

Marshall January 23, 2002

Richardson January 23, 2002

Tanner January 23, 2002

Rosman January 23, 2002

Bjerke January 23, 2002

Zignego January 23, 2002

Miller January 23, 2002

Marchello January 23, 2002

Donovan January 23, 2002

Kingsley January 23, 2002

Stogner January 23, 2002

Yatchak January 23, 2002

Olson January 24, 2002

Johnson January 24, 2002

Richardson January 24, 2002

Oliverson January 24, 2002

Prudy January 24, 2002

Ambo January 24, 2002

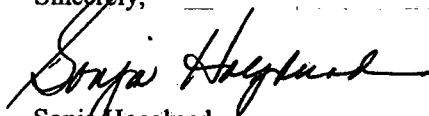
Ryan January 24, 2002

51

Johnson	January 24, 2002
Johnson	January 24, 2002
Johnson	January 24, 2002
Johnson	January 24, 2002
Murtha	January 24, 2002
Hermes	January 24, 2002
Weber	January 24, 2002
Rowold	January 24, 2002
Johnson	January 24, 2002
Richardson	January 24, 2002
Jarecki	January 24, 2002
Rowbury	January 24, 2002
Tangedal	January 24, 2002
Zignego	January 24, 2002
Ellenwood	January 24, 2002
Matejovsky	January 25, 2002
Reum	January 25, 2002
Coulter	January 25, 2002
Smith	January 25, 2002
Lake	January 25, 2002

All of the comments are of course public information and we will provide them to you as we receive them.
Please give me a call if you have any questions.

Sincerely,



Sonja Hoeglund
Reserved Water Rights Compact Commission
1625 11th Avenue
Helena, MT 59601

Phone 406-444-6843
Fax 406-444-6721
Email shoeglund@state.mt.us

Cc: Chris Kenney

Ronan, MT.
Jan 22, 2002

Reserved Water Rights Compact Comm.
Helena, MT. 201601

RECEIVED
JAN 25 2002
D.N.R.C.

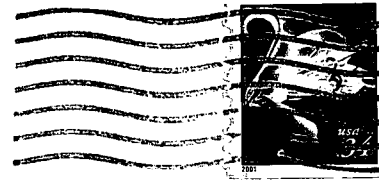
Gentlemen:

I am very opposed to the tribe taking
over the water rights on the Flathead Indian
Reservation. We do not have any voice in their
tribal government.

Respectfully,
Evelyn Lake

Envelpd Lake
1134 Old Hwy 93
Ronax, MT
59864

MISSOULA, MT 598
PM
24 JAN
2002



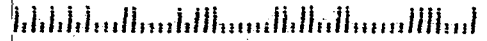
Reserved Water Rights Compact Comm.

P.O. Box 201601

Helena, MT.

59620-1601

59620/1601



RECEIVED

JAN 25 2002

D.N.R.C.

January 24, 2002

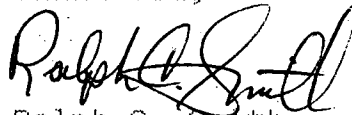
Reserved Water Rights Compact Commission
P.O. Box 201601
Helena, Montana
59620-1601

Dear Susan Cottingham,

As a water user, of both surface and subsurface water, I believe that only the federal and state governments should have control of the water rights in the state of Montana to include the Flathead Indian Reservation. The same government that placed tribal members on this reservation, gave me the right to own land with all the rights of that ownership. Therefore that is the only Government that should be in control of both my rights, as well as the tribal member.

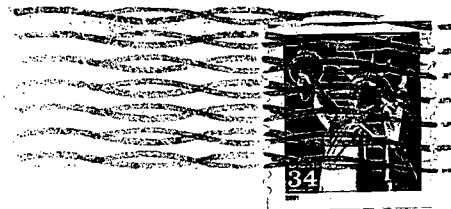
I strongly ask that you up hold our private property rights and place full control of all water rights with the United States and the State of Montana.

Thank You,



Ralph C. Smith
P.O. Box 66
Ronan, Montana
59864

Ralph C. Smith
P.O. Box 66
RONAW, MT.
59864



RWRCC
Susan Cottigman
P.O. Box 201601
Helena, MONTANA
59620-1601

59820/1601



Close

From: JUDY COULTER [SMTP:ronandjudy@centurytel.net]

To: rwrcc@state.mt.us

Cc:

Subject: Water Right Opinion

Sent: 1/25/2002 10:44 AM

Importance: Normal

Even though I feel the tribes should have some say on how the rivers, creeks and streams are used, I don't feel that they should have any jurisdiction on wells that are drilled on fee land. I know the Water Rights will all have to be monitored by one entity so, my vote is for the State to continue the handling of these rights.

Thank You

Judy Coulter

Bushnell, Dan

From: Laurie Ellenwood [roblauri@compuplus.net]
Sent: Thursday, January 24, 2002 6:44 AM
To: dabushnell@state.mt.us
Subject: Controlled water rights on the Flathead Reservation

I am extremely concerned about the water rights issue on the Flathead Reservation. The tribes claiming jurisdiction for all water, including ground water, extending to (what they claim) is their aboriginal areas or headwaters that flow into Flathead Lake. As a resident, tax payer and concerned citizen, I strongly suggest the State take a stand for Lake and Flathead counties for the 80% of us Lake County residents that are NOT tribal members but have an invested interest in our valuable resources. I'm not saying that the tribe shouldn't have jurisdiction on surface water, but when it involves them controlling additional wells and municipal/community wells being drilled, or a filing of water rights, that is a violation of our RIGHTS! I know their interest is to curtail growth (or should I say eliminate growth) on the reservation and by this action our property valuations will plummet! That, of course, is including the tax base that pays a portion of your department operational costs! I'm outraged that we, as residents, state citizens and taxpayers, HAVE NO RIGHTS! When is the state going to stand up for US!

Laurie Ellenwood
125 Alison Drive
Polson, Montana 59860

Bushnell, Dan

From: Ken & Sandy Richardson [kands@bigsky.net]
Sent: Wednesday, January 23, 2002 1:56 PM
To: dabushnell@state.mt.us
Subject: FLATHEAD WATER RIGHTS

Water Rights Compact Commission.

THE RIGHT TO SUSTAIN LIFE WITHOUT A PRICE

It is in the best interest of all involved to review the reason why agencies are trying to gain complete control of water. Is it just another way to generate income from natural life supporting gifts?

A few obstacles must be crossed and a new understanding of why agencies will never get full control of any natural gifts that are essential to sustain life.

We must first consider the abuse of water rather than the use. Water is like air; they are both vital to life and cannot be considered as private property. Hundred millions of gallons of water will be polluted before the sunsets each day. If we agree that water, air and sun are synonymous to life then it should be understood that a price could never be placed on these items. It is a birthright too receives these three free gifts without any restrictions on their common and ordinary use. We must identify and agree on what is considered waste or abuse of these precious gifts. Who should be paid or charged for excessive use should not be confused with common and ordinary use. When we stop drinking for 48 hours we become dehydrated and the lack of air for minutes results in death. About 78 % of the earth is covered with water, one half of the earth is covered with sun at all times and the entire earth is covered with air. Protecting the quality is a top priority of these gifts; let's identify the resources by availability, quality, volume and the natural rate or method it is replenished. The next step is to identify abuse and excessive use. Equally important is to determine; what conditions must exist to claim ownership of a resource that is naturally recycled. Air is replenished by natural environmental chemistry. Water is also recycled through a complicated process of oxidation and filtration then delivered to the mountain ranges and vast land areas. Rain and snow seeps into aquifers, where one aquifer will feed another. The streams run into lakes then to rivers and rivers to the oceans. Is it possible for any agency to pick a spot in this natural process where they control or own a natural life-supporting gift and sell it as a commodity? If you don't own it you can't sell it. It could be argued that if oxygen is bottled or if water is stored, that someone has taken control and they may have a claim on the portion that they control. It would be their burden to prove that they will only sell the portion they control. If a dam is built and backs up a billion cubic feet and the land that supports the back up is owned by an entity that elects to sell the billion cubic feet to a willing buyer; that portion may be negotiated. The difference between the natural affluent should be subtracted from the flow out to calculate a sale of their reserve.

In certain geographic areas there are an EXCESS of fresh air, water or sunlight where it's natural process is interrupted to make energy. This would include wind mills, dams, solar panels, nuclear plants, coal fired generators and so forth. The common denominator is that they all use one or more of these natural resources. The entity responsible for this interruption must be held to high standards but never can they be guaranteed that the viability is to remain stable. There is no place on earth that a human should be denied the common and ordinary free use of these gifts. It is understood if humans chose to live in an area they depend on the supply of fresh air or water that is another matter.

Ken Richardson *** at (kands@bigsky.net)**

**Close****From:** Sailmaker [SMTP:sailmaker@compuplus.net]**To:** rwrcc@state.mt.us**Cc:****Subject:****Sent:** 1/25/2002 9:20 AM**Importance:** Normal

Regarding tribal control of the water on and above the Flathead Reservation:
this is a Democracery lets have a referendum and abide by the will of all
the
citizens liveing within the reservation.

Sincerely,

Dick Matejovsky

J.R. Dick Matejovsky
Broker/Owner
Montana International Realty Plus
Ranch, Residential, Recreation
See our website at www.mtirp.com
Contact me at dick@mtirp.com or 406.883.6700

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Hoeglund, Sonja

From: Dave DeGrandpre [dave.planning@lakecounty-mt.org]
Sent: Thursday, January 24, 2002 9:48 AM
To: Hoeglund, Sonja
Subject: RE: Water rights on the Flathead Indian Reservation

Hi Sojna:

Thank you for your quick response/notification of receipt of my comments. Do you plan to respond to the contents of the message? In particular, the question of water rights for usage of wells currently being drilled is of utmost concern. If the individual property owners have no assurance that they will have the right to use the water in the future, we have the obligation to let them know of the risk as soon as possible. Otherwise, the financial risks to the landowners and perhaps the government agencies could be devastating. I suggest we try to clear up this question as soon as possible to avoid further potential problems.

Thank you for your attention to this matter.

Dave DeGrandpre, Director
Lake County Planning Department

-----Original Message-----

From: Hoeglund, Sonja [mailto:shoeglund@state.mt.us]
Sent: Thursday, January 24, 2002 10:25 AM
To: 'Dave DeGrandpre'
Subject: RE: Water rights on the Flathead Indian Reservation

Thank you for your comments, public participation is an essential part of every negotiation and insures that the commission's deliberations on behalf of the state address the concerns of the public.

Sonja Hoeglund
Reserved Water Rights Compact Commission
1625 11th Avenue
Helena MT 59620-1601

(406) 444-6843
shoeglund@state.mt.us

-----Original Message-----

From: Dave DeGrandpre [mailto:dave.planning@lakecounty-mt.org]
Sent: Tuesday, January 22, 2002 2:23 PM
To: shoeglund@state.mt.us
Cc: ayates@state.mt.us; stjones@state.mt.us
Subject: FW: Water rights on the Flathead Indian Reservation

-----Original Message-----

From: Dave DeGrandpre [mailto:dave.planning@lakecounty-mt.org]
Sent: Tuesday, January 22, 2002 3:14 PM
To: rwrcc@state.mt.us

Subject: Water rights on the Flathead Indian Reservation

January 22, 2002

Dear Flathead Team Members:

I have read the document entitled "A Proposal for Negotiation for Reserved and Aboriginal Water Rights in Montana" and would like to offer the following comments as the Director of the Lake County Planning Department. As you may know, approximately two-thirds of Lake County overlaps with the Flathead Indian Reservation. Lake County has also been one of the fastest growing counties in Montana over the past 30 years. My office deals with issues such as guiding growth to where new residents can be efficiently and effectively served, maintaining agricultural lands and wildlife habitat, subdivisions and other subjects.

My primary concern is that during the negotiation process, no new water rights can be granted. One of the primary premises of land use planning is that growth should be guided toward locations where public facilities such as schools, public sewer and water and emergency services exist. There are many reasons for this premise including the efficient provision of public services, the preservation of agricultural lands and wildlife habitat, the maintenance of high quality aquifers, and the air quality impacts of increased vehicle trips on dusty county roads.

Currently, the City of Polson, Lake County's and the Reservation's largest population center, has a moratorium on new water hookups because Polson is currently at or near its maximum allocated quantity. Other population centers in Lake County are not far behind. When new developments are proposed, they must be located off of the public water and sewer systems (i.e., in farmland and wildlife habitat) where individual lot owners will drill their own wells (which provide opportunities for groundwater contamination) and install their own septic systems (which can degrade our aquifers). This practice is contrary to the primary premise of planning described above and results in scattered developments that change the rural character of much of Lake County and the Reservation and reduce the viability of agricultural lands, water quality and wildlife habitat.

Therefore, I request that during negotiations, if limits are to be placed on new water rights, they do not apply to municipal and multi-party water systems. In fact, these types of systems are to be encouraged if we are to, as stated in the introduction of the Tribal proposal, "conserve resources for future generations." Otherwise, many of the resources the Tribes and Lake County seek to protect will be unnecessarily and inadvertently compromised.

Additionally, I request clarification as to whether the owners of individual wells being drilled today will have the right to use the water tomorrow. Many landowners are subdividing land and many individuals are buying lots with the notion that they can use water for domestic, lawn and garden and other purposes. Are there any assurances that their underlying assumptions regarding water use are well founded and will not result in years of litigation? If not, perhaps a moratorium on all new wells (Tribal and non-Tribal alike) is appropriate, an idea that I doubt many citizens will approve of.

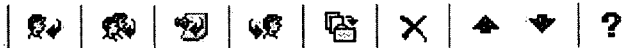
In closing I would like to thank all members of the negotiating teams for their effort and diligence.

Sincerely,

Dave DeGrandpre, Director
Lake County Planning Department

P.S. I send you this message via email because I know the current deadline

for public comment is near. Please excuse the presentation.



Close

From: hermes [SMTP:hermes@compuplus.net]**To:** rwrcc@state.mt.us**Cc:****Subject:** Water rights lawsuit**Sent:** 1/24/2002 10:51 PM**Importance:** Normal

To: Program Mgr. Susan Cottingham
Reserved Water rights Compact Commission
From: Dean Hermes, Lake County, Montana Resident
Subject: Views on Water rights lawsuit

Susan,

As a landowner and a person that gets my water supply from a ground well on my property, I want to voice my opposition to letting the Salish Kootenai tribal government adjudicate the water rights for residents of Lake County. I feel this way because I pay my taxes to elected state and county officials in Montana. Like the majority of the residents of this county I am not a tribal member and have no say in thier governing bodies. They on the other hand are allowed to vote in all State and countny elections and are represented by the present adjudicating body. It would be bad policy to allow a tribal minority to adjudicate all water rights in this county.

I hope my opinion will be taken into account and appreciate a chance to participate in the process of bringing this matter to a fair solution for everyone.

Sincerely,
Dean Hermes
478 Rocky Point Road
Polson, Montana 59860



Close

From: Norman Reum [SMTP:cows@stignatius.net]

To: rwrcc@state.mt.us

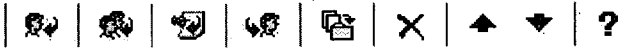
Cc:

Subject: Flathead Res. Water rights

Sent: 1/25/2002 5:32 AM

Importance: Normal

Dear Susan, We firmly believe that the CS&K Tribes should not have control over water rights on fee lands on the reservation. Such a move would give too much authority to a government that non-members have no representation in. It would give them effective control over all development here. Their rights should extend to trust lands only. Not those of the taxpayers!! Thank you, Norman & Mabel Reum 2616 McDonald Lk. Rd. St. Ignatius, Mt. 59865



Close

From: milton weber [SMTP:sti4995@blackfoot.net]**To:** rwrcc@state.mt.us**Cc:****Subject:** water rites**Sent:** 1/24/2002 7:32 PM**Importance:** Normal

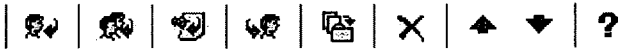
Jan. 22 2002

Milton R. Weber
655 McDonald lake rd
St. Ignatius Mt 59865

Susan Cottinghah

I've review the proposal and claim of the salish and kootenai tribes on the water rights here on the reservation. in which they claim by the rites given in the 1855 treaty which was a 50 year treaty as all treaty made by the US government the first paragraph of this treaty relinquish any claim by the tribe to any land or rites from the Rockies to the state of Washington which in 1904 this reservation was abolish by the president of the united states of America Herry S Taff and all the tribe members living here at that time were Geneva 40 acres and all the rest of the land timber minerals were sold by the U.S. government to the citizens of the U.S. all the lands in which a lake or a reservoir could be built or in which a lake was that could be used for the citizens and homesteaders who move to this area was perches by the U.S. government their for the tribe dose not have the rite to claim the water or the land of this reservation (from 1904 tell 1934 this reservation was abolish) in 1935 the U.S government gave the tribe the rite to have their own government it was never intend for the tribe to have any say over non Indians or authority and they don't have any nor did our government intend for the tribe to impose tax and tariff on non tribal members as our constitution give us the rite to have representation be for a tax can be place on us and we have no representation at the tribe government

Thank You for Your Time
Milton R. Weber



Close

From: Paul L Rowold [SMTP:rowold@juno.com]

To: rwrcc@state.mt.us

Cc:

Subject:

Sent: 1/24/2002 2:47 PM

Importance: Normal

Dear Ms. Cottingham:

I write to express concern regarding the water rights of Polson and all communities on the Flathead Reservation. The proposed granting of rights to the tribes may adversely affect my property rights and value. I would ask that you provide me with materials by which I may become better educated in this matter and register my opposition to any actions which would undermine my water rights and property values.

Sincerely,

Rev. Dr. Paul Rowold

129 Mission Lane

Polson, MT 59860

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January 24, 2002

From: Janice Johnson
1053 Stillwater Rd.
Kalispell, Mt. 59901
jmall@cyberport.net

To: The Water Rights Compact Commission
rwcc@state.mt.us

Subject: Water Rights in Flathead Counties

1. Against -Adjudicating the water rights in Flathead Counties.

2. We have a constitution that provides me with rights also. In this constitution it states that all people are equal. Why would you want to give any power to anyone that is not a part of the American System, that has made our country great.

I'm sure if I search far enough in my heritage, I would more than likely have an Native American Indian. This should not give me the right to try and control other peoples rights.

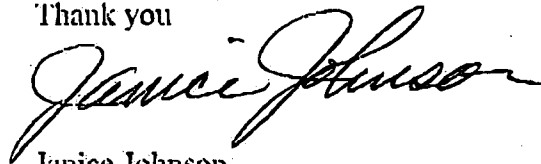
The Native Americans want to have their own communities, laws, officials, law enforcement, etc. I could go on, and on. But in the true light of the matter, we need to either make them a full part of our country as Americans, or cut them off of our way of life, and let them contain all their ways on the reservations. They should no have anymore or less rights then I do, or any other American.

This type of trouble will continue as long as we allow them not to be a part of the American culture, which consists of many nationalities, in which everyone shares the same laws and rights.

3. We need to stop all of these actions and

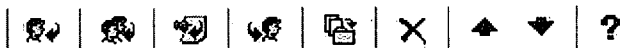
4. This whole issue really angers me.

Thank you



Janice Johnson

American Born



Close

From: Bret Richardson [SMTP:bretr@brnetworks.com]**To:** rwrcc@state.mt.us**Cc:****Subject:** Water Rights Comment**Sent:** 1/24/2002 2:38 PM**Importance:** Normal

I would like to voice my opposition to tribal management or any ownership of water on the reservation. I believe that the land given to the tribes as stated in the treaties of the past was the intent, and nothing further should be read into those rights. The air and water are not something that should be granted or assumed to be given to anyone party that does not allow unrestricted voting rights (of all related or effected by) their decisions. The State has managed the water right for the state of Montana for years and should continue to manage the rights for the Flathead reservation.

Please do not even consider giving Montana citizen water rights away, I can just image the result, I would pay to have water in my house, fish in the streams, swim in the lake, use the rain that falls in my yard....

Bret Richardson
809 Terrace Lake Road
Ronan, MT 589864

[Close](#)

From: Chuck Jarecki [SMTP:pennymt@digisys.net]

To: rwrcc@state.mt.us

Cc:

Subject: Comments of Proposed Salish Kootenai Water Settlement

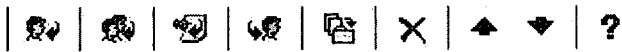
Sent: 1/24/2002 2:12 PM

Importance: Normal

Dear Sirs:

Any settlement that the State of Montana makes with the Tribes must take into full consideration the needs and rights of all the citizens of this area. When the Reservation was opened up to white settlement there was no difference in the original title to the land than in non-reservation lands. All land owners with fee simple titles should be treated equally, including their rights to the water. If this is not done, then those living on the reservations or affected by Tribal claims would suffer deminished value to their property. Does the State wish to be the cause of deminished private property values? The State needs to stand by the rights of all its citizens.

Sincerely, Chuck Jarecki
7687 Rocky Point Road
Polson, MT 59860



Close

From: Rowbury [SMTP:tetons@ronan.net]**To:** rwrcc@state.mt.us**Cc:****Subject:** water rights**Sent:** 1/24/2002 1:47 PM**Importance:** Normal

Susan Cottingham,

I read your recent address concerning the water rights in the West. I agree that we need to find a peaceful, friendly solution.

As a non-tribal resident of the Flathead Indian Reservation, I believe that rights should stay as they are--private landowners with oversight by the state. I don't like laws that seperate and divide us. There are other ways for tribal members to explore and enjoy their heritage.

I thoroughly enjoy my Norwegian/German heritage by baking lefse and doing hardanger embroidery. By sharing culture and heritage instead of fighting and making power plays, I believe that we can all find happiness and fulfillment.

I will be praying for a good decision on this issue.

Thank you.

Cheri Rowbury
tetons@ronan.net
45308 Hwy 93
Ronan, MT 59864
406-676-0645



Close

From: Patty Tangedal [SMTP:ptangedal2001@yahoo.com]

To: rwrcc@state.mt.us

Cc:

Subject: Control

Sent: 1/24/2002 1:31 PM

Importance: Normal

I am a Lake County taxpayer..I am against having the Indians in control of our "WATER RIGHTS"..Please put my vote as nay for their control of the water: Patty Tangedal. Polson, Mt 59860

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<http://auctions.yahoo.com>

Water Rights Compact on Reservation

From: Doug Zignego [SMTP:dougzig@digisys.net]
To: rwrcc@state.mt.us
Cc:

Subject: Water Rights Compact on Reservation
Sent: 1/24/2002 12:41 PM
Importance: Normal

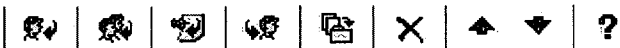
Doug Zignego
RE/MAX of Whitefish
509 E. 6th Street
Whitefish, MT 59937

It is my opinion that authority for all water rights adjudication for the Flathead basin should be with state government vice a regional tribal organization. The state of Montana has been able to reach agreement with other tribal governments in Montana and these agreements should be used as a model for this solution. Using an established model would eliminate the tribal need to develop "a comprehensive ordinance that addresses all users of all water on and under the reservation" and encourage a move forward to final adjudication in a more timely manner.

The citizens of Montana and particularly of Flathead and Lake counties, do not need to add another unique layer of bureaucracy to an already complex property rights issue.

Website: www.dougzignego.com E-mail: doug@dougzignego.com

Office: (406) 863-3409 Fax: (406) 863-3415
Cell: (406) 253-7825



Close

From: Doug Zignego [SMTP:dougzig@digisys.net]

To: rwrcc@state.mt.us

Cc:

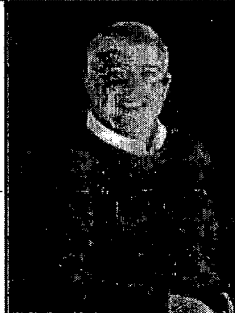
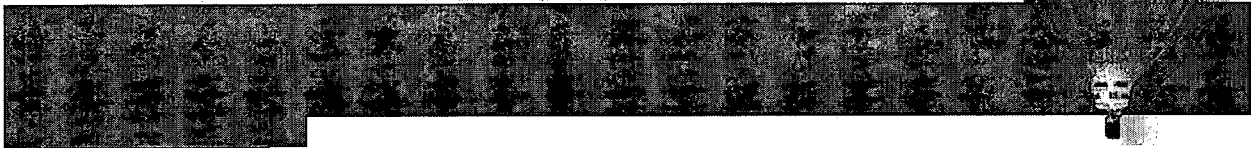
Subject: Water Rights Compact on Reservation

Sent: 1/24/2002 12:41 PM

Importance: Normal



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It is my opinion that authority for all water rights adjudication for the Flathead be with state government vice a regional tribal organization. The state of Montana should be able to reach agreement with other tribal governments in Montana and these should be used as a model for this solution. Using an established model would address the tribal need to develop "a comprehensive ordinance that addresses all use on and under the reservation" and encourage a move forward to final adjudication in a more timely manner.

The citizens of Montana and particularly of Flathead and Lake counties, do not need another unique layer of bureaucracy to an already complex property rights issue.

Doug Zignego
RE/MAX of
Whitefish
509 E. 6th Street
Whitefish, MT 59937

Website: www.dougzignego.com **E-mail:** doug@dougzignego.com

Office: (406) 863-3409 **Fax:** (406) 863-3415
Cell: (406) 253-7825

January 24, 2002

From: Joshua Johnson
1053 Stillwater Rd.
Kalispell, Mt. 59901
jmall@cyberport.net

To: The Water Rights Compact Commission
rwrec@state.mt.us

Subject: Water Rights in Flathead Counties

1. Against- Adjudicating the water rights in Flathead Counties.

2. We have a constitution that provides me with rights also. In this constitution it states that all people are equal. Why would you want to give any power to anyone that is not a part of the American System, that has made our country great.

I'm sure if I search far enough in my heritage, I would more than likely have a Native American in my lineage. This should not give me the right to try and control other peoples rights.

The Native Americans want to have their own communities, laws. Officials, law enforcement, etc. I could go on, and on. But in the true light of the matter, we need to either make them a full part of our country as Americans, or cut them off of our way of life, and let them contain all their ways on the reservations. They should not have anymore or less rights than I do, or any other American.

This type of trouble will continue as long as we allow them not to be a part of the American culture, which consists of many nationalities, in which everyone shares the same laws and rights.

3. We need to stop all of these actions and UNITE TOGETHER AS ONE NATION.

4. This whole issue really angers me.

Thank you



Joshua Johnson

American Born

January 24, 2002

From: Brent Johnson
1053 Stillwater Rd.
Kalispell, Mt. 59901
imall@cyberport.net

To: The Water Rights Compact Commission
rwrec@state.mt.us

Subject: Water Rights in Flathead Counties

1. Against- Adjudicating the water rights in Flathead Counties.

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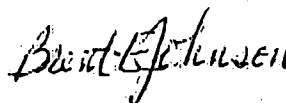
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Thank you



Brent Johnson

American Born

January 24, 2002

From: Jason Johnson
1053 Stillwater Rd.
Kalispell, Mt. 59901
jmall@cyberport.net

To: The Water Rights Compact Commission
rwrc@state.mt.us

Subject: Water Rights in Flathead Counties

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Jason Johnson

Jason Johnson

American Born

January 24, 2002

From: Brock Johnson
1053 Stillwater Rd.
Kalispell, Mt. 59901
imall@cyberport.net

To: The Water Rights Compact Commission
rwrc@state.mt.us

Subject: Water Rights in Flathead Counties

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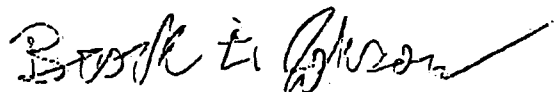
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Thank you



Brock Johnson

American Born

January 24, 2002

From: Bob Murtha
215 Cougar trail
Whitefish, Mt. 59937
imall@eyherport.net

To: The Water Rights Compact Commission
rwcc@state.mt.us

Subject6: Water Rights in Flathead Counties

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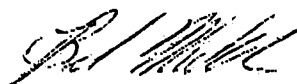
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Bob Murtha

American Born

TO: RWRCC. P.O. BOX 201601, HELENA, MT.
59620-1601

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Pg. 2

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(I.E. ALBUQUERQUE)
PLUS LITIGATIONS.

VI DO IT RIGHT! & AVOID FOLLOW-ON PROBLEMS.

THANK YOU,

STAN RYAN

115 EAGLE DR
POLSON, MT.
59860

RECEIVED

JAN 24 2 1972
D.N.R.C.

THE
CONSTITUTION
OF THE

STATE OF MONTANA

AS ADOPTED BY THE CONSTITUTIONAL CONVENTION
MARCH 22, 1972 AND AS RATIFIED BY THE PEOPLE, JUNE 6, 1972

Preamble

Article

I.	Compact with the United States.
II.	Declaration of Rights.
III.	General Government.
IV.	Suffrage and Elections.
V.	The Legislature.
VI.	The Executive.
VII.	The Judiciary.
VIII.	Revenue and Finance.
IX.	Environment and Natural Resources.
X.	Education and Public Lands.
XI.	Local Government.
XII.	Departments and Institutions.
XIII.	General Provisions.
XIV.	Constitutional Revision.

Transition Schedule

PREAMBLE

We the people of Montana grateful to God for the quiet beauty of our state, the grandeur of our mountains, the vastness of our rolling plains, and desiring to improve the quality of life, equality of opportunity and to secure the blessings of liberty for this and future generations do ordain and establish this constitution.

ARTICLE I

COMPACT WITH THE UNITED STATES

All provisions of the enabling act of Congress (approved February 22, 1889, 25 Stat. 676), as amended and of Ordinance No. 1, appended to the Constitution of the state of Montana and approved February 22, 1889, including the agreement and declaration that all lands owned or held by any Indian or Indian tribes shall remain under the absolute jurisdiction and control of the congress of the United States, continue in full force and effect until revoked by the consent of the United States and the people of Montana.

RECEIVED

JAN 24 2002

Gentlemen & Ladies, D.N.R.C.

I am writing in concern for the water rights on the Flathead Reservation & all the Columbia basin. I will make it short.

I am not Indian but I am native to Montana, I am a rancher & cattle is all I have and as you know it is a marginal business. I have lived on this Reservation 21 years. I know the politics & pressures here. I believe that with control of water is control of land & control of land is control of land owners.

I love the tribal people & I know them also. Please do not give them the water!

If they see it more beneficial to water just wildlife on my property & not cattle, then I am out of business!

Sincerely,

Scott M Ambo

SCOTT M. AMBO

RECEIVED

JAN 24 2002

D.N.R.C.

1-22-02

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I am writing in concern for the water rights on the Flathead Reservation & all the Columbia basin. I will make it short.

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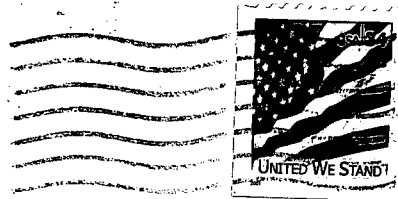
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SCOTT M. AMBO

SCOTT AMBO
195 PATTON RD.
LONEPINE MT.
59848



RWR CC
PO BOX 201601
HELENA, MT.

59620/1601

59620 1601

RECEIVED

JAN 24 2002

D.N.R.C.

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TO: RWRCC. P.O. BOX 201601, HELENA, MT.
59620-1601

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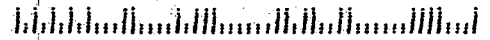
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STAN RYAN
115 EAGLE DR
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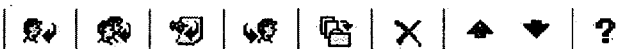
S. & E. Ryan
115 Eagle Drive
Polson, MT 59860



TO: RWRCC
P.O. BOX 201601
HELENA, MT.
59620-1601

59620/1601





Close

From: vicki olson [SMTP:rltypro@digisys.net]

To: rwrcc@state.mt.us

Cc:

Subject: Tribal jurisdiction over water rights on reservation

Sent: 1/24/2002 10:22 AM

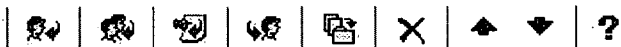
Importance: Normal

Dear Susan:

I am a realtor with Coldwell Banker Wachholz & Co. in Kalispell, Mt. I feel very strongly that one of the greatest gifts that our country has bestowed upon all citizens is personal property rights as well as a voice in the laws that regulate them. The current petition from the Indian tribes to own all water under and on reservations and to have sole jurisdiction on same is a serious threat to the above mentioned simple rights of "all citizens". I encourage you and your department to carefully consider the rights of "all " American citizens before making a decision on the current Tribal petition.

Proud to be an American and to be able to have a voice---please protect this precious gift,

Vicki Olson
Realtor
Coldwell Banker Wachholz & Co.
Kalispell, Mt.



Close

From: Prudential Glacier Real Estate [SMTP:info@glacierrealestate.com]

To: rwrcc@state.mt.us

Cc:

Subject: water rights

Sent: 1/24/2002 9:26 AM

Importance: Normal

January 24, 2002

Janice Johnson
1053 Stillwater Rd
Kalispell, Mt 59901
406-752-3132
imall@cyberport.net

subject: Water Rights in Flathead Counties

1. AGAINST

2. We have a constitution that provides me with rights also. In this constitution it states that all people are equal. Why would you want to give any power to anyone that is not a part of the American System, that has made our country great.

I'm sure if I search far enough in my heritage, I would more than likely have an American-Indian decent. This should not give me the right to try and control other people rights.

The American Indians want to have their own communities, laws, officials, law enforcement, etc. I could go on, and on. But in the true light of the matter, we need to either make them a full part of our country as Americans, or cut them off of our way of life, and let them contain all their ways on the reservations. They should not have anymore or less rights then I do, or any other American.

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4. This whole issue really angers me.

JANICE JOHNSON

American Born



Close

From: Jim Richardson [SMTP:sky@in-tch.com]

To: rwrcc@state.mt.us

Cc:

Subject: water rights

Sent: 1/24/2002 10:35 AM

Importance: Normal

I don't understand why the Indians should have more power over Americans that live in this state or this country on water issues or any more rights than us. so the state of Montana should have the authority to govern over all citizens in the state equally. until everyone is treated equally ,there will be big problems. the Indians are no better than others or no worst. we are all Americans. I think that in-it-self states that we should all have the same rights. no other groups or others should be entitled to more. thanks for the oppunitery to comment. this is a very important decisions to make yet simple to do as we all want the same rights as americium. Jim



Close

From: Mary Lee Oliverson [SMTP:minnie@cyberport.net]**To:** rwrcc@state.mt.us**Cc:****Subject:** Re: water rights compact w/tribes**Sent:** 1/24/2002 10:21 AM**Importance:** Normal**Attn:** Susan Cottingham

Having been a property owner in Lake County since 1971 and also in Flathead County since 1988, I have grave concerns regarding the negotiations with the Tribe for water rights both on and off the Flathead Reservations.

As a Realtor, selling property in both counties, I am convinced that property values will be gravely affected if the water rights are put in the Tribes control. The majority of my business is with Buyers from out of State, looking for that "quality of life" purchase/move. It will be difficult to convince them that there is nothing to worry about when they are informed that they will not have any water rights with their new property. It's obvious this will have a deep impact on real estate sales throughout our entire Valley.

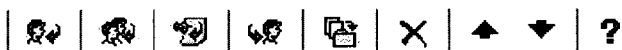
When we purchased our home, we were under the impression that the Tribes had been fully compensated long ago. Is this really not so??

Thank you for the opportunity to express my concerns. I will watch with great interest to the unfolding scenario.

Also thank you for the informational meeting at the MLS office recently.

Sincerely,

Mary Lee Oliverson, Realtor
Properties Northwest Real Estate
Kalispell, Mt. 406-755-7700



Close

From: Russell Purdy [SMTP:rpurdy@centurytel.net]**To:** rwrcc@state.mt.us**Cc:****Subject:** Water Rights & Flathead Indian Reservation**Sent:** 1/24/2002 10:10 AM**Importance:** Normal

This issue has been addressed in the past and should be considered a "Dead" issue. Just because the Tribe finds a new way to word an issue does not make it a valid one, but I understand they deserve to be given "due process" just like everyone else.

What the tribe is asking for 1) On and Under water rights, 2) administrative and aboriginal rights and 3) Off reservation, consumption and non-consumption rights, and that those rights be quantified. These issues should be addressed and answered in a court of law that can put these issues to bed for the foreseeable future. As a Realtor, these issues pose a tremendous legal and political liability. We need to think of a way to make this Tribe and all other Tribes to become "Americans".

The easiest way I can think of is to declare "War" on each and every Tribe in the United States and make them part of America or not. If they are not, I think we need to IMMEDIATELY put a fence around their lands, stop all services (utilities, roads, communications, etc.). If the Tribe votes/decides to become part of the United States, it should be with all the rights and obligations of every citizen and nothing special.

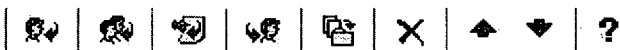
WE, THE CITIZENS OF THE UNITED STATES OF AMERICA are made up people from all over the world who have come here for the benefits and obligations that are available. **NO ONE** is forced to stay in the United States. If you don't like it here or some of the rules, change them using the avenues available.

We need to cease our two class system of citizens and the sooner the better. Pick a date in the near future and give every registered Tribal member \$ 200,000 dollars with the understanding that they are now Americans. They can continue calling themselves anything they want, just as the Jews, Poles, Blacks, New Yorkers, etc. can call themselves what they want.

This issue of the Tribes being a separate nation and semi-citizens is a "cancer" issue that is not ever going away until they are brought "into" the system. We are always going to be fighting one issue after another as the world changes and evolves.

DO IT NOW !!!

Russell Purdy, Realtor
4th generation native



Close

From: Kathy Stogner [SMTP:racintbs@ronan.net]

To: rwrcc@state.mt.us

Cc:

Subject: Water Rights

Sent: 1/23/2002 11:26 PM

Importance: Normal

To Whom It May Concern:

I as a white person residing on the Flathead reservation and subject to the will and powers of the tribe think if the tribe wishes to control the water and all else on the reservation should then be required to comply with the same laws which govern all of the whites off of the reservation. I believe they should be required to have insurance on all vechicles which operate off of the reservation. They should share in paying taxes to support bonds voted in on the reservation as the white persons living on the reservation do. I also believe that if they wish to hunt or fish off of the reservation they should be required to purchase a hunting and fishing license as well as tags. In closing I think we as whites have paid long enough for the native americans I believe it is time to do away with the reservations and come together as AMERICANS living and working together for a better America instead of all the bickering over Indian Nations. If the Native Americans wish to have thier own nations then they should be treated as the Canadains or Mexicans and come into our country as visitors not residents.

James Stogner



Close

From: mtdirect.cyberport.net [SMTP:mtdirect@cyberport.net]

To: rwrcc@state.mt.us

Cc:

Subject: Adjudication of Flathead Reservation Water Rights

Sent: 1/23/2002 7:06 PM

Importance: Normal

Susan Cottingham,

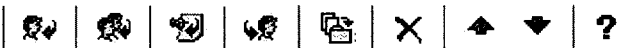
We wish to make public our comments associated with the Flathead Reservation Water rights adjudication process:

- 1. We support the states water right process based on first beneficial use and the water rights process used by the state of Montana.**
- 2. We reject contention of Aboriginal water rights as an attempt to bypass the first beneficial use policy.**
- 3. We reject any attempt by the tribes to control water/ water rights by non-tribal members on the reservation as a non-representation govenmental issue.**
- 4. We reject any assertion by the tribes of ownership or control of any off reservation source of water or its(off reservation sources) migration through the reservation lands. First control should be given to originating location.**

The resolution of this issue will have extreme economic impact on Lake and Flathead County. I attended The 2000' meeting in Polson and was appalled at the reports of how some of the earlier adjudications were resolved.

I also wish to make sure we are on the mailing list for any announcements, requested comments and public comments related to this issue. Please email me at: mtdirect@cyberport.net

**John and Janet Yatchak
104 E Post Creek Road
Saint Ignatius, MT 59860**



Close

From: Linda Kingsley [SMTP:linda@northwestmontanarealty.com]

To: rwrcc@state.mt.us

Cc:

Subject: Fw: water rights

Sent: 1/23/2002 5:53 PM

Importance: Normal

----- Original Message -----

From: "Linda Kingsley" <linda@northwestmontanarealty.com>

To: <rwrcc@state.mt.us>

Sent: Wednesday, January 23, 2002 5:48 PM

Subject: water rights

> To Whom It May Concern,

>

> It is my opinion regarding The reservation water rights issue;

> 1) that litigation should be avoided at all cost, an agreement should be

> made

> 2) if possible the rights should remain with the state.

>

> What is going to happen in the future when the "tribal " members are

> 1/20th

> and then so on until 1/200 ? Who will all these rights belong to then ?

>

> The thousands of citizens who own land 'fee simple' within the reservation

> do have rights and the state has looked out for the best of ALL citizens,

> regarding these rights for many years. Will the tribe look out for all

> people "rights" ?

>

> What will happen if people are forced to leave at 'great loss' because

> the

> gov't did not look out for these "rights".

>

> Many 'jobs' and much investment money could be 'lost' within the Flathead

> and Mission Valley if the State 'gives up' the rights they already have.

>

> If the non Native American Suffer losses so will the tribe. Will Wal -

> Mart, Safeway, or other business the Native American benefit from, stay

> for only a few thousand people (?), costing even more to live here. Who

> will pay the extra cost ? The taxpayer ? Hasen't the tribe been

> compensated generously in the past ? Why is this an issue again.

The State of Montana should be careful if they give up "rights" that adversely effect so many of its citicens, including tribal members.

>

>
>
> Signed,
>
> Linda Kingsley
> 1615 Hillcrest Drive
> Polson, MT 59860
>
>
>



Close

From: Linda Kingsley [SMTP:linda@northwestmontanarealty.com]

To: rwrcc@state.mt.us

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- 2) if possible the rights should remain with the state.

What is going to happen in the future when the "tribal " members are 1/20th and then so on until 1/200 ? Who will all these rights belong to then ?

The thousands of citizens who own land 'fee simple' within the reservation do have rights and the state has looked out for the best of ALL citizens, regarding these rights for many years. Will the tribe look out for all people "rights" ?

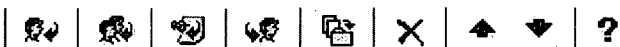
What will happen if people are forced to leave at 'great loss' because the gov't did not look out for these "rights".

Many 'jobs' and much investment money could be 'lost' within the Flathead and Mission Valley if the State 'gives up' the rights they already have.

If the non Native American Suffer losses so will the tribe. Will Wal - Mart, Safeway, or other business the Native American benefit from, stay for only a few thousand people (?), costing even more to live here. Who will pay the extra cost ? The taxpayer ?

Signed,

Linda Kingsley
1615 Hillcrest Drive
Polson, MT 59860



Close

From: janette rosman [SMTP:janette@ronan.net]

To: rwrcc@state.mt.us

Cc: Janette M Rosman

Subject: Lake County Water Rights

Sent: 1/23/2002 3:24 PM

Importance: Normal

Susan Cottingham and Reserved Water Rights Compact Commission,

As a property owner in Lake County and a Realtor I want you to look seriously at the Lake County Water Rights. I do not think the Tribe should have control on the water rights here on this reservation. Our rights as fee simple property owners would be violated. Giving the tribe what they have written in their proposal would have a Severe Negative Impact for fee simple property owners in Lake County. The value of real estate would be drastically reduced, which maybe what the tribe wants so they can have control of the whole reservation again. Please do not allow this to happen.

Janette Rosman - Rosman Realty
PO Box 489, 530 Hwy 93 So.
Ronan, Mt. 59864
406-676-3443 Office 406-745-4007 Hm.

[Close](#)

From: Pual Bjerke [SMTP:PABjerke@msn.com]

To: rwrcc@state.mt.us

Cc:

Subject: water rights

Sent: 1/23/2002 4:21 PM

Importance: Normal

I own property on the Flathead Reservation near Missoula, this property is undeveloped timber and grazing land. Several years ago I went through the adjudicating process for the water rights that were with the property when I purchased it. This process was with the state of Montana. Now I read in the Missoulian that the state is seeking comments on a proposed settlement with the tribe.

All along I have gone under the assumption that the rights that I purchased along with the land were good. Now it appears that the tribe thinks otherwise and have offered a proposal for settlement. Please send me a copy of their proposal.

You asked for comments from the public so I will comment.

Years ago I dealt with a tribal forester over a logging road access, our agreement was that after the logging was done the road would be closed. When the time came to close the road the tribal council decided not to honor the agreement the tribal forester had made. The moral of my story is obvious, be careful when dealing with those who speak with a forked tongue.

Paul Bjerke
625 Whitaker
Missoula, Mt 59803



Close

From: J. Lee Zignego [SMTP:leezig@digisys.net]

To: rwrcc@state.mt.us

Cc:

Subject: Water Rights In Flathead County

Sent: 1/23/2002 3:17 PM

Importance: Normal

Susan Cottingham:

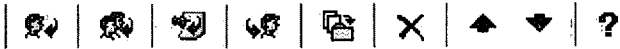
This message is to inform you that I am "TOTALLY AGAINST THE FLATHEAD INDIAN RESERVATION WATER RIGHTS POSITION".

The State of Montana should be the administrators for ALL water in the State of Montana.

The Congress of the United States opened the Flathead Indian Reservation for settlement by non-Indians in the early 1900s making us co-equal citizens of this reservation, not guests, with all normal protections granted under the laws of the state and country. Granting the tribes the power to administer all water issues on the reservation will significantly diminish those protections. Granting them the power to administer aboriginal water issues off the reservation is crazy. You mean to say that they are going to say what happens to Whitefish Lake? The Tribes have been handsomely compensated for their claims over the years. Let the State of Montana administer the water for the State.

Thank You,

J. Lee Zignego
P.O. Box 1331
Whitefish, Montana 59937



Close

From: Jim Miller [SMTP:tallgrass@centurytel.net]

To: rwrcc@state.mt.us

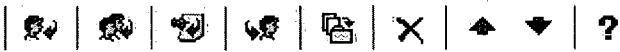
Cc:

Subject: water

Sent: 1/23/2002 2:46 PM

Importance: Normal

What are you thinking? Why would you hold public meetings in Missoula, on issues regarding water rights in Lake county. Next thing you know people will be claiming rain, or snow. Point being if you own a parcel of land you own it to the center of the earth, and the water is yours. Please, no hasty decisions, bring it to the people of Flathead and Lake County. Jim Miller



Close

From: Irene Aguirre Marchello [SMTP:irenemarchello@century21bigsky.com]

To: rwrcc@state.mt.us

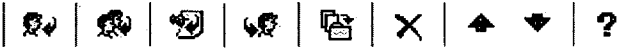
Cc:

Subject: RESERVATION WATER RIGHTS

Sent: 1/23/2002 2:44 PM

Importance: Normal

After owning our property on Flathead Lake in Polson since 1979, it is more than disconcerting to be faced with this water issue after 23 years. It appears to me that the State needs to do some homework and spend some serious time on this project and be INFORMING Lake and Flathead County residents about what is going on and how this will affect their lives. It is a total mystery to me why whatever meetings have been held, have not been in Polson, Lake County Seat and location of Flathead Lake. Our residents need to be better informed and SOMEONE needs to do a much better job of keeping us abreast of this situation. We need a voice in all of this. Irene Marchello



Close

From: Pat [SMTP:pdonovan@ironhorsemt.com]

To: rwrcc@state.mt.us

Cc:

Subject: Proposal by the Confederated Salish and Kootenai Tribes for water claims in Montana

Sent: 1/23/2002 2:04 PM

Importance: Normal

Members of the Reserved Wated Rights Compact Commission:

The proposal by the Confederated Tribes poses problems and concerns in a number of areas. The idea that one special interest group would have the power, above all other groups, to determine allocation of a resource so fundamental to life itself raises serious questions. I think the state and federal governments are responsible in their neutrality over water rights issues, and I respect the fact that they are honestly trying to fairly balance the economic and environmental issues at hand. I do not think that the Confederated Tribes have the same mandate for fair treatment, and I fear that they would be under extreme pressure to adjudicate in favor of tribal members as a result. I think the state and federal governments are faithfully discharging their duties as trustee for the Tribal waters as outlined by the proposal.

I am partner in a golf course community development that has invested over \$50,000,000 in Whitefish, Montana. In bringing equity to invest, existing entitlements such as zoning, access to utilities and especially water were key considerations. The prospect of having to obtain approval from a Tribal commission for water rights that we secured prior to investment is extremely upsetting. To date we have sold lots and memberships to over 240 individuals, each of whom relied on the water rights approvals in place at this time. To undermine the approvals in place would not only raise havoc with these individuals, but certainly would inhibit future investment in our development and in the State of Montana.

I am not familiar with the claims made by the Confederated Tribes with respect to water rights on the reservation. However, I urge you in the strongest possible terms to reject the Proposal in its entirety as it pertains to Tribal jurisdiction over water rights outside of the reservation.

Sincerely,

Patrick E. Donovan
President
Iron Horse at Whitefish, LLC.



Close

From: Harold Tanner [SMTP:porkyspeak@yahoo.com]
To: rwrcc@state.mt.us
Cc:
Subject: CSH Tribe's Water Rights Claim, Flathead Reservation
Sent: 1/23/2002 12:54 PM

Importance: Normal

Attn: Susan Cottingham
Program Manager
Water Rights Compact Commission

We are life-long residents of the Flathead Reservation and non-tribal people, and owners of Fee Patent land. This patent came with a secretarial water right issued in 1910 by William H. Taft, then President of the United States, Recorder of General Land Office, Patent No. 156693, filed Feb. 13, 1908. This water right has passed on to the owner of this property through the years, and is still in use by us at this time.

We have grave concerns over the prospect of the tribes gaining control over water rights on the Flathead Indian Reservation. The Confederated Tribes have publicly stated their opposition to growth on the reservation, in their published management goals and objectives, and their goal to claim all lands not in tribal ownership on the reservation.

We believe fees on wells and other water and volume usage would be assessed to non-tribal interest and preference would exist for tribal members and tribal interests.

The tribes have an unfortunate history of discrimination toward non-Indians (hiring, land, water access, hunting and law enforcement). Water rights are key to the tribe achieving their goals of eliminating non-tribal ownership.

This issue is extremely important to all people living on the reservation and, if not settled judiciously with protection of all interests, the potential for long-term damage to area citizens is extremely high.

If signed documents have any meaning, the water rights granted to this property by the President of the United States should stand the test of time, without encumbrance.

Harold and Viola Tanner
Box 206
Arlee MT 59821

Do You Yahoo!?
Send FREE video emails in Yahoo! Mail!
<http://promo.yahoo.com/videmail/>

From: Ken & Sandy Richardson [kands@bigsky.net]
Sent: Wednesday, January 23, 2002 12:59 PM
To: shoeglund@state.mt.us

Water Rights Compact Commission.

THE RIGHT TO SUSTAIN LIFE WITHOUT A PRICE

It is in the best interest of all involved to review the reason why agencies are trying to gain complete control of water. Is it just another way to generate income from natural life supporting gifts?

A few obstacles must be crossed and a new understanding of why agencies will never get full control of any natural gifts that are essential to sustain life.

We must first consider the abuse of water rather than the use. Water is like air; they are both vital to life and cannot be considered as private property. Hundred millions of gallons of water will be polluted before the sunsets each day. If we agree that water, air and sun are synonymous to life then it should be understood that a price could never be placed on these items. It is a birthright too receives these three free gifts without any restrictions on their common and ordinary use. We must identify and agree on is, what is to be considered waste or abuse of these precious gifts. Who should be paid or charged for excessive use should not be confused with common and ordinary use. When we stop drinking for 48 hours we become dehydrated and the lack of air for minutes result is death. About 78 % of the earth is covered with water, one half of the earth is covered with sun at all times and the entire earth is covered with air. Protecting the quality is a top priority of these gifts; lets identify the resources by availability, quality, volume and the natural rate or method it is replenished. The next step is to identify abuse and excessive use. Equally important is to determine; what conditions must exist to claim ownership of a resource that is naturally recycled. Air is replenished by natural environmental chemistry. Water is also recycled through a complicated process of oxidation and filtration then delivered to the mountain ranges and fast land areas. Rain and snow seeps into aquifers, where one aquifer will feed another. The streams run into lakes then to rivers and rivers to the oceans. Is it possible for any agency to pick a spot in this natural process where they control or own a natural life-supporting gift and sell it as a commodity? If you don't own it you can't sell it. It could be argued that if oxygen is bottled or if water is stored, that someone has taken control and they may have a claim on the portion that they control. It would be their burden to prove that they will only sell the portion they control. If a dam is built and backs up a billion cubic feet and the land that supports the back up is owned by an entity that elects to sell the billion cubic feet to a willing buyer; that portion may be negotiated. The difference between the natural affluent should be subtracted from the flow out to calculate a sale of their reserve.

In certain geographic areas there are an EXCESS of fresh air, water or sunlight where it's natural process is interrupted to make energy. This would include wind mills, dams, solar panels, nuclear plants, coal fired generators and so forth. The common denominator is that they all use one or more of these natural resources. The entity responsible for this interruption must be held to high standards but never can they be guaranteed that the viability is to remain

stable. There is no place on earth that a human should be denied the common and ordinary free use of these gifts. It is understood if humans chose to live in an area they depend on the supply of fresh air or water that is another matter.

IF YOU CAN'T PAY FOR IT YOU DIE! I DON'T THINK SO.

Ken Richardson ***** at

(kands@bigsky.net)



Close

From: Tony Marshall [SMTP:tony@homesmt.com]

To: rwrcc@state.mt.us

Cc:

Subject: Flathead Indian Reservation Water Rights Compact Negotiations

Sent: 1/23/2002 12:40 PM

Importance: Normal

Ms. Susan Cottingham

I am a resident, property owner and real estate professional in Lake County. I attended your meeting recently in Kalispell with the Realtor organization and felt I should provide you with my input into this issue.

It is my understanding that when Congress opened up this reservation for settlement the following were understood:

- the settlers were not guests of the tribes, that they had full standing and protection under state and federal laws and that they werent subject to the local tribal legal system;
- the tribes were compensated for the land that was settled by non-tribal peoples and that that compensation included compensation for the natural resources apertinent to those settled lands.

I ask that during the negotiations that my property rights be completely honored. Granting the tribes administrative powers over water issues on the reservation and presumably off the reservation for aboriginal waters leaves non tribal peoples with no recourse except through the tribal legal system where the non tribal peoples have no legal standing, vote or anything. Agreeing to the tribes position would be tantamount to condemning virtually all personal property on the reservation and presumable off the reservation where aboriginal water rights are concerned.

Tony Marshall
Lambros Real Estate
Polson, Flathead Lake, Montana
www.lambros.com

Del Palmer
P.O. Box 55
Charlo, Mont
59824



Reserve Water Rights Compact Comm.
1625 11th Ave. P.O. Box 201601
Helena, Mont
59620-1601

59620/1601



Charli, Mt

Jan 15 2002

Montana Reserved Water Comm.
Chairman Chris Sweeten
Sub-Tribal Proposal

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JAN 23 2002

D.N.R.C.

The Tribal proposal as presented claims all water on and under the reservation together with a claimed interest in Waters beyond it's boundaries.

Article 3 (Rights and Privileges) the Indians were given the Exclusive Right to take Fish out of all streams running through or bordering said reservation. This did not give them the ownership of the water nor was hunting mentioned in that exclusive right. "The right of taking fish out of usual and accustomed places, in common with Citizens of the Territory together with ^{the} privilege of hunting upon open and unclaimed lands". The above is quoted from the Helgate Treaty of 1855.

For the tribes to claim the water and propose to manage all water as unitary by the tribe is unacceptable for all non-members with in the Reservation boundaries since we have no voice or vote in that tribal organization. Positive negotation can only occur when both sides

Come to the table with something of value. Since the tribes claim all water as a starting point there should be no negotiation at all.

The proposal includes several Court Cases to support the tribal claim to all water on the Reservation.

When Congress passed the Dawes Act of 1904 which provided for the survey and allotment of lands to the Indians individually (in severalty) and paid for the unallotted lands leading to opening of the Reservation to settlement by proclamation in 1910 it intended that this reservation was diminished. In March of 1915 the Federal Govt through the Dept of Interior made public a document promoting the sale of Villa Sites around Flathead Lake on the (FORMER FLATHEAD RESERVATION) stating "the lakes and streams found in fish and hunting is excellent." This promise made to the settlers is just as binding as the promise to the Indians by the treaty of July 16, 1855.

Then Came the Indian Citizenship act
of 1924 making Indians equal and
responsible, and including the right
to vote and run or serve ~~as~~ elected
offices. What more can we do?

It is time now for the state
and Federal Govt to stand strong
in opposing any Govt in which
we non-Indians have no voice
or vote. I ask that the state
not negotiate a Compact water
agreement with this tribe.

Respectfully
Del Palmer



Del Palmer
Box 55
Charlo, MT 59824

406/644-2770

=====

January 9, 2002

Senator Ken Toole
PO Box 1462
Helena, MT 59624

Dear Senator Toole:

Your article, "Guest Column" in the December 2, 2001 Missoulian was on target. I have always supported state ownership of all navigable waters within that state's boundaries. The early day footing law clearly supports that concept and the Supreme Courts have upheld the same in numerous decisions. I have listed the case citations at the end of this letter so that you can review these cases more easily.

Here on the Flathead Indian Reservation, the tribes are claiming all waters above the surface as well as all waters below the surface as their starting point on any negotiations to be held with the Montana Water Compact Commission. Water and air are essential to all life and belong to no one.

For public officials to error in negotiations is nothing new. It was wrong when the State of Montana negotiated the State/Tribal Hunting Agreement in secrecy and behind closed doors. I have openly challenged the State/Tribal hunting regulations since it first destroyed personal property rights. In the past eleven years the State has failed to enforce the regulation. Yet, the Governor we have now -- in the same manner as the Governor before -- supports the Agreement and claims it is working very well.

Now, for a bit of my personal life, I know I have been a concern for those who wish to dominate non-tribal members living in this area. The Dawes Act (Allotment Act of 1904) provided for survey and allotment of lands to Indians individually and for the sale and disposal of all remaining lands after such allotment. These lands (after certain other lands were reserved) were opened by proclamation to settlement in 1910.

Provisions for the sale of Villa Sites on Flathead Lake dated October 21, 1915 has the Department of the Interior clearly referring in writing to this area as the "Former Flathead Indian Reservation." My family settled here based on this language and the clear statements by the Department of the Interior that, "The lakes and streams abound in fish and hunting is excellent."

Senator Ken Toole
January 9, 2002
Page 2

The Wheeler/Howard Act of 1934 reestablished the Reservation and tribal form of government. Is it any wonder that I oppose state and federal actions that provide for special benefits for a few that are denied to all others? This is wrong when such privileges are based on race. I have never supported or been part of any of the off-beat groups that would take over control if given the opportunity. We have the best form of government in the world and the freedoms we enjoy -- which includes the ballot box -- are available to all regardless of race.

I do belong to and support "All Citizens Equal" (A.C.E.). This name explains our goals and I ask, "Should it be a crime to want to be equal to others regardless of race?" Sometimes this calls for open and peaceful opposition which A.C.E. believes in and has always practiced when speaking out on issues. While I do mention A.C.E. and sit on their Board, this letter is of my own undertaking and action and is not written on behalf of A.C.E. or their membership.

The Indian Self Determination Act opened the door for tribal management of the National Bison Range established in 1908. This could trigger other tribes to move for management of other National Parks. Is this what we need? I hope we can get this stopped now.

Unfortunately, both state and federal agencies sanction the preferential hiring of tribal members when federal dollars are used and the unrestricted hunting by the tribes. And, this has become a major factor in the wedge that now exists between tribal and non-tribal members.

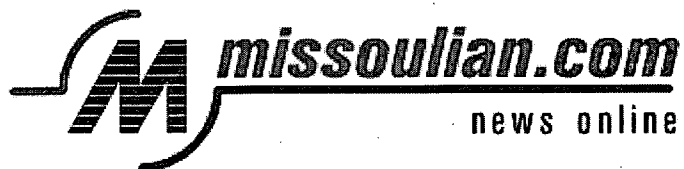
I would welcome a personal meeting with you to discuss these issues and any other issues that might arise so that we might better understand each other's views.

Best Regards,

Del Palmer

Court Cases and Citations

*Montana v. United States, 79 1128-324 (1981)
Hagen v. Utah, 92-6281, 510 US.544
South Dakota v. Bourland, 91 2051
Puyallup Tribe v. Washington State, 433 US.165
United States v. Holt State Bank, 270 US.49
United States v. Wheeler, 435 US.313
Ward v. Race Horse, 163 US.504 (Canon of Treaty Constitution)
Strate v. A.I. Contractors, 95 1872 520 US.438
South Dakota v. Yankton Sioux Tribe, 96 1581
Nevada v. Hicks, 991994
Shirley v. Atkinson*



Archives

December 02, 2001

Guest Editorial for Sunday, December 2, 2001: State's rivers have more value than being simple commodities.

By KEN TOOLE

Have you ever thought of Montana's rivers as being up for sale to the highest bidder? With electric deregulation the Legislature paved the way for sale of Montana dams, associated water rights and land to the highest bidder. That happened to be the Pennsylvania company PPL - for the time being. The apparent demise of energy giant Enron shows that today's energy industry is volatile and run by huge multinational corporations. Nothing prevents PPL from selling next week and the new owners from selling the week after that. Not a comforting thought for most of us.

Here are some of the other things deregulation has done: significant rate increases; jobs lost in plant shutdowns and curtailments; profiteering and wild market spikes; profits made in "off-system" sales have flowed to PPL stock holders rather than reducing our rates; the Montana Power Co. is in a financial free fall, taking with it the savings of many Montanans who chose it because it was home-grown and secure. Deregulation is a colossal failure.

Unfortunately, too many Montanans feel there isn't much to do about it. They shrug saying, "Can't put that horse back in the barn." It is a sense of hopelessness that comes from watching our political leaders flop around doing pretty much everything the big corporations want.

Well, the good news is there is a solution. We must re-dedicate electric generation in Montana to the people of Montana at a rate that is based on the cost of producing electricity. There are two ways to do that. One is to repeal deregulation or re-regulate the industry. The other is for the people of Montana to own the capability to generate electricity. It is clear that the Legislature and governor won't do either one. But the people can do it through the initiative process.

And that brings us to the Montana Hydroelectric Security Act. This initiative, if passed, creates an elected, five-member Public Power Commission to evaluate purchasing dams in Montana. If the citizen members of this commission determine that it is in the public interest to buy the dams, it is empowered to acquire them. The purchase will be financed by the sale of revenue bonds (no taxpayer dollars) which are paid off by the sale of electricity. It's a simple proposition.

Of course the nay-sayers are already wagging their fingers. Most often their objections amount to warmed-over anti-government grumbling. They say that the government can't do anything right, let alone run a power system. But they ignore the fact that public agencies run power systems all over the country (Seattle City Light, state of Nebraska, the Bonneville Power Administration, just to name a few). More important, no one working on this initiative envisions the state managing the dams. Management would be contracted to experienced operators. Language in the initiative specifically protects the workers in the dams, anticipating their continued employment.

Another common criticism is that the state will pay too much for the dams. If buying the dams doesn't "pencil out," the state won't be able to sell the bonds to finance the purchase. Initiative supporters have looked at the numbers and are convinced that the purchase is a sound business decision which can be financed in the bond market standing on its own merit. The Montana Public Interest Research Group has conducted a detailed economic analysis of the rate we would pay if we bought the dams at the current market value (\$350 Million). It is about half the rate we currently pay. Looking just at the price of power, it's a "dam" good deal.

But the Montana Hydroelectric Security Act is about much more than just cheap power. Our state constitution says that the waters of our state are to be used to benefit the people of the state. That is because there are numerous "public purposes" associated with the rivers in Montana. The water rights currently owned by PPL are critical to Montana's people and its economy. The fish, wildlife and lands associated with the dams and rivers are vital resources to the state. Treating rivers as though they are commodities to be bought and sold by energy conglomerates as pieces in some market master game is just plain bad for Montana. And we can do something about it.

Ken Toole is a Democratic state senator from Helena.

RECEIVED

JAN 23 2002

D.N.R.C.

4160 Addy Lane
Ronan MT 59864
Jan 21 2002

Rw R C C

Po Box 201601

Helena MT 59864

Dear Sirs,

As a concerned citizen ~~am~~
regards to the water rights on
the reservation.

The Indian was given a place
to live but not to control the water
I feel the state government should
control the water. The water just
flows throu the reservation

The Indian should not control
the water Please vote to keep the
water under state control.

yours truly
Reuben Hovershad



Reuben Hoversland
4160 Addy Ln.
Ronan, MT 59864-9720



RWRCC

PO Box 201601

Helena MT 59620-1601

59620/1601



RECEIVED

JAN 23 2002

D.N.R.C.

4160 Abby Lane
Ronan MT 59864

Jan 21, 2002

RWRCC

Po Box 201601

Helena MT 59620


Dear Sirs or Madams,

In regards to the water rights on the reservation.

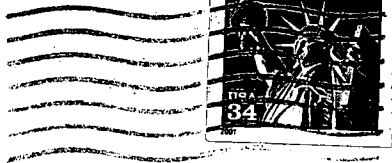
The Indian was given a place to live but not to control the water.

I feel the state government should control the water. The water just flows thru the reservation. The Indians should not control the water.

your truly
Mary Hoversland



Mary Hoversland
4160 Addy Ln.
Ronan, MT 59864



RWRCC

P.O. Box 201601

Helena MT 59620 - 1601

59620/1601



86 Fair Meadow Lane
Polson, Mt, 59860
January 20, 2002

Reserved Water Rights Compact Commission
Susan Cottingham, Project Manager
Helena, Mt.

Dear Madam,

Our home is on 40 acres-deeded acres-with a registered well, which we have owned for over 40 years.

Please leave the water rights issue with the State of Montana. We do not believe the Confederated Salish and Kootenaie tribes have any right to our water. We live in the State of Montana and all such issues, especially water, should be controlled and goverened by our State Government, and not by a small Indian Tribe in which we have no rights. I can't believe the great State of Montana would give up the water rights on deeded land to some small faction that wants more power.

Sincerely,
Tom Brown

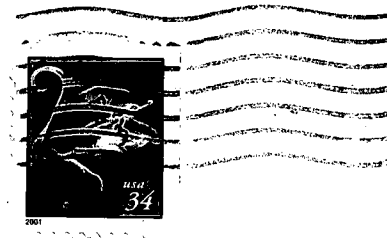
Tom Brown

Agnes Brown

Agnes Brown



Thomas & Agnes O Brown
86 Fair Meadow Ln
Polson, MT 59860-9772



RWRCC
Box 201601
Helena, Mt. 59620

RECEIVED
JAN 23 2002
D.N.R.C.

59620#1601



Jan. 18 2002
Hot Springs, MT

Dear Mr. Tweeten


As concerned residents and third generation land owners on the Flathead Indian Reservation we would ask that the state of Montana not abandon us by giving the Confederated Salish & Kootenai Tribes jurisdiction of all water rights on the Flathead reservation.

We are citizen of the State of Montana and already feel as if we live in a foreign country. All our constitutional rights are being eroded slowly but consistently. We have no say or vote in the Tribal government so must look to the State to protect our legal rights.

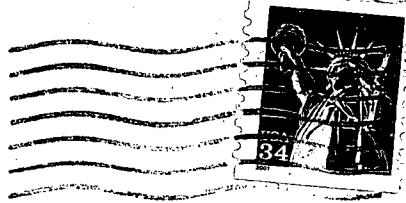
Sincerely

Lucky Howser

Ann Howser

 Lucky & Ann Houser
301 Baxter Rd.
Hot Springs, MT 59845

MISSOULA, MT 598
PM
22 JAN
2002



RECEIVED
JAN 23 2002
D.N.R.

Mr. Chris Tweeten
1635 11th Ave.
P.O. Box 201601
Helena, Montana 59620-1601

1-21-62

Dear Sir:

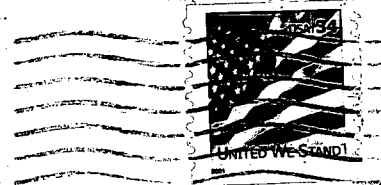
I saw the water rights article in 12-18-01
Insonline.

I think all tax payers should have a say in our
water rights. Why should less than 15% of population
of this area control the water rights of the other 85%.

Thank-you

Yours truly,
Dal Adams

Grassy Butte Ranch
Dale Adams
80 Garden Creek Road
Lonepine, MT 59848



D.N.R.C.
JAN 23 2002
RECEIVED

Chris D Sweeten
1635 11th Ave.
Box 201601
Helena, mt.
59620-1601



Close

From: Colleen Gustafson [SMTP:docbarr@3rivers.net]

To: rwrcc@state.mt.us

Cc:

Subject: Comments regarding the CSKT Water Rights proposal

Sent: 1/23/2002 10:05 AM

Importance: Normal

After reviewing the Confederated Salish and Kootenai Tribes Water Rights proposal, I am very concerned about the rights of non-member residents. Following is a list of several main points of concern:

The assertion that all water rights are reserved for and owned by the Tribe is a narrow and self-serving interpretation of law.

The assertion that the Tribe has jurisdiction over all residents of the reservation is incorrect. The tribe does not have jurisdiction over non-members on fee patent lands, with a wide body of case law to support this.

The statement (pg. 4, Section 1. A) that "water users will have direct and timely access to the single government serving them" is highly misleading. non-member residents are not, in general served by the tribal government. They have no voting rights nor the ability to participate in tribal government.

Given the inability to participate in tribal government, there is no mechanism for non-member residents to protect themselves from potential variances in implementation of water delivery and interpretation of rights, given that "all water use on the Reservation is subject to the Tribal water administration" (page 5 section 2. A).

I feel it is imperative in this and all other tribal settlement considerations that the State maintain an active and quantified role to protect non-member residents.

Sincerely,

Colleen Gustafson
P.O. Box 568
Browning, MT 59417

[kands@bigsky.net]

Sent: Tuesday, January 22, 2002 11:48 PM

To: shoeglund@state.mt.us

Subject: WATER VALUE AND DISPUTE

Water Rights Compact Commission.

THE RIGHT TO SUSTAIN LIFE WITHOUT A PRICE

It is in the best interest of all involved to review the reason why agencies are trying to gain complete control of water.

A few obstacles must be crossed and a new understanding of why agencies will never get full control of any natural gifts that are essential to sustain life.

We must first consider the abuse of water rather than the use. Water is like air; they are both vital to life and cannot be priority. Hundred millions of gallons of water will be polluted before the sunsets each day. The obstacle to overcome and agree on is what is considered waste or abuse of these four precious gifts. Before discussing who should be paid or charged for excessive governed for common and ordinary use. When we stop drinking for 48 hours we become dehydrated and the lack of air for minutes result is death. If we agree that water, air, food and sun are synonymous to life then it should be understood that a price could never be placed on these items. It is a birthright too receives these four free gifts without any restrictions on there common and ordinary use. About 78 % of the earth is covered with water, one half of the earth is covered with sun at all times and the entire earth is covered with air. Protecting the quality is the top uses or abuses of these gifts, lets identify the resources by availability, quality, volume and the rate or method it is replenished. The next step is to identify abuse and excessive use. Equally important is to determine; what conditions must exist to claim ownership of a resource that is naturally recycled. Air is replenished by natural environmental chemistry. Water is also recycled through a complicated process of oxidation and delivered from clouds to the mountain ranges and fast land areas where it seeps into aquifers; where one aquifer will feed another. The streams run into lakes then to rivers and rivers to the oceans. Is it possible for any agency to pick a spot in this natural process where they control or own a natural life-supporting gift and sell it as a commodity? If you don't own it you can't sell it. It could be argued that if oxygen is bottled or if water is stored, that someone has taken control and they may have a claim on the portion that they control. It would be their burden to prove that they will only sell the portion they control. If a damn is built and backs up a billion cubic feet and the land that supports the back up is owned by an entity that elects to sell the billion cubic feet to a willing buyer; that portion may be negotiated. The difference between the natural affluent should be subtracted from the flow out to calculate a sale of their reserve.

In certain geographic areas there are an EXCESS of fresh air, water or sunlight where it's natural process is interrupted to make energy. The entity responsible for this interruption must be held to high standards but never can they be guaranteed that the viability is to remain stable. There is no place on earth that a human should be denied the free use of these gifts. It is understood if humans chose to live in an area they must be supplied with fresh air or water that is another matter.

Ken Richardson ***** at (kands@bigsky.net)

Hoeglund, Sonja

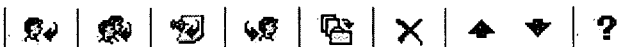
From: Cathy Jones [fcd@digisys.net]
Sent: Tuesday, January 22, 2002 4:15 PM
To: shoeglund@state.mt.us
Subject: Flathead Indian Reservatioon

Sonja.....

Could you please tell me where I can find further information regarding the Compact Commission's work with the Salish Kootenai Tribes, as it relates to your request for comments? You had an ad in the Daily Inter Lake/Kalispell this weekend and I have been asked to follow up on comments.

Thank you.

Cathy Hanson, Resource Conservationist
Flathead Conservation District, Kalispell



Close

From: Dave DeGrandpre [SMTP:dave.planning@lakecounty-mt.org]

To: rwrcc@state.mt.us

Cc:

Subject: Water rights on the Flathead Indian Reservation

Sent: 1/22/2002 2:13 PM

Importance: Normal

January 22, 2002

Dear Flathead Team Members:

I have read the document entitled "A Proposal for Negotiation for Reserved and Aboriginal Water Rights in Montana" and would like to offer the following comments as the Director of the Lake County Planning Department. As you may know, approximately two-thirds of Lake County overlaps with the Flathead Indian Reservation. Lake County has also been one of the fastest growing counties in Montana over the past 30 years. My office deals with issues such as guiding growth to where new residents can be efficiently and effectively served, maintaining agricultural lands and wildlife habitat, subdivisions and other subjects.

My primary concern is that during the negotiation process, no new water rights can be granted. One of the primary premises of land use planning is that growth should be guided toward locations where public facilities such as schools, public sewer and water and emergency services exist. There are many reasons for this premise including the efficient provision of public services, the preservation of agricultural lands and wildlife habitat, the maintenance of high quality aquifers, and the air quality impacts of increased vehicle trips on dusty county roads.

Currently, the City of Polson, Lake County's and the Reservation's largest population center, has a moratorium on new water hookups because Polson is currently at or near its maximum allocated quantity. Other population centers in Lake County are not far behind. When new developments are proposed, they must be located off of the public water and sewer systems (i.e., in farmland and wildlife habitat) where individual lot owners will drill their own wells (which provide opportunities for groundwater contamination) and install their own septic systems (which can degrade our aquifers). This practice is contrary to the primary premise of planning described above and results in scattered developments that change the rural character of much of Lake County and the Reservation and reduce the viability of agricultural lands, water quality and wildlife habitat.

Therefore, I request that during negotiations, if limits are to be placed on new water rights, they do not apply to municipal and multi-party water systems. In fact, these types of systems are to be encouraged if we are to, as stated in the introduction of the Tribal proposal, "conserve resources

for future generations." Otherwise, many of the resources the Tribes and Lake County seek to protect will be unnecessarily and inadvertently compromised.

Additionally, I request clarification as to whether the owners of individual wells being drilled today will have the right to use the water tomorrow. Many landowners are subdividing land and many individuals are buying lots with the notion that they can use water for domestic, lawn and garden and other purposes. Are there any assurances that their underlying assumptions regarding water use are well founded and will not result in years of litigation? If not, perhaps a moratorium on all new wells (Tribal and non-Tribal alike) is appropriate, an idea that I doubt many citizens will approve of.

In closing I would like to thank all members of the negotiating teams for their effort and diligence.

Sincerely,

Dave DeGrandpre, Director
Lake County Planning Department

P.S. I send you this message via email because I know the current deadline for public comment is near. Please excuse the presentation.

January 15, 2002

Charles D. Neiman
250 Camas Creek Road
Plains, MT 59859

Montana Reserved Water Rights Compact Commission
1625 Eleventh Ave.
P. O. Box 201601
Helena, MT 59620

Dear Chairman Tweeten:

This letter is in regards to the Confederated Salish and Kootenai Tribes proposal for negotiating water rights on the Flathead Reservation.

The water rights issue vitally affects our farming and ranching operation on Camas Prairie, Montana which we have owned and operated for 3 generations. We are not newcomers to the Reservation and are not unfamiliar with working with and dealing with the tribal agencies. The following opinions result from a lifetime on this Reservation and not the opinions of an outsider looking in.

I have carefully studied the proposal submitted by the Tribe and have come to the following conclusions.

The Tribal assertion that all water on the Reservation, is only that, an assertion or opinion.

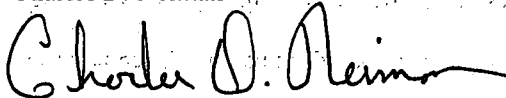
Until the present, the State of Montana has been the authority in the water rights and the water adjudication process. Even though I have not always agreed with the process or the policies surrounding water rights, I accept their decisions and processes since these decisions and processes are consistent and apply to all. Why must this system change just because we are on the Flathead Reservation? Will all previous water rights issues in the state have to be revisited depending on how the Tribes decide to handle water on Tribal land?

I cannot support a system where the Tribe creates yet another agency to regulate non-Tribal members living and working on fee land on the Reservation. I have no vote or voice in Tribal government yet I am supposed to submit to the authority of another Tribal agency that will supposedly protect my interests? Not one of the existing Tribal agencies has protected my non-Tribal interests to date unless the Tribe or it's membership was benefited along the way.

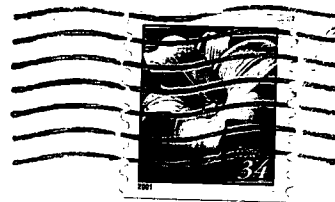
In my opinion, the Tribe should have no more authority in the water rights process than myself. The Tribe has water rights claims and I have water rights claims. These issues need to be settled by the process that is currently in place with the State of Montana.

As productive members of agriculture in Montana, we have invested in our land with irrigation systems and improvements. We have done so within the legal parameters of state water laws. Everyone must play by the same rules and there can only be one set of rules.

Charles D. Neiman



Charles D. Neiman
250 Camas Creek Road
Plains, MT 59859



Montana Reserved Water Rights Com.
1625 Eleventh Av.
P. O. Box 201601
Helena, MT 59620

59620X1601





Close

From: Russ & Laura Gregory [SMTP:lonesomepine@blackfoot.net]

To: rwrcc@state.mt.us

Cc:

Subject: CSH Tribes' Water Rights Claims, Flathead Reservation

Sent: 1/21/2002 10:39 AM

Importance: Normal

Susan Cottingham
Program Manager
Water Rights Compact Commission

Regarding the subject claims by the Confederated Salish and Kootenai Tribes, I submit to you and the commission my following comments.

1. I have grave reservations over the prospect of the tribes gaining control of the water rights on the Flathead Reservation. The Tribes are not inclusive groups and have publicly stated their opposition to growth on the reservation. They also have formally published management goals and objectives to reclaim all land not in tribal ownership.
2. Therefore, I have the following fears should the Tribes gain control of reservation water rights:
 - a. The Tribes will use water rights to control domestic and commercial growth.
 - b. Fees on wells and other water infrastructures and volume usage will be assessed non-tribal interests.
 - c. Preferences will exist for tribal members and tribal businesses in the permitting process and fee structure (i.e., there will be no permit requirement nor fees--or they will be waived/rebated--and tribal interests will retain unlimited access to water without regard for environmental/wildlife and community impacts).
3. The Tribes have a history of preferential treatment for tribal members/businesses and discrimination towards non-tribal interests. Some of these include their hiring practices, student programs/administration at the Salish Kootenai College, recreation land/water access, hunting, Flathead Lake dock fees, and enforcement of laws. Once the Tribes secure control over water rights, they will have the power to begin controlling the growth and development of the reservation in favor of tribal members rather than a balanced approach over all water users. Water rights represent the key for the Tribes to achieve their stated goals and objectives directed at removing non-tribal land ownership and control.

4. I therefore recommend the following: Should water rights control be granted the Tribes, the agreement should specify

a. The Tribes will not have the authority to set or collect water permit (except as noted in item 4c, below), water usage, or water infrastructure fees/taxes from domestic or commercial users. This would apply to both tribal and non-tribal water users.

b. The Tribes will recognize the water rights applied for as well as water rights granted by the State of Montana up through the date the agreement is signed.

c. The Tribes will continue the State of Montana's policy of granting well permits for individual homes, commercial activities, and community services. Charges for permit filing would not exceed actual administrative expenses for application processing.

d. Policies and fees developed by the Tribe to control water usage for environmental, wildlife, domestic, commercial, and other purposes would apply equally to tribal and non-tribal interests, and waivers/exceptions not authorized.

e. There be a quadrilateral commission established to oversee compliance with the agreement. The commission would include the following interests: Tribes, State and County governments, and non-tribal citizens water users.

Thank you for considering my input. This issue is extremely important to the future of all people living on the reservation. If it is not settled judiciously with appropriate protections for all interests, the potential for long term damage to the area's citizens is extremely high.

Sincerely,

Russell A. Gregory
P.O. Box 373
Arlee, MT 59821

(406) 726-4366

Subj: CSH Tribes
Susan Cottingham
Program Manager
Water Rights Compact Commission

Subj: CSH Tribes "Water Rights Claims, Flathead Reservation"

In regard to the subject claim by the Confederated Salish and Kootenai Tribes, We give to you the following opinions and comments.

1. My wife and I have serious reservations over the possibility of the tribes getting control of the water rights on the Flathead Reservation. The Tribes are not willing to include others in their plans, and have publicly stated their opposition to growth on the Reservation. They have also formally published their management goals and objectives to reclaim all land not in tribal ownership.
2. Due to this proposal, if the Tribes gain control of reservation water rights, we fear that the following things would happen.
 - a. The Tribes would use the water rights to control both domestic and commercial growth.
 - b. Fees would be assessed to non-tribal interests for well, other water and volume usage.
 - c. Tribal members and tribal businesses would have preferences in the permit process and fee structure. For instance: there would be no permit requirement on fees; or they would be waived or returned; and tribal interests would keep unlimited access to water without regard for community, environmental, and wildlife impact.
3. There is a history with the Tribes of preferential treatment for tribal members and businesses and discrimination towards non-tribal interests. Some of these include their hiring practices, student programs and administration at the Salish Kootenai College, recreation land and water access, hunting, Flathead Lake Dock fees, and enforcement of laws.

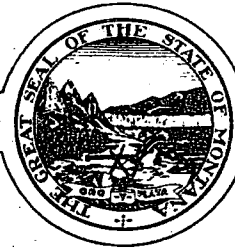
If the Tribes secure control of the waters, This issue is important to us, to our neighbors, and to the future of all people living on the Reservation. This must be settled sensibly and wisely, with appropriate protections for all interests. If it is not settled properly the potential for long term damage to the areas citizens is extremely high.

Sincerely,

Roy & Marba La Barrer
1342 Arlee Pines
Arlee, Mt. 59821

phone: (406) 726-4284
fax: (406) 726-4282

RESERVED WATER RIGHTS
COMPACT COMMISSION



JUDY MARTZ, GOVERNOR

CHRIS D. TWEETEN, CHAIRMAN

STATE OF MONTANA

Bob Thoft - Vice Chairman
Gene Etchart
Senator Bea McCarthy
Senator Bill Tash

Tara DePuy
Jack Salmond
Representative Matt McCann
Representative Cindy Younkin

TO: Fred Matt, Tribal Chairman, CSKT
FROM: Sonja Hoeglund, RWRCC
DATE: January 18, 2002
RE: CSKT letter of 12-20-01 requesting copies of public comment

Dear Chairman Matt:

Per your request, enclosed you will find copies of written comments on the Tribes' proposal the Compact Commission has received in the last week:

4
S.W.R. January 5, 2002
R.B. Water January 8, 2002
Sanders CD January 10, 2002
Merritt January 15, 2002

All of the comments are of course public information and we will provide them to you as we receive them. Please give me a call if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Sonja Hoeglund".

Sonja Hoeglund
Reserved Water Rights Compact Commission
1625 11th Avenue
Helena, MT 59601

Phone 406-444-6843
Fax 406-444-6721
Email shoeglund@state.mt.us

Cc: Chris Kenney

**SECRETARIAL WATER RIGHTS HOLDERS
of the
FLATHEAD RESERVATION**

1995 East Post Creek Road
St. Ignatius, Mt. 59865

January 5, 2002

Montana RWRCC
Chris Tweeten, Chairman
1635, 11th Ave. P. O. Box 201601
Helena, Montana 59824-1601

Re: Compacting reserved water rights for the Flathead reservation.

Dear Mr. Tweeten:

We are holders of Montana water rights known in the Flathead as Secretarial Water Rights (SWR). They were purchased from individual Indians who, under Montana Law, perfected their reserved rights before the reservation was opened to non-Indian settlement. With the reservation opening, the Flathead Reclamation Project was started and these early rights were recognized by its planners. They became known as SWR when they were certified by the United States Secretary of the Interior by extensive surveys and testimony by the claimants and many other knowledgeable Indians. Held in trust by the United States for as long as the Indian appropriators desired, our water rights and the land to which they attach have passed from any control by the United States or the tribes.

We understand that the compacting proposal you received from the Confederated Salish and Kootenai Tribes (CS&KT) claims that they own all the water, that they must have the right to administer its use, and therefore the compacting task is merely to devise a satisfactory tribal governing ordinance. We urge you to reject that claim and refuse any negotiation that would even imply an ownership of water and its administration by anyone other than the State of Montana.

It may help to remember that our land and water rights were purchased in good faith under Montana law after they were released by federal agents. They are firmly based in that law and they have been recognized by local custom throughout the last century. Only those lands remaining in U. S. trust and requiring Tribal governmental approval of their disposition have any connection to the CS&KT.

Most of us own other land and water rights under the Flathead project which have also passed from Tribal control. We trust that your negotiating efforts will be directed at securing for the tribes undeveloped water resources to which they may be entitled. To compromise state authority over either of these long standing rights is unthinkable.

The proposal before you puts the Commission in an understandably difficult position. it implies that the State can not, or will not, justly administer its water with respect the Tribes and those their government represents. We believe that is unfair. Tribal influence in Montana law and government is clearly evident. On the other hand, non-members in tribal government have neither voice nor participation in tribal ordinances and their enforcement.

Please remain firm in your commitment to protect existing water rights while compacting those the tribes may have remaining. This issue reaches beyond just water for crops. It threatens our very rights to exist here on the reservation.

Respectfully Yours,

Howard Moss
HCR 77, Box 95 Dixon MT.

Allen W. Slack
1995 E. Post Creek Rd

Clifford W. Truellett

Howard Spidel

Roger R. Detert

William L. Slack
1995 E. Post Cr. Rd St. Ignace MT.

Clifford L. Crump
1211 McDonald Rd Lake 08
ST. IGNACE, MT
59865

Keith Poble
1215 McDonald
LK Rd. St. Ignace MT
59866

Round Butte Water Company

11363 Beaver Drive, Ronan, MT 59864

January 8, 2002

Montana Reserve Water Right Compact Commission
Susan Cottingham Program Manager
P.O. Box 2010601
Helena, MT 59824-1601

Subject: Water Rights

To Whom It Concerns:

We as officers of the Round Butte Water Company would like to express our concerns about the Confederated Salish and Kootenai Tribes wanting to take over the control for both surface and no-surface waters within the Flathead Indian Reservation boundaries.

We represent a domestic rural water system west of Ronan, MT that serves 129 water customers. We have two water wells and approximately 42 miles of water pipe lines.

We appose control by the Confederated Salish and Kootenai Tribes of water wells and water rights to surface water of non-tribal members.

The Tribal Government is not our government and we do not have a say in their elections or any decision making within their government. The State Constitution also states that all waters within the state are controlled by the State of Montana.

We would prefer that the State of Montana being involved in making decision as to our water rights as we would be more equally represented.


The Round Butte Water Company may have to drill another water well in the future sand we would rather work with a government that represents all people equally.

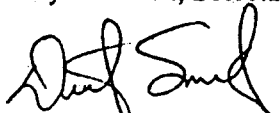
Sincerely,
Round Butte Water Company


Tim Herreid, President


Robert J. Smith, Vice President


Gary Baertsch, Secretary


Jerry W. Smith, Treasurer


Dusty Smith, Manager

Eastern Sanders Conservation District



LEND A HELPING HAND
TO
CONSERVATION OF LAND

102 Highway 200 West

Plains, Montana 59859

(406) 826-3701

January 10, 2002

Susan Cottingham, Program Manager
Reserved Water Rights Compact Commission
1625 Eleventh Avenue
PO Box 201601
Helena, MT 59620-1601

Dear Ms. Cottingham:

The Eastern Sanders Conservation District Board held its regular meeting and recommends there be a joint state/tribal controlling agency. The controlling agency must recognize all persons equally. The Board agrees that first in time/first in use keep their water rights and once abandoned it should be next adjudicated.

Agriculture water is of special interest to the conservation district and needs to be protected.

Sincerely,

A handwritten signature in cursive script that reads "Patsy Meredith".

PATSY MEREDITH
District Clerk

Cc: Harris Wiltzen
Fred Cavill
Jerry Hamel
Eddie Magera
Lauraine Johnson
Robert Cuddy

1/15/2002

Montana Reserved Water Rights

Compact Commission

Chairman Chris D. Werten

1635 11th Ave P.O. Box 201601

Helena, MT 59620 -1601

RECEIVED

JAN 17 2002

D.N.R.C.

Commission Members:

The Confederated Salish & Kootenai Tribes assumption that the water rights on the Flathead Reservation belong to the tribes is totally false. Thus; they are saying that the water belongs to 10% of the people. Ninety Percent of the people have no voice in that government and if they want to govern all the people, then all the people must have a voice in that government. Therefore only one government has the voice of all the people The State of Montana. Please do not make this another Klamath Basin; and please do not make a discussion that makes the people more combative than they already are. We can't be held hostage for something that took place generations ago.

Roy D. Merritt

Roy D. Merritt
63 Garden Creek Rd.
Hot Springs, MT 59845

**SECRETARIAL WATER RIGHTS HOLDERS
of the
FLATHEAD RESERVATION**

1995 East Post Creek Road
St. Ignatius, Mt. 59865

January 5, 2002

Montana RWRCC
Chris Tweeten, Chairman
1635, 11th Ave. P. O. Box 201601
Helena, Montana 59824-1601

Re: Compacting reserved water rights for the Flathead reservation.

Dear Mr. Tweeten:

We are holders of Montana water rights known in the Flathead as Secretarial Water Rights (SWR). They were purchased from individual Indians who, under Montana Law, perfected their reserved rights before the reservation was opened to non-Indian settlement. With the reservation opening, the Flathead Reclamation Project was started and these early rights were recognized by its planners. They became known as SWR when they were certified by the United States Secretary of the Interior by extensive surveys and testimony by the claimants and many other knowledgeable Indians. Held in trust by the United States for as long as the Indian appropriators desired, our water rights and the land to which they attach have passed from any control by the United States or the tribes.

We understand that the compacting proposal you received from the Confederated Salish and Kootenai Tribes (CS&KT) claims that they own all the water, that they must have the right to administer its use, and therefore the compacting task is merely to devise a satisfactory tribal governing ordinance. We urge you to reject that claim and refuse any negotiation that would even imply an ownership of water and its administration by anyone other than the State of Montana.

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59865

S.W.R Holders
1995 E. Post Creek Rd.
St. Ignatius, Mt. 59865



Montana RWRCC
Chris Tweeten, Chairman
1635, 11th Ave. P. O. Box 201601
Helena, Montana 59824-1601

RECEIVED
JAN 14 2002
D.N.R.C.

05620#1601



Round Butte Water Company

11363 Beaver Drive, Ronan, MT 59864

January 8, 2002

Montana Reserve Water Right Compact Commission
Susan Cottingham Program Manager
P.O. Box 2010601
Helena, MT 59824-1601

Subject: Water Rights

To Whom It Concerns:

We as officers of the Round Butte Water Company would like to express our concerns about the Confederated Salish and Kootenai Tribes wanting to take over the control for both surface and no-surface waters within the Flathead Indian Reservation boundaries.

We represent a domestic rural water system west of Ronan, MT that serves 129 water customers. We have two water wells and approximately 42 miles of water pipe lines.

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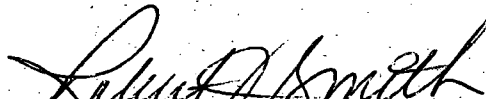
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Sincerely,
Round Butte Water Company



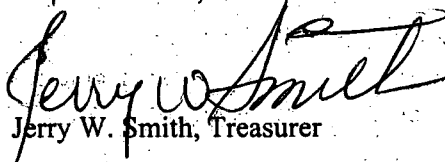
Tim Herreid, President



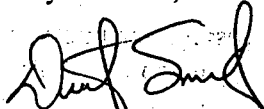
Robert J. Smith, Vice President



Gary Baertsch, Secretary

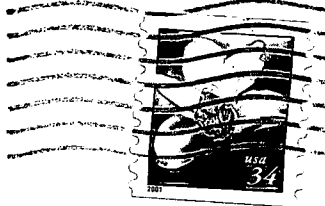


Jerry W. Smith, Treasurer



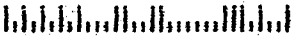
Dusty Smith, Manager

Round Butte Water Company
11363 Beaver Drive
Ronan, MT 59864



RECEIVED
JAN 14 2002
D.N.R.C.

Montana Reserve Water Right Compact Commission
Susan Cottingham Program Manager
P.O. Box 2010601
Helena, MT 59824-1601



1/15/2002

Montana Reserved Water Rights

Compact Commission

Chairman Chris D. T. Waten
1635 11th Ave P.O. Box 201601
Helena, MT 59620 -1601

RECEIVED
JAN 17 2002
D.N.R.C.

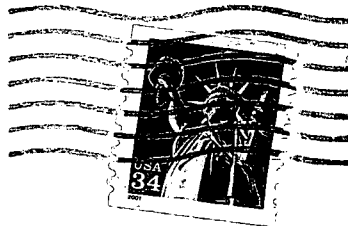
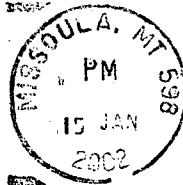
Commission Members:

The Confederated Salish & Kootenai Tribes assumption that the water rights on the Flathead Reservation belong to the tribes is totally false. Thus; they are saying that the water belongs to 10% of the people. Ninety Percent of the people have no voice in that government and if they want to govern all the people, then all the people must have a voice in that government. Therefore only one government has the voice of all the people The State of Montana. Please do not make this another Klamath Basin, and please do not make a discussion that makes the people more combative than they already are. We can't be held hostage for something that took place generations ago.

Roy D. Merritt

Roy D. Merritt
63 Garden Creek Rd.
Hot Springs, MT 59845

Roy D. Merritt
63 Garden Creek Rd.
Hot Springs, MT 59845



Montana Reserved Water Rights
Compact Commission
Chris R Twetten Chair
1635 11th Ave PO Box 201601
Helena, MT 59620-1601

Eastern Sanders Conservation District



LEND A HELPING HAND
TO
CONSERVATION OF LAND

102 Highway 200 West

Plains, Montana 59859

(406) 826-3701

January 10, 2002

Susan Cottingham, Program Manager
Reserved Water Rights Compact Commission
1625 Eleventh Avenue
PO Box 201601
Helena, MT 59620-1601

Dear Ms. Cottingham:

The Eastern Sanders Conservation District Board held its regular meeting and recommends there be a joint state/tribal controlling agency. The controlling agency must recognize all persons equally. The Board agrees that first in time/first in use keep their water rights and once abandoned it should be next adjudicated.

Agriculture water is of special interest to the conservation district and needs to be protected.

Sincerely,

A handwritten signature in cursive script that reads "Patsy Meredith".

PATSY MEREDITH
District Clerk

Cc: Harris Wiltzen
Fred Cavill
Jerry Hamel
Eddie Magera
Lauraine Johnson
Robert Cuddy

**Eastern Sanders
Conservation District**

102 Highway 200 West
Plains, Montana 59859



LEND A HELPING HAND
to
CONSERVATION OF LAND

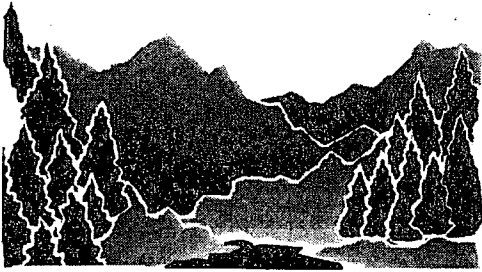


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JAN 14 2002
D.N.R.C.

Susan Cottingham, Program Manager
Reserved Water Rights Compact Commission
1625 Eleventh Avenue
PO Box 201601
Helena, MT 59620-1601

59620X1601





LAKE COUNTY PLANNING DEPARTMENT

106 FOURTH AVENUE EAST
POLSON, MT 59860-2175

PH: 406-883-7235 FAX: 406-883-7205
E-MAIL: Planning@lakecounty-mt.org

RECEIVED

MAY 02 2002

D.N.R.C.

RECEIVED

MAY 03 2002

D.N.R.C.

May 2, 2002

Susan Cottingham
Reserved Water Rights Compact Commission
P.O. Box 201601
Helena, MT 59620-1601

Kurt Hafferman
Department of Natural Resources and Cons.
109 Cooperative Way, Suite 110
Kalispell, MT 59901-2387

Re: Disclosure and indemnity statement regarding water use in subdivisions on the Flathead Indian Reservation

Dear Susan and Kurt:

As you are keenly aware, there is currently a great deal of public uncertainty regarding the issuance of water use permits on the Flathead Indian Reservation. Approximately two-thirds of Lake County overlaps with the reservation and Lake County has the responsibility of reviewing subdivisions on fee land in the overlapping territory. This is a concern because 76-3-501, MCA and the Lake County Subdivision Regulations specifically refer to water supply (or the lack thereof) as a component of subdivision review. This letter is intended to inform you of Lake County's recently adopted procedure regarding the water use uncertainty.

The Lake County Planning Department and County Commissioners have developed two primary goals regarding the review of subdivision applications for fee land on the reservation. The goals are to meet statutory requirements by continuing to process subdivision applications while at the same time, limiting the county's exposure to risk as a result of future litigation. We have had conversations with a number of attorneys, planners, sanitarians and commissioners to come up with the language presented below. It is derived from language Lewis and Clark County developed and was amended by attorney Myra Shults and myself to reflect local circumstances.

Lake County's first step is to inform potential subdividers that they may be taking a risk by creating lots for residential or commercial purposes. During the pre-application phase of subdivision review, staff includes the following text in our written response to a subdivider's submittal:

The issue of whether the Confederated Salish & Kootenai Tribes or the State of Montana, through its Department of Natural Resources and Conservation, has the authority to issue permits to use water on the reservation is unresolved at this time. Until the Montana Supreme Court addresses this issue and rules, or until the Tribes and the State reach a compact, Lake County cannot assure water users they

have the legal right to use water on the reservation. Given the fact Lake County has no clear guidance about whether the State or the Tribes have jurisdiction over water use on the reservation, if your division is approved, you will be required to file a signed disclosure and indemnification statement along with the final plat stating that Lake County will be held harmless in the event that future lot owners in your subdivision cannot legally use water.

The next step takes place at the preliminary approval stage. As a condition of approval, Lake County requires the subdivider to sign and file the disclosure and indemnification statement shown below along with the final plat.

By filing this document with the Lake County Clerk and Recorder, the landowner(s) causing this land to be subdivided, their heirs, successors and assigns and all future owners of property within this subdivision agree to hold Lake County harmless and indemnify Lake County from all claims, demands, obligations, suits, causes of action, damages, and liability, including Lake County's costs and attorneys' fees, arising in any manner whatsoever out of, or relating to, the right to obtain water on the Flathead Indian Reservation.

By signing the above statement, we are assured that the subdivider is aware of the present uncertainty regarding water use permits. More importantly, the fact that the document is filed with the plat will cause the situation to be disclosed to future buyers in a title report prior to closing. This can only result in more aware purchasers and will hopefully have the effect of limiting Lake County's liability exposure.

One concern with the above approach is that by requiring this action of subdividers, they may find that potential purchasers are more wary and they may lose some sales as a result. The possibility therefore exists that Lake County will be taken to court for lost sales. In my opinion, buyers *should* have a degree of skepticism regarding the situation. This is merely an attempt to reduce risk to the taxpayers of Lake County, and hopefully do the right thing at the same time.

If you have any questions or comments, please feel free to contact me at 406-883-7235 or dave.planning@lakecounty-mt.org, or the Lake County Commissioners at 406-883-7204 or commissioners@lakecounty-mt.org.

Respectfully,



Dave DeGrandpre, Director
Lake County Planning Department

4/11/02

Telephone Call - Lonnie Hecht 883-2118
called interim plan

Returned call 4/11/02

- owns property & wants to subdivide
or bank will take property
- see ads for tribes drilling 30+ wells
- Very upset
- told him goal to have plan to
full negotiating teams beginning
of June + get relief for ~~the~~ domestic
& municipal
- encouraged him to voice concerns
to others
- no voice in Tribes

A. Gates

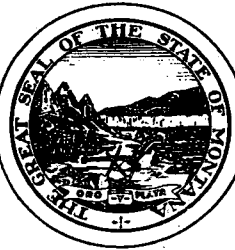
4/11/02

Telephone Call

- Diane Brewer 246-3242
owns ranch - Ditch crosses allotment
now can't get water to property
(Main Ranch 900 acres)
- could make easement access
part of compact. but?
 - KWRCC doesn't do anything w/
land use
 - has been working on accessing
water for last 1 1/2 yrs.
 - encouraged her to send something
in writing

A. Gates

RESERVED WATER RIGHTS COMPACT COMMISSION



JUDY MARTZ, GOVERNOR

CHRIS D. TWEETEN, CHAIRMAN

STATE OF MONTANA

Bob Thoft - Vice Chairman
Gene Etchart
Senator Bea McCarthy
Senator Bill Tash

Tara DePuy
Jack Salmund
Representative Matt McCann
Representative Cindy Younkin

February 12, 2002

Donald and Carrie Jensen
79496 Old Hwy 93
Elmo MT 59915

Dear Mr. and Mrs. Jensen:

Thank you for your email asking for further information on negotiations for federal reserved water rights on the Flathead Reservation.

I have enclosed a fact sheet on the Montana Reserved Water Rights Compact Commission and a January 31 letter explaining the status of the negotiations prior to the February 7th negotiating session in Missoula.

At the February 7th meeting the federal government, Tribes and the State of Montana agreed to set aside the Tribes' jurisdictional proposal and to proceed with several working groups on to look at technical and legal issues.

As the January 31 letter emphasizes, these negotiations are in the beginning of a long process to negotiate a water compact with the Tribes. There is no deadline for public comment during this process. You have been added to our mailing list so that you will receive notice of future negotiating sessions or informational mailings that we send out on the process. A copy of the Tribe's proposal is available on our web site at: <http://www.dnrc.state.mt.us/rwrcc/index.htm>. If you are unable to access it, let us know and we will send you a copy.

Thank you for your interest in the negotiations.

Sincerely,

A handwritten signature in cursive script that reads "Joan Specking".

Joan Specking

Enc.

THE MONTANA

RESERVED WATER RIGHTS

COMPACT COMMISSION

1625 11th Avenue, Helena, Montana 59620-1601 (406)444-6841

Email: rwrec@state.mt.us

Susan Cottingham, Program Manager

Web site: <http://www.dnrc.state.mt.us/rwrec>

Montana's Reserved Water Rights Compact Commission (RWRCC) was Established by the Montana Legislature in 1979 as part of the state-wide general stream adjudication process (§85-2-701, MCA).

The Compact Commission is composed of nine members. Four members are appointed by the Governor. Gene Etchart, Jack Salmond, Bob Thoft, and Tara DePuy are presently serving in that capacity. Two members are appointed by the President of the Senate. They are Senator Bill Tash and Senator Bea McCarthy. Two members are appointed by the Speaker of the House of Representatives. They are Representative Matt McCann and Representative Cindy Younkin. One member is appointed by the Attorney General; he is Chris Tweeten. Mr. Tweeten currently serves as chairman of the Commission. Legal and historical research and technical analyses are prepared for the Commission by a multi-disciplinary staff of eleven professional and technical members which includes a program manager, two attorneys, a historical researcher, an agricultural engineer, two hydrologists, a soils scientist, a digital geographer, and two administrative staff.

▽ FEDERAL RESERVED WATER RIGHTS

The Commission is authorized to negotiate settlements with federal agencies and Indian tribes that claim federal reserved water rights within the State. A federal reserved water right is a right to use water that is implied from an act of Congress, a treaty, or an executive order establishing a tribal or federal reservation. The amount of water to which the reservation is entitled depends on the purpose for which the land was reserved. In Montana, reserved water rights have been claimed for seven Indian reservations, for allotments for the Turtle Mountain Chippewa Tribe, for national parks, forests, and wildlife refuges, and for federally designated wild and scenic rivers.

The claims of the tribes and the federal agencies are suspended from adjudication in the Montana Water Court while they are being negotiated by the Compact Commission. Settlements negotiated by the Commission on behalf of the State are ratified by the Montana Legislature and the Tribal Councils and approved by the

appropriate federal authorities. In some instances, approval by the U.S. Departments of Justice and the Interior will be sufficient. In other cases, where federal authorization or federal appropriations are needed to implement provisions of the settlement, congressional approval will be required.

By statute, the Legislature has prioritized the adjudication of water rights in the Milk River basin. There are three Indian reservations in that basin, the Fort Belknap, Rocky Boy's and Blackfeet Reservations, as well as two wildlife refuges managed by the U.S. Fish and Wildlife Service.

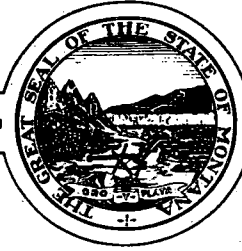
▽ PUBLIC INVOLVEMENT

Citizen participation is an essential element of each settlement negotiation and insures that the Commission's deliberations on behalf of the State address the concerns of the public and incorporate local solutions to water use problems. During these negotiations, public meetings are held during the initial stages of negotiations and again when negotiations are nearing completion.

COMPACTS NEGOTIATED BY THE COMMISSION

Fort Belknap-Gros Ventre and Assiniboine
April 2001 §85-20-1001, MCA
Fort Peck - Assiniboine and Sioux Tribes
May 1985 §85-20-201, MCA
Northern Cheyenne Tribe
September 1992 §85-20-301, MCA
U.S. National Park Service
Jan. 1994, May 1995 §85-20-401, MCA
Yellowstone National Park
Glacier National Park
Big Hole National Battlefield
Little Bighorn Battlefield National Monument
Bighorn Canyon National Recreation Area
U.S. Bureau of Land Management
September 1997 §85-20-501, MCA
Upper Missouri National Wild and Scenic River
Bear Trap Canyon Public Recreation Site
Rocky Boy's Reservation - Chippewa Cree Tribe
April 1997 §85-20-601, MCA
November 1999 PL 106-163
U.S. Fish and Wildlife Service
July 1997 §85-20-701, MCA
Black Coulee National Wildlife Refuge
Benton Lake National Wildlife Refuge
U.S. Fish and Wildlife Service (FWS)
Red Rock Lakes National Wildlife Refuge
April 1999 §85-20-801, MCA
Crow Tribe
June 1999 §85-20-901, MCA
Special Legislative Session
(effective upon Congressional Approval)

RESERVED WATER RIGHTS COMPACT COMMISSION



JUDY MARTZ, GOVERNOR

CHRIS D. TWEETEN, CHAIRMAN

STATE OF MONTANA

Bob Thoft - Vice Chairman
Gene Etchart
Senator Bea McCarthy
Senator Bill Tash

Tara DePuy
Jack Salmond
Representative Matt McCann
Representative Cindy Younkin

January 31, 2002

Re: Settlement of Water Rights for the Confederated Salish and Kootenai Tribes

Dear Sir or Madam:

Thank you for expressing interest in the settlement of water rights for the Confederated Salish and Kootenai Tribes. Due to the nature of the comments received, the Commission would like to clarify where the settlement negotiations are in the compact process. We are in the beginning of the process of negotiating a compact with the Tribes. There is no deadline for public comment on the process or specific proposals. Public involvement is critical to negotiation of any compact and the Commission will be soliciting public input throughout the process. By virtue of your interest in the negotiations, you have been added to the Commission's mailing list and will receive notice of all negotiating sessions and public meetings.

As you are aware a Negotiating Session is scheduled for February 7, 2002, at 9:00 a.m., at Ruby's Inn and Convention Center in Missoula. The purpose of the Session is to review the process of the negotiations and have the Tribes clarify their "Proposal for Negotiation of Reserved and Aboriginal Water Rights in Montana." The Commission does not anticipate that agreement regarding the Proposal will be reached with the Tribes at the Session.

The Commission expects that the negotiation process will be a long one, because all potential effects of a settlement must be understood and discussed with the public. Any understanding would include substantial technical research regarding water availability, uses, needs, etc., all of which takes time. Public participation and comment will be an integral part of the development of any settlement.

Again, thank you for your interest in the negotiations. The Commission is interested to hear what issues you or your neighbors believe are important in any settlement of the water rights of the Tribes. If you have a question or would like additional information, please contact the Commission at the address below or email us at rwcc@state.mt.us.

Very truly yours,

Chris Tweeten (fs)

Chris D. Tweeten, Chairman
Reserved Water Rights Compact Commission

RESERVED WATER RIGHTS COMPACT COMMISSION



JUDY MARTZ, GOVERNOR

CHRIS D. TWEETEN, CHAIRMAN

STATE OF MONTANA

Bob Thoft - Vice Chairman
Gene Etchart
Senator Bea McCarthy
Senator Bill Tash

Tara DePuy
Jack Salmond
Representative Matt McCann
Representative Cindy Younkin

TO: Fred Matt, Tribal Chairman, CSKT
FROM: Sonja Hoeglund, RWRCC
DATE: January 11, 2002
RE: CSKT letter of 12-20-01 requesting copies of public comment

Dear Chairman Matt:

Per your request, enclosed you will find copies of written comments on the Tribes' proposal the Compact Commission has received since December 20, 2001:

3	Peoples	December 28, 2001
	Cross	January 8, 2002
	Cross	January 9, 2002

All of the comments are of course public information and we will provide them to you as we receive them. Please give me a call if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Sonja Hoeglund".

Sonja Hoeglund
Reserved Water Rights Compact Commission
1625 11th Avenue
Helena, MT 59601

Phone 406-444-6843
Fax 406-444-6721
Email shoeglund@state.mt.us

Cc: Chris Kenney

1/9/01

Mary D Cross
691 - C. R. 382
Plains, Mt. 59859

State Dept. of Justice Atty.
Mr Chris. H. Tweeten,
1635 - 11th Ave
P.O. Bx. 201601

Helena, Mt. 59620-1601.

Dear Mr Tweeten & Staff Members St. Govt. & Water Pact Commission,

In response to the request for written Comments on the proposed tribal State Water rights on the Flathead Reservation in Lake & Sanders County.

As a property owner and irrigator & Ranchers in Camas Prairie, I strongly object to the Tribes proposal for complete jurisdiction of the water rights.

The tribes past history has been very racist on all issues concerning their interests.

Its unfair for a non Tribal citizen to be Governed by a non tax paying Govt. in which they have no voice.

The tribe could charge exorbitant prices for our home water, irrigation well water and Creek water, putting us out of business & stock water.

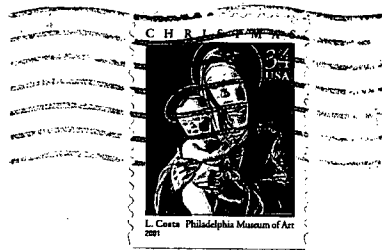
Thanking you for your attention on this very important matter.

Sincerely,

Mary D. Cross



Mary D. Cross
691 C RR 382
Plains, MT 59859



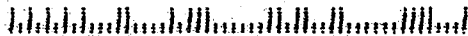
State government & Water Compact Commission
Chris D Tweeten and Commission Representatives
1635. 11th Ave.
P.O. BX. 201 601
Helena, Mt. 59620-1601

RECEIVED

JAN 11 2002

D.N.R.C.

59620/1601



An Open letter to the Reserved Water
Rights Commission :

RECEIVED

JAN 08 2002

D.N.R.C.

Dear Sirs,

As a landowner and a water user (irrigator) on the Flathead Reservation, I implore you to protect the current and future rights of non tribal members.

It seems extremely arrogant for the tribes to require you to concede that all water on the reservation belongs to them, when it doesn't.

Our existence and the future of our children hinges on how well you stand up for our rights.

I personally would rather test my fate in court than admit that the water is the tribes and hope they treat me fairly.

Please stand your ground for our water rights -!!

Thank you
Sincerely
Wayne Cross

Wayne C. Cross
691 C.R. 382
Plains, MT 59859



Montana Reserved Water Rights Compact Comm.
% Chris Sweeten
1635 11th Ave.
P.O. Box 201601
Helena, MT 59620 - 1601

59820/1601



mailing list

Dan Kramer

1025 Round Butte Rd.
Ronan, MT 59864

253-1710 work w/voicemail

676-3447 h

Charlo sewer dist / Ronan golf course

1.4.02

phone call expressing general concerns
about tribes having authority to
manage water over non-Indians

told him we'd incl him w/ mtg w/
other municipal managers

**Craig Peeples
624 Georgia Road
Polson, MT 59860**

December 28, 2001

Montana Reserved Water Rights Compact Comm.
PO Box 201601
Helena MT 59620-1601

RE: Non-tribal Water Rights
Lake County

Dear Commissioners;

I own a lake front lot on Finley Point (Flathead Lake) in Lake County. I purchased the lot with a cabin on it in 1992, and at the time I was told that it included water rights for the well on the property. It turns out that the water rights that were deeded to me involved another lot, and I have subsequently applied for the rights on my lot. Because of the lawsuit between the State and the SKC Tribe, the State has indicated they will not issue to me a water rights certificate. A certificate may be issued to me after the suit is resolved or I may never get water rights, depending on how the suit is settled.

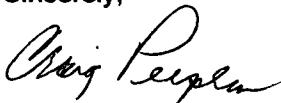
Although I am not an attorney, it seems to me that I should receive all rights that the land possessed when it was Homesteaded and patented by the Federal Government many years ago. Since there were no reservations in the patent, I should have all the **bundle of rights** typically transferred with the land, which includes water. While the Tribe says they have relied on the Federal Government representations in the Hell Gate Treaty, I have also relied on governmental representations through the patents it has issued. It seems the Federal Government should resolve this problem, but not by granting 100% of the water rights to the SKC Tribe.

Since the time the Reservation was established and from the time non-tribal citizens settled in the Flathead in the early 1900's, it took cooperative governmental efforts to develop domestic water and power. Farmers, loggers and city residents (tribal and non-tribal) have benefited from these actions. Of the 26,000 Lake County residents, approximately 6,300 are of Tribal lineage according to the 2000 U.S. Census. Based on Census projections, tribal population will probably be around 10,000 in 2025. It is unrealistic to give all water rights to the Tribe, which has less than 25% of the population. Some type of cooperative effort should be agreed upon.

The demands of water allocation for northwest Montana are complicated. In addition to historical precedents, the present day and future requirements must also be taken into consideration. I understand that the original Reservation acreage allocation was 1,244,000 acres, but from this, 455,000 acres were opened for homesteading. An unknown number of acres were sold off by tribal members, and a large amount of the remaining Tribal acreage is mountainous. The future demand for water by mountain acreage is minimal and the demand for water to serve farming and domestic tribal lands should be able to be calculated. The Tribe should not be allocated 100% of the water rights based on 1,244,000 acres. Why not project the water needs of the Reservation area over the next 100 years, with updates every 25 years, then allocate water use based on projected demand, a % to the tribe and a % to non-tribal uses.

There should be enough water for all present and future users.

Sincerely,



Craig Peeples

C. Peeples
624 Georgia Rd.
Polson MT. 59860



Montana Reserved Water Rights Compact
Comm.
PO Box 201601
Helena MT 59620-1601

RECEIVED
JAN 03 2002
D.N.R.C.

59620X1601



RESERVED WATER RIGHTS COMPACT COMMISSION



JUDY MARTZ, GOVERNOR

CHRIS D. TWEETEN, CHAIRMAN

STATE OF MONTANA

Bob Thoft - Vice Chairman
Gene Etchart
Senator Bea McCarthy
Senator Bill Tash

Tara DePuy
Jack Salmond
Representative Matt McCann
Representative Cindy Younkin

TO: Fred Matt, Tribal Chairman, CSKT

FROM: Sonja Hoeglund, RWRCC

DATE: December 27, 2001

RE: CSKT letter of 12-20-01 requesting copies of public comment

Dear Chairman Matt:

Per your request, enclosed you will find copies of all written comments on the Tribes' proposal the Compact Commission has received to date:

MWRA	August 6, 2001
Page	August 7, 2001
Merritt	August 7, 2001
FJBC	October 29, 2001
9 Cavill	November 15, 2001
Campbell	December 17, 2001
Ross	December 18, 2001
Horton	December 18, 2001
Crawford	December 19, 2001

All of the comments are of course public information and we will provide them to you as we receive them. Please give me a call if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Sonja Hoeglund".

Sonja Hoeglund
Reserved Water Rights Compact Commission
1625 11th Avenue
Helena, MT 59601

Phone 406-444-6843
Fax 406-444-6721
Email shoeglund@state.mt.us

SENT COPY TO
CHRIS KENNEY,
JAN 11, 2002

SH

**Bob Fulton
Civil Engineer
217 Main Street
Polson, Montana 59860
406-883-9217
FAX 883-5696**

December 20, 2001

Susan Cottingham
State of Montana
P.O. Box 201601
Helena, Montana 59620-1610

RE: Water Right Compact, CSKT

Dear Ms. Cottingham,

After considering the comments that were made at Price's restaurant on Monday, and your statement that the tribes claim all the water, it occurred to me that there was little new information discussed. However, I do not ever recall anyone commenting on the Federal government's role in the water issue other than the tribal claim that the 1855 treaty between the Federal government and the tribes granted to the tribes all the water over, under and through the reservation.

What was the government's assumption when they opened the reservation and invited non tribal, US citizens, to enter and homestead this land? Since some of that water was essential to those non tribal citizens for survival, how did the Federal government assume they would obtain it if as the tribes claim they own all the water?

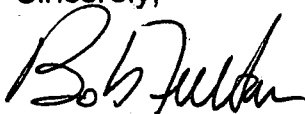
Was the opening of the reservation and a sharing of the lands between the tribal people and the US citizens not also a sharing of the water that flows over under or through these lands? How can the US government, much less the state of Montana, even consider granting more water than proportionally should be shared by the rest of the US citizens based upon the proportionate share of lands open to homesteading versus those retained by the tribes when the reservation was opened to non tribal members?

It seems reasonable to look at the percentage of land allocated to the tribes and the percentage of lands opened to for homesteading and after a study to determine the average annual volume of water in this all inclusive, "all the water claim" to simply assign jurisdiction over the percentage of the analytically determined total to each set of claimants.

I suspect that the negotiations your office is entering into will be difficult and long. But as an owner of property on this reservation, and not having any political say in the decisions made by the tribes, I would be strongly opposed to having the tribal government responsible for permitting my use of water. I do not recall who said it, he was described in a recently published article, by the Missoulian reporter as a representative of the tribes, but the comment was the tribes were likely to honor present users use of water but he was not sure that they would issue additional water use permits to non tribal members after the tribes gained control over the water.

That position, if I understood it correctly, appears to be a taking of US and Montana citizen rights to use and develop their property.

Sincerely,

A handwritten signature in cursive script that reads "Bob Fulton".

Bob Fulton

P.O. Box 86
Florence, MT 59833-0086
December 19, 2001

Chris D. Tweeten, Chairman
Montana Reserved Water Rights Compact Commission
1635 11th Avenue
P.O. Box 201601
Helena, MT 59620-1601

Dear Chris D. Tweeten, Chairman:

I read an article in the December 18, 2001 Missoulian newspaper concerning Flathead Lake area water rights, including below ground water rights for residences.

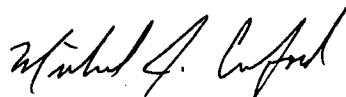
Most disturbing is the statement, "The tribe would recognize non-Indian users' claims to tribal water, guaranteeing them fairness and due process in a tribally administered forum."

If the tribe sold residential property and provided a Warranty Deed to that property and the new owners properly filed for water rights on that property, that should be the end of tribal involvement in this matter. It is not the fault of the residence owner that the tribe was shortsighted when it relinquished ownership of the residential property to begin with.

With this opinion made public, I see this issue of being treated with "fairness and due process" as a threat to legal property ownership. There is nothing to be treated fair about. The bottom line is that the tribe relinquished their rights to the property.

I am not an hydrologist but I believe that one would be very hard pressed to prove that the below ground water a low density area residence uses could possibly affect "aboriginal fishing rights" as guaranteed in the Hellgate Treaty of 1855.

Sincerely,



Michael J. Crawford

December 18, 2001

Chris D. Tweeten
1635-11th Avenue
P.O. Box 201601
Helena, Montana
59620-1601

RE: Montana Reserved Water Rights Compact Commission

Dear Mr. Tweeten:

We are writing concerning the water rights on the Flathead Indian Reservation. My husband and I own a cattle ranch on Camas Prairie. We have a well for our home and two wells to water our cattle. Please do not take our water and give those wells to the tribe. Our ranch would come under the control of the tribe if they could set how much water we could use. I am worried that eventually they would try to meter our wells. The value of our property would be lower if the tribe controls the water. I believe this would also have an adverse affect on Sanders County which is already considered to be a poor county.

I do not trust the tribe to be fair and leave our wells alone. They show no fairness in helping pay property taxes to support the schools on the reservation. They show no fairness in hiring whites for jobs on the reservation. They show no fairness in letting whites hunt on the reservation. And, they will surely show no fairness to any white business coming into the area that might need water for their business.

Do our water wells have anything to do with the Indians needing to protect their fishing rights?

I believe those controlling the tribe are not acting in the best interest of all the families in our area. There are many more white families on the reservation than Indian families and the needs of all families should be considered.

Sincerely,



Dwane E. Horton

Judith D. Horton

940 Cottonwood Creek Road, Plains, Montana 59859

Mr. & Mrs. Dwane Horton
940 Cottonwood Creek Rd
Plains, Montana 59859

RECEIVED

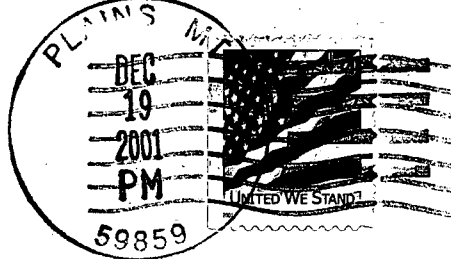
DEC 24 2001

D.N.R.C.

RWORCC

Chris D. Tweeten
1635-11th Avenue

P.O. Box 201601
Helena, Montana 59620-1601



59620X1601



S. Ann Ross
391 Skidoo Lane
Polson, Montana 59860

18 December 2001

Chris D. Tweeten, Chairman
Montana Reserved Water Rights Compact Commission
1635 11th Ave.
PO Box 201601
Helena, MT 59620

Dear Mr. Tweeten:

I am writing to protest the proposal by the Confederated Salish and Kootenai Tribes to claim jurisdiction over all water rights on the Flathead Reservation.

I am a non-Indian property owner in Lake County and my family has been here since the 1930's. I object to having my ground water rights controlled by a government in which I can not have representation because I am of the wrong race. I believe that this is a violation of my constitutional rights. I also believe that it is a violation of my private property rights and may interfere with my ability to sell my land in the future if a new owner is prevented from digging a well because he might be a non-Indian.

Sincerely yours,

A handwritten signature in cursive script that reads "S. Ann Ross".

John Pampall

page 4 B

1. In 1855 What was known about groundwater
2. Non Tribal Members have no voice in Tribal Government. Non Tribal members and entities should be governed by The State of Montana or The United States.
3. Their first statement That All Water on and under The reservation is owned by U.S in Trust, IF They claim to own it All how are non tribal entities and individuals guaranteed equal treatment.
4. What kind of Appeal Process would we be Subject To under a Tribal Ordinance.
5. Under the Water Quality Ordinance The Tribe answers to The USEPA, Who would they answer to About Water Rights.
6. Have The People around The Reservation been informed that the Tribe feels That They have water rights off The Reservation.
7. I believe Surface Water and Groundwater should be treated differently They are not necessarily connected.
8. Have The Tribes Quantified what Their existing and future needs are?
9. is There The possibility The Cities within The Reservation could lose existing Water Rights?

Mr. Chris Tweeten, Chairman
Montana Reserved Water Rights Commission
1625 Eleventh Ave.
P.O. Box 201601
Helena, Mt. 59620-1601

RECEIVED

NOV 15 2001

D.N.R.C.

Dear Chairman Tweeten:

Please allow me to introduce myself before I comment on the Flathead and Kootenai Tribe's water rights proposal.

My name is Fred Cavill, Vice-Chairman of Eastern Sander's County Conservation District. I was introduced to your group last week when the Salish and Kootenai proposal for negotiation was discussed by a group of ladies from staff and commission. Unfortunately, our supervisors had not reviewed or prepared to give any feed-back.

I have now read the proposal and wish to comment as a Montana resident.

We live just twelve air miles from the reservation and have many friends and some relatives living on the reservation. It is my observed opinion that half a dozen families control all items of the tribe's sovereign matters. The introduction of the proposal sounds so pristine and friendly that we must be talking about two different places.

It must be part of your consideration that non-tribal members can't gather wood, hunt, fish, rent most tribal trust land, get tribal health care (even if spouse is a tribal member), and can't vote or sit in on representation of tribal matters.

I believe the adjudication of water rights must be worked out through your commission. The Constitution of Montana puts that responsibility to Montana! You must represent all the people in this important effort.

Sincerely,



Fred L. Cavill
860 River Rd. W.
Plains, Mt. 59859

**RESPONSE OF FLATHEAD JOINT BOARD OF CONTROL
TO JUNE 13, 2001 WATER RIGHTS COMPACT PROPOSAL OF THE
CONFEDERATED SALISH AND KOOTENAI TRIBES**

The Flathead Joint Board of Control ("FJBC") respectfully submits this memorandum in response to the proposal submitted June 13, 2001 by the Confederated Salish and Kootenai Tribes ("CSKT" or "Tribes") for a reserved water rights compact with the State of Montana ("State").

At the outset the FJBC emphasizes its support for resolving such issues through negotiation. It is heartened by the Tribes' desire to reach a negotiated settlement of these thorny issues. The FJBC's strong support for this process rests on the assurance that any negotiated settlement will comport with state and federal constitutional requirements and fit comfortably within the confines of decisional law, primarily federal decisions, regarding federal reserved water rights, the supremacy clause, and tribal sovereignty.

The FJBC believes the recognition of these limitations by all parties will allow them to bring these negotiations to a timely, reasonable conclusion.

1. THE FJBC

The Flathead Joint Board of Control is the central operating authority for three Irrigation Districts organized and operated under state law. These are the Flathead, the Mission Valley and the Jocko Irrigation Districts. The FJBC and these Districts are local governments under Montana law and, pursuant to the Montana Constitution and Legislative enactments, they share in the sovereign power and immunity of the State. They are governed by democratically-elected Commissioners. The Montana Legislature has conferred on these Districts considerable responsibilities over district lands for matters relating to water use as well as the requisite legal authorities, which include powers and immunities, to fulfill these duties. *See* Title 85, Chapter 7, Parts 1-22, Montana Code Annotated.

Congress explicitly authorized these Districts to be formed and operated under State law in the Act of May 10, 1926. In that Act, Congress expressly authorized, indeed directed, the Districts to represent all those people who own their land in fee that are served by the Flathead Irrigation and Power Project ("Project"). Thus, as to matters within the Districts' physical boundaries, established by State District Court, and jurisdictional authorities as established by the Legislature, the Districts represent all such landowners, whether they are members of the Tribes or nonmembers.

At present, the Districts have within their jurisdiction approximately 116,000 acres of land. To fulfill their responsibility to secure the delivery of irrigation water for which they have water rights claims, the Districts employ their statutory powers to levy assessments on landowners to pay for this service provided each year under long-term contracts with the United States. Each year, therefore, these Districts collect and then pay over to the federal government approximately \$2.5 million for the operation and maintenance costs of the Project. In this way, the landowners represented by the FJBC pay all the costs of operating the irrigation division of

the Project. Similarly, the Districts are obligated by these same contract with the U.S. to pay yearly installments to pay off the construction costs of the Project, which are a lien on irrigators' land, in the event that revenues from a power generating source fall short.

The irrigation water delivered by the Project to irrigators, estimated to be about 90% of all water use, by volume, on the reservation, fuels the primary economic engine of Lake and Sanders counties. These irrigators, approximately 3,000 family farms and ranches, generate well in excess of \$40 million in economic activity in this area each year. The benefit to the State of Montana through the years of this activity is truly incalculable. All the landowners within the Districts pay property taxes, almost all pay state income taxes (tribal members are not required to pay state income tax under federal decisions), and all the individuals and businesses that supply, work for and work with these farmers and ranchers do the same.

The FJBC, on behalf of the Districts and the irrigators who are the source of their governmental authority (MT Const., Art. II, Sec. 1), submitted water rights claims to the Montana Water Court for all the water used and needed to irrigate the land within their boundaries. These claims, based on existing federal case law, federal statutes, and reasonable arguments derived therefrom, assert a priority date of the Hellgate Treaty, 1855, which upon ratification by the Senate in 1859, created the reservation. As such, they assert a priority date equal to that asserted by the Tribes for their reserved water rights. For this and other reasons, the FJBC's water rights claims and the Tribes' are competing to some extent but not in their entirety.

Without irrigation water, or if it is at all reduced below its already paltry level, this land will be useless. Thus, irrigators' water rights claims are the most precious asset they own. Since the people are, in a real sense, the State, and their assets and value determine the strength of the State, the preservation of existing uses and expansion of water availability is crucial not only to these people but to the State of Montana. Absent the value and economic activity created by their use of their water rights, which flows into State and local coffers for schools, services and infrastructure, the State would feel a significant diminishment in its ability to serve its citizens in these counties. Conversely, tribes have no responsibility to provide municipal, educational, emergency or political services to non-tribal members, and they rarely, if ever, have any governmental authority over nonmembers. See, *Atkinson Trading Co. v. Shirley*, ___ U.S. ___, 121 S.Ct. 1825 (2001); *Nevada v. Hicks*, ___ U.S. ___, 2001 WL 703914, decided June 25, 2001.

2. THE TRIBES' PROPOSAL

The Tribes' proposal consists of three principles to which the State is asked to agree: (1) that the Tribes own all the water on, under, and bordering the Flathead reservation; (2) that, as a consequence of this ownership, the Tribes' have sovereign power -- that is governmental jurisdiction -- to regulate all use of such water, including by nonmembers on non-tribal land; (3) that the Tribes' also own water off reservation. (Below the FJBC does not address this third principle.)

In light of these principles, the Tribes' suggest the State and the CSKT should enter negotiations limited to the details of a Tribal Water Rights Ordinance which, presumably, the Tribal Council would enact. The Tribes assert this Ordinance would be similar but not identical to the body of State law, based on the prior appropriation doctrine and federal law concerning

reserved water rights, that controls water use in the rest of the State. Since under the Tribes' first principle--that they own all the water used on the Reservation--they would also have governmental control over its use, this Tribal ordinance would be enforceable in Tribal Court.

3. RESPONSE OF THE FJBC

A. The FJBC's support for a negotiated settlement arises primarily from the understanding that it offers the opportunity to reach compromises, perhaps requiring creative solutions that may entail significant monetary expenditures, that can improve the existing situation. The FJBC strongly believes that such improvements can be obtained through negotiated settlement in this case, particularly if water supply augmentation potentials are exploited. Although the issues that need to be encompassed in a Compact are diverse and can be complex, the FJBC is encouraged by the willingness of all parties to embark on this process with optimism and good faith.

B. Any settlement can only survive within the bounds of the Constitution and the relevant statutory and decisional law. The Montana Constitution, Article IX, Sec. 3, does not allow and the pertinent decisional law does not support the ownership of water by any water rights claimant, even an Indian Tribe claiming federal reserved water rights. This alone, as recognized by the Tribes in their proposal wherein they premise their claim of sovereign authority over all water users on their ownership of the water, precludes any discussion by the State of its ownership of the State's water.

Furthermore, the United States Supreme Court has made perfectly clear that tribes lack sovereign jurisdiction over nonmembers in almost all instances. See *Atkinson Trading Co. v. Shirley*, ___ U.S. ___, 121 S.Ct. 1825 (2001); *Nevada v. Hicks*, ___ U.S. ___, 2001 WL 703914, decided June 25, 2001.¹ In this regard, it bears emphasis that tribes and tribal members enjoy

¹*Atkinson* and *Hicks* rest on and continue a long skein of decisions by the United States Supreme Court since 1978 in which it has increasingly clarified the "very narrow" scope and contours of tribes' jurisdiction over nonmembers. These decisions are: *United States v. Wheeler*, 435 U.S. 134 (1978)(Double Jeopardy clause does not prevent prosecution of Indian by both Tribe and federal government because tribes are separate sovereigns with power over their members); *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978)(Tribes' sovereignty to prosecute nonmember non-Indian for crimes divested by their incorporation into the United States and its great solicitude for the rights of citizens); *Montana v. United States*, 450 U.S. 544 (1981)(Tribe lacks civil jurisdiction to regulate nonmember hunting and fishing on nonmember-owned fee land within boundaries of a reservation); *Brendale v. Confederated Tribes and Bands of the Yakima Indian Nation*, 492 U.S. 408 (1989)(Tribes lack civil jurisdiction to regulate land use, specifically zoning, on "open" lands with significant nonmember ownership and free access); *Duro v. Reina*, 495 U.S. 676 (1990)(Extends rule of *Oliphant*, holding tribes lack criminal jurisdiction over nonmember Indian); *County of Yakima v. Confederated Tribes and Bands of the Yakima Indian Nation*, 502 U.S. 251 (1992)(Holding county has authority to impose certain taxes on fee land owned by Tribe, Court notes "very narrow" powers of tribes over nonmembers); *South Dakota v. Bourland*, 508 U.S. 679 (1993)(Applying *Montana*, Tribe lacked civil jurisdiction to regulate hunting and fishing by nonmembers on land owned by federal government within reservation); *Strate v. A-1 Contractors*, 520 U.S. 438 (1997) (Tribal court has

with all other Montana citizens, equal rights, protected by the State and federal constitutions, to protect their rights, including water rights, in the appropriate courts of the State and federal government. These rights, of course, are without any limitation not imposed equally on other holders of water rights. The Tribes and their members are also equally entitled to seek to modify or enact changes in the laws of the State pertaining to administration of water rights by voting for responsible legislators and executives and, indeed, by seeking to serve in the Legislature themselves. If subject to the Tribes' governing authority, nonmembers do not have equal rights. Indeed, as noted by Justice Souter in concurring in *Nevada v. Hicks, supra*, the "real, practical consequence" of subjecting nonmembers to tribal jurisdiction is the deprivation of their rights under the Bill of Rights.

In light of the centrality of water to life in the West, including western Montana, the primacy of State law over the use of water, and the controlling views of the U.S. Supreme Court, the FJBC respectfully submits that more fruitful avenues for negotiation are presented by discussing an acceptable basis for the priority date and volume of a water right for all lands served by the Project. The FJBC submits there is little reason for the parties to allow negotiations to founder on this issue when the Tribes now enjoy all the rights of access to courts, the Legislature and the Executive as all other claimants and can, thereby, protect their water rights.

C. The FJBC believes in, however, and will strongly support all efforts to address water supply and augmentation issues in a manner that will satisfy the Tribes' instream flow and other claims. Such a benefit to the Tribes will also benefit individual irrigators the FJBC serves and other water rights claimants as well.

October 26, 2001

Walter Schock

Chairman, Flathead Joint Board of Control

no civil jurisdiction to hear tort action against nonmember arising from auto accident on highway located on easement over tribal land); *Atkinson Trading Co. v. Shirley*, ___ U.S. ___, 121 S.Ct. 1825 (2001)(Tribe has no civil jurisdiction to tax nonmember for transaction on nonmember land); *Nevada v. Hicks*, ___ U.S. ___, 2001 WL 703914, decided June 25, 2001(Tribal court lacks civil jurisdiction to hear civil suit against state fish and game officers who took actions against plaintiff on land owned by tribal member). The Court routinely employs the same principles in deciding civil and criminal jurisdiction cases, explicitly noting decisions in one area are relevant to the other. See *Montana, supra*, at 563-566; *Duro, supra*, at 687-689; *Hicks, supra* at 3-4.

Aug. 7, 2001

Tana DePuy
414 East Callender St.
Livingston Mt, 59407

Tana DePuy:

It is my understanding that you as a member of the water task force will be meeting Aug 10 to hear of water negotiations between the Salish Kootvni tribes and the Joint Board of Control. We have a unique problem over here, whereas 90% of the water users are non-tribal members, yet the water is managed by the tribes under the BPA. - The tribes say as a starting point - "We own the water" - thus that then becomes a non-starting point. Water users pay a fee (tax) to them, but we have no input on how to manage the water on personal, ect, the personal are rude, non-responsive to water users depends and generally have a don't care attitude. It has been found in court the tribes have no jurisdiction over non-lands on private land - as well as tribal land. See Adkinson Threading Co. vs Shirley. There fore as in every other water district in the U.S. water users have control over their own project - Why shouldn't the same apply here?

I hope you realize the urgency of this letter and ~~appreciate~~ appreciate for its non-neatness.

Sincerely,
Roy D. Merritt Chan
Camera Division of FTD

Aug. 7, 2001

Tana DePuy
414 East Callender St.
Livingston Mt, 59407

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Sincerely
Roy D. Merritt Chairman
Cameron Division of FID

Aug 7, 2001
2444 Hwy 28
Hot Springs, mt 59845

Mr. Chris Tweeten
Chairman, Chief Counsel
Depts. of Justice

Dear Mr. Tweeten:

The Compact meeting between the
Flathead Tribe and State has me concerned.
The Tribes foundation is that they have sole
ownership of the water on the Reservation.
Consequently, as a result of ownership, they
have the power to regulate all water users.

- This is in direct conflict with the
State Constitution which says the State
has jurisdiction. -

How can we the "Water Users" be
on equal bases for negotiation when
they don't recognize our position.

My Granddads homesteaded with
the assurance from the Government
that water would be provided for
irrigation needs.

I "Strongly" hope that the State
will reject their proposal as a pointless
proposal that leaves everybody out but the Tribe.

Sincerely yours
Douglas D. Page

Aug 7, 2001
2444 Hwy 28
Hot Springs, mt 5984

Mr. Chris Tweeten
Chairman, Chief Counsel
Depts. of Justice

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Sincerely yours
Douglas D. Page



P.O. Box 4927 • Helena, Montana 59604-4927 • (406) 235-4555

RECEIVED

August 6, 2001

AUG 08 2001

D.N.R.C.

Honorable Governor Judy Martz
State of Montana
P.O. Box 200801
Helena, MT 59620-0801

Dear Governor Martz:

Maintaining the State's authority to regulate use of water within the State of Montana is one of the most important powers of sovereignty given by the citizens of the State in the Constitution. However, the Confederated Salish and Kootenai Tribes of the Flathead Reservation have submitted a proposal, dated June 13, 2001, (see enclosure) to the Reserved Water Right Compact Commission, for a compact regarding the Tribes' water rights, that is contrary to the provisions of the Constitution. Their proposal is based on principles fundamentally in conflict with the Montana Constitution and federal law, in particular, requiring the State to agree that the Tribes own all of the water on or under the Flathead Reservation. They further assume sovereign authority to regulate all water uses within the Reservation.

The State of Montana must not surrender either its ownership of water or its lawful right and responsibility to exercise its sovereign jurisdiction over the use of water, in particular on behalf of Montana citizens who are not members of the tribe or tribes with which the State is negotiating a compact. To even consider the Tribes proposal would be giving validity to a concept that is in conflict with the fundamental laws of the State of Montana.

Negotiated settlement of reserved water rights is an appropriate and worthwhile effort. While the State has reached agreement on various federal and tribal compacts, it has not been able to do so with the Flathead Tribes. The proposal presented by the Tribes is completely unreasonable and an indication that, unless a reasonable proposal is presented, further negotiations would be unproductive. Unfortunately it appears that prompt litigation to solidify the State's jurisdiction may be necessary. Unless they are willing to recognize State ownership and jurisdiction, postponing such action merely allows time for the Tribes to build legal arguments in anticipation of such litigation.

"Montana's Voice for Montana's Water"

Flathead Reserved Water Rights Compact Proposal
Page 2

MWRA urges your review and guidance regarding this matter to ensure that concepts such as presented within the Flathead Tribe's proposal are not given credence through consideration. The Constitution at Article IX, Section 4, requires the State to administer, control and regulate water rights. It is essential that there be no variance from this responsibility.

Thank you for your attention to this matter. If you have questions or if we can provide assistance, please don't hesitate to call.

Sincerely,



Michael E. Murphy
Executive Director

Enclosure

cc: Walter Schock, Chairman FJBC
Susan Cottingham, RWRCC

MEMORANDUM

TO: Confederated Salish & Kootenai Tribe Files
FROM: Joan Specking
RE: Public notices, May 3, 2000 Negotiating Session

DATE: April 25, 2000

The attached notice information was placed in the following newspapers:

Lake County Leader, Polson, April 27-
Weekly (comes out on Thursdays)
4x4 ad
\$40.00
Contact: Paul Noble
(406) 883-4343
FAX (406) 883-4349

*Ran Sun
P.
AS + Tues*

Daily Inter Lake, Kalispell, April 30 and May 2
Daily
4x4 ad
Sunday and Tuesday - \$192.40
* Contact: Shelley
(406) 755-~~3426~~ ext. 4425
FAX (406) 752-6114

Daily Inter Lake
Kalispell

755-7000

May 3rd meeting

ext - 4425

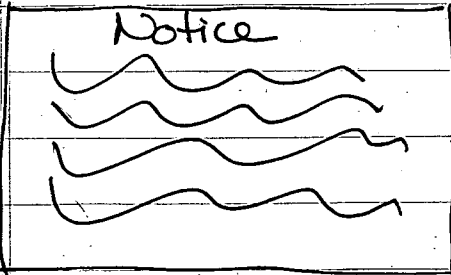
Shelley

Display ad?
costs?

Shelley

4

Notice



4

~~Sun~~
Sun

8 inch

4 x 4

\$110⁴⁰

1st run

FAX 752-6114

~~THUR~~

~~THUR~~
Sun + Tues

82⁰⁰

110⁴⁰

82⁰⁰

\$192⁴⁰

*

Get Proof (Thurs afternoon
or Friday am)

4x4

OK

RESERVED WATER RIGHTS COMPACT COMMISSION

DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

TELEFAX MESSAGE

FROM TELEFAX # (406) 444-6721

TO:

Shelley (406) 752-6114
Daily Inter Lake

FROM:

Joan Specking (406) 444-6829

NUMBER OF PAGES TO FOLLOW:

1

DATE:

4/25/00

SPECIAL INSTRUCTIONS:

Info for display ad -

FILE MODE	OPTION	ADDRESS (GROUP)	TTI BASEMENT DNRC RESULT	PAGE
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REASON FOR ERROR
 E-1) HANG UP OR LINE FAIL
 E-2) BUSY
 E-3) NO ANSWER
 E-4) NO FACSIMILE CONNECTION

**RESERVED WATER RIGHTS
 COMPACT COMMISSION**

DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

TELEFAX MESSAGE

FROM TELEFAX # (406) 444-6721

TO:

Shelley (406) 752-6114
Daily Inter Lake

FROM:

Joan Speckina (406) 444-6829

**RESERVED WATER RIGHTS
COMPACT COMMISSION**



MARC RACICOT, GOVERNOR

CHRIS D. TWEETEN, CHAIRMAN

STATE OF MONTANA

Tara DePuy
Rep. Antoinette R. Hagener
Rep. John "Sam" Rose
Sen. Chuck Swysgood

Bob Thoft, Vice-Chairman
Gene Etchart
Sen. Bea McCarthy
Jack Salmond

**NOTICE OF
NEGOTIATING SESSION ON FEDERAL RESERVED WATER RIGHTS
Confederated Salish and Kootenai Tribes
Montana Reserved Water Rights Compact Commission
United States of America**

May 3, 2000

9:00 A.M.

KwataknuK Best Western Resort
Polson, Montana

If you plan to attend and will need special facilities or accommodations relating to a disability, please contact the Compact Commission at (406) 444-6841 by May 1, 2000.

MEMORANDUM

TO: Confederated Salish & Kootenai Tribe Files
FROM: Joan Specking
RE: Public notices, May 3, 2000 Negotiating Session

DATE: April 25, 2000

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4x4 ad
\$40.00

Ran in 4/26 edition

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Daily Inter Lake, Kalispell, April 30 and May 2
Daily
4x4 ad
Sunday and Tuesday - \$192.40
Contact: Shelley
(406) 755-4425, ext. 4425
FAX (406) 752-6114

Seike County Leader

883-4343

Polson

5227



FAX

883-4349

Paul Noble

May 3rd

2 col. x 4 inch.

\$40⁰⁰

runs Thur. - Thurs

Weeklies

Arlee - Big Fork

Get Proof
Then OK

RESERVED WATER RIGHTS COMPACT COMMISSION

DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

TELEFAX MESSAGE

FROM TELEFAX # (406) 444-6721

TO: Paul Noble (406) 883-4349
Lake County Leader

FROM: Joan Specking (406) 444-6829

NUMBER OF PAGES TO FOLLOW: 1

DATE: 4/25/00

SPECIAL INSTRUCTIONS: Paul, here's the info as we
discussed. Our address is at the bottom
of the page: our billing number is #5227.

RWRCC

P.O. Box 201601

Helena MT 59620-1601

* * * COMMUNICATION RESULT REPORT (APR.25.2000 9:23AM) * * *

FILE MODE	OPTION	ADDRESS (GROUP)	TTI BASEMENT DNRC RESULT	PAGE
542	MEMORY TX	814068834349	OK	P. 2/2

REASON FOR ERROR

E-1) HANG UP OR LINE FAIL
E-3) NO ANSWER

E-2) BUSY
E-4) NO FACSIMILE CONNECTION

RESERVED WATER RIGHTS COMPACT COMMISSION

DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

TELEFAX MESSAGE

FROM TELEFAX # (406) 444-6721

TO:

Paul Noble (406) 883-4349
State County Leader

FROM:

Joan Specking (406) 444-6829

**RESERVED WATER RIGHTS
COMPACT COMMISSION**



MARC RACICOT, GOVERNOR

CHRIS D. TWEETEN, CHAIRMAN

STATE OF MONTANA

**Tara DePuy
Rep. Antoinette R. Hagener
Rep. John "Sam" Rose
Sen. Chuck Swysgood**

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Gene Etchart
Sen. Bea McCarthy
Jack Salmond**

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Confederated Salish and Kootenai Tribes
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United States of America**

May 3, 2000
9:00 A.M.
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Polson, Montana

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