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Montana Water Court

**IN THE WATER COURT OF THE STATE OF MONTANA
CROW TRIBE OF INDIANS - MONTANA COMPACT**

IN THE MATTER OF THE ADJUDICATION)	
OF EXISTING AND RESERVED RIGHTS)	
TO THE USE OF WATER, BOTH SURFACE)	CASE NO. WC-2012-06
AND UNDERGROUND, OF THE CROW)	
TRIBE OF INDIANS OF THE STATE OF)	
MONTANA)	

**NOTICE OF ENTRY OF THE CROW TRIBE COMPACT
PRELIMINARY DECREE AND NOTICE OF AVAILABILITY**

AS A WATER USER YOU MUST READ ALL OF THIS NOTICE

The Montana Water Court has been asked to approve a Compact settling the water rights claims of the Crow Tribe of Indians (“Tribe”). The United States, the Tribe, and the State of Montana (hereinafter collectively referred to as the “Settling Parties”) entered into a Compact settling the water rights of the Tribe (“Crow Compact”). The Crow Compact settles the water rights of the Tribe and its members, and the United States on behalf of the Tribe, its members and allottees, in accordance with Mont. Code Ann. § 85-2-702. The Crow Compact was ratified by the Montana Legislature in 1999 (codified at Mont. Code. Ann. § 85-20-901), by the Congress of the United States in late 2010 (P.L. 111-291, Title IV), by the Tribe in 2011, and signed by the Settling Parties on April 27, 2012. The Crow Compact needs your review before the Court determines whether to approve the Crow Compact in accordance with applicable law.

The Crow Compact defines the water rights of the Tribe within the State of Montana and will entitle the Tribe to divert and use water in accordance with the Crow Compact within all or part of the following basins: Basin 42A, Rosebud Creek; Basin 42B, Tongue River; Basin 42KJ, the Yellowstone River and its tributaries between Bighorn River and Tongue River; Basin 43D, Clarks Fork Yellowstone River and its tributaries from the Montana-Wyoming border to the Yellowstone River; Basin 43E, Pryor Creek; Basin 43N, Shoshone River; Basin 43O, Little Bighorn River; Basin 43P, Bighorn River; and Basin 43Q, the Yellowstone River and its tributaries between Clarks Fork Yellowstone River and Bighorn River. A summary of the Tribal water right within these basins is enclosed with this notice.

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

YOU ARE HEREBY NOTIFIED that the Montana Water Court has entered a Preliminary Decree, containing the Crow Compact, in the affected basins, in order to determine whether it should be approved in accordance with applicable law. If the Court approves the Crow Compact, it will enter a Final Decree adjudicating the water rights of the Tribe as they are recognized in the Crow Compact. That Final Decree will be binding on all water users in the Montana water rights adjudication.

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

This Preliminary Decree is a decree entered by the Water Court in accordance with Mont. Code Ann. § 85-2-231(2). As explained in Article VII.B.3 of the Compact, the Water Court's review of the Compact is "limited to Article III and Appendix 1 [of the Compact], and may extend to other sections of the Compact only to the extent that they relate to the determination of existing water rights." The Preliminary Decree sets forth the entire Crow Compact and the specific provisions of the Crow Compact that the Court will review in this proceeding. The Court's review will be conducted pursuant to the standard previously identified by the Water Court for the review of Tribal-State water compacts, which treats a compact as "closely analogous to a consent decree." *Chippewa Cree Tribe Water Compact*, 2002 ML 4232, *5-6, Case No. WC 2000-01. The Court's review of the Compact is to allow the Court "to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between the negotiating parties." *Id.* at *7. (internal quotations omitted). "The purpose of this kind of judicial review is not to ensure that the settlement is fair or reasonable between the negotiating parties, but that it is fair and reasonable to those parties and the public interest who were not represented in the negotiation, but have interests that could be materially injured by operation of the compact." *Id.* at *9.

At this stage in the adjudication, all affected persons are required to state any objections that they may have to the Preliminary Decree. Your water usage may be affected by the Crow Compact. If you do not agree with the Tribal Water Rights recognized in the Crow Compact, you may file an objection and request a hearing and the Water Court will hear your objection.

This will be your only opportunity to object to the Preliminary Decree. If you do not file an objection at this time, you will not be able to object to the Preliminary Decree in any other proceedings before the Water Court and you will be bound by any final decree entered by the Water Court approving the Tribal Water Rights quantified in the Crow Compact.

Right to Appeal

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

(1) A person whose existing rights and priorities are determined in a final decree may appeal the determination only if: (a) the person requested a hearing and appeared and entered objections to the temporary preliminary decree or the preliminary decree; (b) the person's rights or priorities as determined in the temporary preliminary decree or the preliminary decree were affected

as the result of an objection filed by another person; (c) the person requested a hearing and appeared before the water court to finally resolve an issue remark, as defined in 85-2-250; or (d) the person is a claimant appealing an adverse decision when the water court issued the decision as the result of an evidentiary hearing or as the result of calling the claim in on the court's own motion.

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

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

Should You File an Objection?

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

1. The Montana Water Court, 601 Haggerty Lane, Bozeman, MT 59771, 800-624-3270 (Preliminary Decree and Commencement Order only).
2. The Montana Department of Natural Resources & Conservation, Water Resources Regional Office, Airport Industrial Park, 1371 Rimtop Drive, Billings, MT 59105; (406) 247-4415 (all documents).
3. Clerk of District Court Offices (Preliminary Decree and Commencement Order only):
 - Yellowstone County Clerk of District Court, Billings, (406) 256-2851;
 - Carbon County Clerk of District Court, Red Lodge, (406) 446-1225;
 - Big Horn County Clerk of District Court, Hardin, (406) 665-9750;
 - Treasure County Clerk of District Court, Hysham, (406) 342-5547; or
 - Rosebud County Clerk of District Court, Forsythe, (406) 346-7322.
4. Bureau of Indian Affairs, Crow Agency, Weaver Drive, BIA Bldg #2 Crow Agency, MT 59022 (Preliminary Decree and Commencement Order only).

You may obtain a paper or electronic copy of the Preliminary Decree from the Department of Natural Resources and Conservation, Water Rights Bureau, P.O. Box 201601, Helena, MT, 59620-1601. The cost of a paper copy of the Preliminary Decree and Commencement Order (approximately 206 pages) is \$39.00. An electronic copy of the Preliminary Decree on CD, including the Commencement Order is \$20.00.

The Preliminary Decree and Commencement Order are available on the RWRCC website at <http://www.dnrc.mt.gov/rwrcc/>. The Preliminary Decree and Commencement Order are also available on the DNRC website at http://www.dnrc.mt.gov/wrd/water_rts/adjudication/default.asp

The Crow Compact is published in section 85-20-901 of the Montana Code Annotated, which can be found on the Internet at <http://data.opi.mt.gov/bills/mca/85/20/85-20-901.htm>. The Montana Code Annotated can also be found in many public offices and public libraries.

Public Meetings

Public meetings to explain Water Court procedures will be held by Russ McElyea, Associate Water Judge of the Montana Water Court. Representatives of the Settling Parties will also be present to explain the Crow Compact. The meetings will be held:

February 27, 2013, 1:30 p.m., Crow Agency, Multi-Purpose Building, 178 Multipurpose Rd.
February 27, 2013, 7 p.m., Billings, Billing Hotel, 1223 Muldowney Lane
February 28, 2013, 1:30 p.m., Hardin, Big Horn County Extension, 317 N. Custer
February 28, 2013, 7 p.m., Pryor, Pryor Community Center, 306 Makpua Ave.

How to File An Objection and Request a Hearing

An objection to the Crow Compact must be filed on the form provided by the Montana Water Court. Objection forms can be found at the Water Court and the DNRC office in Billings and at <http://courts.mt.gov/water/forms/default.mcpx>. Any objection to the procedure being followed in this matter may be filed in any format which is in compliance with the Montana Rules of Civil Procedure. **All objections must be filed and received by the Montana Water Court, P.O. Box 1389, Bozeman, MT 59771-1389, on or before June 24, 2013.**

LATE OBJECTIONS WILL NOT BE CONSIDERED.

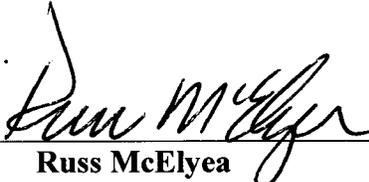
Extensions

The Water Judge may grant a request for an extension of the time for filing objections. A request for an extension must be received by the Water Court on or before **June 24, 2013**. Use the Water Court's Request for Extension form found at <http://courts.mt.gov/water/forms/default.mcpx>. If an extension is granted, it will apply to everyone. Any extension will be posted at the offices listed above and will be advertised once in the *Billings Gazette*, *Big Horn County News*, and the *Sheridan Press*.

Any Questions?

Use our toll-free number 800-624-3270. Our regular office number is (406) 586-4364 and is not toll-free. Or call the Billings DNRC Regional Office at (406) 247-4415.

DATED this 9 day of January, 2013.



Russ McElyea
Associate Water Judge