

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 3, 2002

Mr. D. Fred Matt, Chairman
Confederated Salish and Kootenai Tribes
P.O. Box 278
Pablo, Montana 59855

Re: December 20, 2001 Letter

Dear Chairman Matt,

We received your letter dated December 20, 2001, expressing concern over the cancellation of the proposed December 12th meeting in Missoula and the Commission's meetings with its constituents. Your letter is an excellent example why the Parties need to clarify procedures by which these negotiations are to proceed at the January 7th conference call and the subsequent negotiating session.

Commissioners and staff have been meeting with various groups of its interested constituency per the Memorandum of Understanding (MOU) signed in 1998. The MOU provides that each party is responsible for meeting with its constituency and it does not require formal notice to the other Parties. Indeed, this requirement was specifically rejected during negotiation of the MOU. Commissioners and staff have informally begun introducing themselves and the reserved water rights compacting process to local interested groups generally by getting on the agenda of these groups' regularly scheduled meetings. This is consistent with the Tribes' meetings with Tribal members to inform them of the process. The Commission has, likewise, received no formal notice of the Tribes' meetings with its members because it is not required.

After the impromptu conference call on December 10th regarding the proposed December 12th meeting, it became clear to all Parties that everyone had divergent expectations as to what would be accomplished at the meeting. The Commission envisioned a small staff meeting to gather information as to what exactly is meant by the Tribes' Proposal -- a routine task that Commissioners and staff perform on all other compact negotiations. The Commission cautioned in its letter of October 31, 2001, that if the meeting were to go beyond an informal informational session, it would want to give notice to its constituency and give them an opportunity to attend. It was clear after the conference call that the Tribes did not intend to have a small informational session in which they explained the specifics of their Proposal, but rather, something more like a negotiating session, but without details as to how the Tribes' Proposal would affect state-based water users. As result, it was the Commission's understanding that all of the Parties agreed to postpone the meeting and schedule a formal negotiating session in early 2002.

Letter to Chairman Matt

1/3/02

Page 2 of 2

Contrary to your implication, the Commission welcomes the involvement of the press. Routine staff meetings don't generally warrant press coverage, because no decisions are made. This is why the Commission was surprised when you indicated that you were going to invite the press to the proposed December 12th meeting. If the Commission becomes aware in advance that the press is going to cover one of its meetings, even if it is only a staff meeting, then the Commission believes that its constituents should have the right to attend. This of course is a different situation than that where the Commission is unaware that the press will attend an informal, introductory meeting such as the Commission's meeting with the Lake County Commissioners in Polson, which you referenced in your Letter of December 20th as a meeting with the Lake County Conservation District. After the press attended that meeting, RWRCC staff contacted the Parties regarding the same as required by the MOU. The Commission would also like to make it clear that it welcomes comments of any kind on the Tribes' Proposal, and the negotiations in general. This the primary method by which the Commission finds out the needs, concerns, and position of its constituency. The Commission and its staff have endeavored to make this clear at all of the meetings at which they have attended that any and all comments are welcomed.

Also, as the Tribes have previously recognized, it is difficult at best to schedule a convenient time for all Parties to meet. On October 5, 2001, the Commission requested a meeting sometime during the last two weeks of October with the Tribes to clarify their Proposal. Notably, this time period was prior to any of the Commission's informal, informational meetings with its constituents. The Tribe did not respond until October 29th and indicated at that time, "given the difficulties inherent in accommodating the schedules of three separate sovereigns involved, the earliest the Tribal and Federal teams can meet with the Commission is November 30, 2001." Eventual comparison of schedules of the Tribe, the federal team, and the Commissioners and staff resulted in the proposed December 12th date. We are pleased that the conference call and the January 7, 2002 date requested by the Federal team is also acceptable to and convenient for you.

In conclusion, we believe that the misunderstandings embodied by your recent letter illustrate why it is critical that the Parties thoroughly discuss the MOU and how these negotiations are to proceed. We look forward to talking with you on the 7th. Please give me a call in the interim if you have a question.

Sincerely,



Chris D. Tweeten, Chairman

Reserved Water Rights Compact Commission

c. Chris Kinney, BOR