

E-MAIL FILED

DEC 20 2013

Montana Water Court

Reid Peyton Chambers, Esquire
SONOSKY, CHAMBERS, SACHSE,
ENDRESON & PERRY, LLP
1425 K Street, N.W., Suite 600
Washington, D.C. 20005
Telephone: (202) 682-0240
Facsimile: (202) 682-0249
rchambers@sonosky.com

Ryan C. Rusche, Esquire
ASSINIBOINE & SIOUX TRIBES OF THE
FOR PECK RESERVATION
P.O. Box 1027
Poplar, MT 59255
Telephone: (406) 890-8450
Facsimile: (406) 768-5478
rrusche@fortpecktribes.net

Attorneys for the Assiniboine & Sioux Tribes

Daniel J. Decker
CONFEDERATED SALISH & KOOTENAI TRIBES OF
THE FLATHEAD INDIAN RESERVATION
Tribal Legal Department
P.O. Box 278
Pablo, Montana 59855-0278
Telephone: (406) 675-2700
Facsimile: (406) 675-4665
danield@cskt.org

Attorney for Confederated Salish & Kootenai Tribes

Daniel D. Belcourt
BELCOURT LAW, P.C.
120 Woodworth Avenue
Missoula, MT 59801
Phone: (406) 265-0934
Fax: (406) 926-1041

Attorney for Chippewa Cree Tribe

**IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
TONGUE RIVER ABOVE AND INCLUDING HANGING WOMAN CREEK-BASIN 42B
and
TONGUE RIVER BELOW HANGING WOMAN CREEK-BASIN 42C**

United States of America)
General Objections to Basin 42B and 42C) Case 42B-1
Preliminary Decrees)
_____)

**MOTION OF ASSINIBOINE & SIOUX TRIBES OF THE FORT PECK
RESERVATION, CHIPPEWA CREE TRIBE OF THE ROCKY BOY RESERVATION,
AND CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD
RESERVATION TO FILE A BRIEF AMICI CURIAE**

Pursuant to this Court's Scheduling Order of October 31, 2013, the Assiniboine & Sioux Tribes of the Fort Peck Reservation, the Chippewa Cree Tribe of the Rocky Boy Reservation, and the Confederated Salish and Kootenai Tribes of the Flathead Reservation hereby move to file the attached Brief Amici Curiae in the above captioned proceeding.

INTEREST OF AMICI

The Assiniboine and Sioux Tribes of the Fort Peck Reservation is a federally recognized Indian tribe with a reservation of approximately 2.1 million acres in northeastern Montana. In 1985, the Tribes concluded a Compact with the State of Montana to settle its reserved water rights claim. This Compact was ratified by the Tribes and the State Legislature in the spring of 1985 and approved by this Court in August, 2001. For the reasons set forth in the attached brief *Amici Curiae*, that Compact will be violated and its proper implementation impaired if this Court includes in its final decree adjudicating the rights of non-Indian water users in basins located in whole or in part on the Fort Peck Reservation water rights that have been abandoned prior to issuance of that decree.

The Chippewa Cree Tribe of the Rocky Boy Reservation is a federally recognized Indian tribe with a reservation of 171.4 square miles. The Reservation is located in north central Montana. The Reservation serves as the permanent homeland for over 3,500 Tribal members. The Tribe is economically dependent on agriculture and ranching with a small arable land base

and a scarce water supply. Big Sandy Creek and Beaver Creek, the two major tributary drainages on the Reservation, both flow through a checkerboard of private and Reservation land before leaving the Reservation. Water storage and developed wells are minimal, and the reservation's existing domestic water supply and distribution system are seriously inadequate.

The Chippewa Cree Tribe and the State of Montana, through the Reserved Water Rights Commission, negotiated a settlement of the Tribe's Water Rights Claims. The Chippewa Cree Tribe of the Rocky Boy Reservation – State of Montana Water Rights Compact was ratified by the 1997 Montana Legislature and signed by President Clinton in December of 1999. Mont. Code Ann. §85-20-601. The Compact provides the Chippewa Cree Tribe with an allocation of 10,000 acre feet from the Tiber Reservoir South of Chester, among other things.

The Confederated Salish & Kootenai Tribes of the Flathead Reservation is a federally recognized Indian Tribe with a reservation of over 1.3 million acres in western Montana. The ratification of a proposed compact between the Tribes, the State, and the United States was unsuccessful during the 2013 Montana legislative session. If the Montana Legislature does not ratify a negotiated settlement between the Tribes, the State, and the United States prior to June 30, 2015, the Tribes will need to file numerous water rights claims both on and off-Reservation throughout its aboriginal territory. Whether or not a compact is ratified before June 30, 2015, the Confederated Tribes have concerns related to precedent involving abandonment issues that could have a negative impact on Indian water rights reserved under federal law.

Respectfully submitted,

/s/ Reid Peyton Chambers

Reid Peyton Chambers
SONOSKY, CHAMBERS, SACHSE,
ENDRESON & PERRY, LLP
1425 K Street, N.W., Suite 600

/s/ Ryan C. Rusche

Ryan C. Rusche
ASSINIBOINE & SIOUX TRIBES OF THE
FORT PECK RESERVATION
P.O. Box 1027

Washington, D.C. 20005
Telephone: (202) 682-0240
Facsimile: (202) 682-0249
rchambers@sonosky.com

Poplar, MT 59255
Telephone: (406) 890-8450
Facsimile: (406) 768-5478
rusche@fortpecktribes.net

Attorneys for the Assiniboine & Sioux Tribes of the Fort Peck Reservation

/s/ Daniel J. Decker

/s/ Daniel D. Belcourt

Daniel J. Decker
CONFEDERATED SALISH & KOOTENAI TRIBES
OF THE FLATHEAD INDIAN RESERVATION
Tribal Legal Department
P.O. Box 278
Pablo, Montana 59855-0278
Telephone: (406) 675-2700
Facsimile: (406) 675-4665
danield@cst.org

Daniel D. Belcourt
BELCOURT LAW, P.C.
120 Woodworth Avenue
Missoula, MT 59801
Telephone: (406) 265-0934
Facsimile: (406) 926-1041

*Attorney for Confederated Salish & Kootenai
Tribes of the Flathead Indian Reservation*

*Attorney for the Chippewa Cree Tribe
of the Rocky Boy Reservation*

Reid Peyton Chambers, Esquire
SONOSKY, CHAMBERS, SACHSE,
ENDRESON & PERRY, LLP
1425 K Street, N.W., Suite 600
Washington, D.C. 20005
Telephone: (202) 682-0240
Facsimile: (202) 682-0249
rchambers@sonosky.com

Ryan C. Rusche, Esquire
ASSINIBOINE & SIOUX TRIBES OF THE
FOR PECK RESERVATION
P.O. Box 1027
Poplar, MT 59255
Telephone: (406) 890-8450
Facsimile: (406) 768-5478
rrusche@fortpecktribes.net

Attorneys for the Assiniboine & Sioux Tribes

Daniel J. Decker
CONFEDERATED SALISH & KOOTENAI TRIBES OF
THE FLATHEAD INDIAN RESERVATION
Tribal Legal Department
P.O. Box 278
Pablo, Montana 59855-0278
Telephone: (406) 675-2700
Facsimile: (406) 675-4665
danield@cskt.org

Attorney for Confederated Salish & Kootenai Tribes

Daniel D. Belcourt
BELCOURT LAW, P.C.
120 Woodworth Avenue
Missoula, MT 59801
Phone: (406) 265-0934
Fax: (406) 926-1041

Attorney for Chippewa Cree Tribe

**IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
TONGUE RIVER ABOVE AND INCLUDING HANGING WOMAN CREEK-BASIN 42B
and
TONGUE RIVER BELOW HANGING WOMAN CREEK-BASIN 42C**

United States of America)
General Objections to Basin 42B and 42C) Case 42B-1
Preliminary Decrees)
_____)

BRIEF AMICI CURIAE OF THE ASSINIBOINE & SIOUX TRIBES OF THE FORT PECK RESERVATION, CHIPPEWA CREE TRIBE OF THE ROCKY BOY RESERVATION, AND CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION IN SUPPORT OF THE UNITED STATES

Amici Curiae, the Assiniboine and Sioux Tribes of the Fort Peck Reservation, the Chippewa Cree Tribe of the Rocky Boy Reservation and the Confederated Salish and Kootenai Tribes of the Flathead Reservation fully support the legal position of the United States in this proceeding. The *Amici* Tribes file this Brief to explain to the Court (in Part 2 of this Brief) why it is vitally important to the proper implementation of the Fort Peck-Montana Compact and the Chippewa Cree Tribe-Montana Compact, and to the determination of water rights for the Confederated Salish and Kootenai Tribes, that this Court decree only those water rights existing under state law that are valid at the time its decree is entered. By way of background, *Amici* prefaces this explanation with a discussion (in Part 1 of this Brief) of the legal differences between water rights arising under state law and reserved water rights of Indian tribes arising under federal law as established in two landmark historic United States Supreme Court cases and as repeatedly recognized in several Montana Supreme Court decisions.

1. There are very significant differences between water rights arising under state law and Indian water rights reserved under federal law.

The Assiniboine and Sioux Tribes entered into the Fort Peck-Montana Compact to settle its reserved water rights, which was ratified by the Tribes and the State legislature in 1985, and approved by this Court on August 10, 2001 in a Memorandum Opinion by Chief Judge Loble (hereafter “2001 Loble opinion”). As set forth in more detail in Part 2, the Tribes subordinated

most of its senior rights on certain streams flowing through the Reservation to “beneficial uses of water . . . established under the laws of the state” with a priority date of 1984 or earlier. This was a major concession by the Tribes, given the legal seniority of the Tribes’ water rights over all water rights arising under state law. If this Court decrees water rights under state law that have been in fact abandoned and are not beneficially used, that would violate the Compact by expanding the Tribes’ concession beyond the intent of both the Tribes and the State when they concluded the Compact.

Similarly, in exchange for a significant allocation of water from the Tiber Reservoir, the Chippewa Cree Tribe subordinated to certain valid uses of water by non-Indians under state law on streams flowing through the Rocky Boy Reservation.

As the Montana Supreme Court recognized nearly three decades ago in *State ex rel Greely v. Confederated Salish and Kootenai Tribes*, 712 P.2d 754 (1985) (hereafter “*Greely*”), and has consistently held ever since, *Confederated Salish and Kootenai Tribes v. Clinch*, 158 P.3d 377, 379 (2007) (hereafter *Clinch II*); *Confederated Salish and Kootenai Tribes v. Stults*, 59 P.3d 1093, 1097-1098 (2002) (hereafter *Stults*); *Confederated Salish and Kootenai Tribes v. Clinch*, 992 P.2d 244, 247-248 (1999) (hereafter *Clinch I*); *Confederated Salish and Kootenai Tribes v. Ciotti*, 923 P.2d 1073, 1077-1079 (1996) (hereafter *Ciotti*): “[s]tate appropriative water rights and Indian reserved water rights differ in origin and definition.” *Greely* at 762; see also 2001 Loble Opinion at 12. As set forth below, federal reserved rights of Indian tribes are legally senior to virtually all rights arising under state law.

A. Water rights arising under State law

Montana and most other western states generally follow the doctrine of “prior appropriation” in recognizing water rights. Under this prior appropriation system, a person

acquires a right to use water by actually diverting it and putting the water to a beneficial use. *Greely* at 762. “As between appropriators, the first in time is first in right,” *id*; thus, in times of short water supply, a senior appropriator is entitled to its full diversion before a junior user gets any water. And most importantly for present purposes, a water right arising under state law is lost by abandonment if it is not used for a certain number of years, as the Montana Supreme Court specifically recognized in *Greely* at 762 (“an appropriator is generally entitled to a specified quantity of water so long as actual, beneficial use is made of the water”) (emphasis added); see also *id* at 768 (setting forth statutory presumption of abandonment if water is not used for a period of 10 successive years.)

By contrast, rights of Indian tribes to use water reserved under federal law share none of these attributes. First, tribes’ rights to water “are established by reference to the purposes of the reservation rather than actual, present use of the water.” *Greely* at 762. Thus, Indian reserved water rights “reflect future needs as well as present use.” *Id.* at 764. Second, their “priority date” is the date the reservation is established, *Greely* at 764, not when a use of water commences. And because this priority is senior to most if not all users whose rights arise under state law, the holder of a federally reserved water right is legally entitled to satisfy its needs and cut off other users claiming under state law. Finally, because a right reserved under federal law is not based on use, it is not subject to abandonment if it is not used. *Greely* at 768. (“Indian reserved water rights are immune from abandonment for nonuse.”)

As the Court discussed in *Greely*, *id* at 764-765, these distinctions between water rights arising under state law and federal reserved water rights were established in two landmark United States Supreme Court decisions involving water rights reserved to tribes under federal law. In the first case, *Winters v. United States*, 207 US 564 (1908), the United States filed suit as

trustee for the Fort Belknap Indian Tribe in northern Montana to enjoin Henry Winters and other non-Indians from diverting water for irrigation upstream from the Tribe's reservation, because insufficient water was reaching lands on the reservation which the Tribe and Bureau of Affairs wanted to develop for agricultural and related uses. An agreement between the Tribe and the United States ratified by an act of Congress in 1888¹ had established the Fort Belknap Reservation "as and for a permanent home and abiding place of the [tribes]." *Id.* at 565. In the agreement, the Tribes had also ceded territory outside the Reservation to the United States. These ceded lands were quickly opened by the United States to non-Indian settlement.

Non-Indians like Mr. Winters acquired ceded land upstream from the Reservation, irrigated the land and obtained water rights under state law. If state law principles governing water use had applied to the Tribe in *Winters*, of course, the non-Indians would have prevailed by virtue of their earlier actual uses. But the Court in *Winters* rejected arguments by Mr. Winters and the other non-Indian irrigators that because the ceded lands would be useless if the Indians had also reserved the water for the reservation lands they retained, the Tribe had no special water rights under federal law for reservation lands. In rejecting the non-Indian position, the Court held that the agreement with the Tribe creating the reservation had also retained rights in the Tribe to "the waters which made it valuable or adequate." *Id.* at 576. The Court observed that prior to the cession agreement:

The Indians had command of the lands and the waters, – command of all their beneficial use, whether kept for hunting, "and grazing roving herds of stock," or turned to agriculture and the arts of civilization. Did they give up all this? Did they reduce the area of their occupation and give up the waters which made it valuable or adequate?

¹ The very same statute ratified a similar agreement with the Assiniboine and Sioux Tribes establishing the Fort Peck Reservation. The Flathead Indian Reservation was established under the Hellgate Treaty on July 16, 1855 (12 Stat. 975). The Rocky Boy Reservation was established by September 7, 1916 (39 Stat. 739), amending the Act of February 11, 1915 (38 Stat. 807).

Ibid. See also 2001 Loble Opinion at 11. The *Winters* Court conclusively answered these questions in the negative.

The Court in *Winters* placed no limit upon the amount of water to which the Tribes were entitled in the future. The Court enjoined a present interference with water uses the Indians planned to make; future interferences could also presumably be enjoined if they occurred. The decree was thus open-ended, in that the Indian rights were not quantified.

The second landmark Supreme Court case on Indian reserved water rights, *Arizona v. California*, 373 U.S. 546 (1963), changed the open-ended uncertainty of *Winters* and established a standard for quantifying Indian reserved rights where the primary purpose of an Indian reservation is agricultural. This suit began when the State of Arizona filed suit in the original jurisdiction of the United States Supreme Court against California and Nevada to determine its share of water from the lower Colorado River. Without such a determination, Arizona believed it could not obtain federal funding to build its long-coveted Central Arizona Project to bring Colorado River water into the populated portions of central Arizona. The United States intervened, asserting, among other things, reserved water rights for Indian reservations located in the lower Colorado River basin.

The Court referred the case to a Special Master, who concluded that an open-ended decree of water rights to the Indians, as in *Winters*, would put all junior water rights forever in jeopardy and severely hamper financing of non-Indian projects like the Central Arizona Project, because current Indian populations and needs could change. Master's Report at 264. The Master accordingly determined the future needs of each Reservation by deciding which reservation lands were practicably irrigable, and entered a quantified water right for five

reservations on the mainstem of the Colorado River in his proposed decree. See *Greely* at 764, see also 2001 Loble Opinion at 16-17.

The Supreme Court, after extensive briefing on the issues, specifically affirmed the Master's reasoning and decree:

[The Master] found that the water was intended to satisfy the future as well as the present needs of the Indian Reservations and ruled that enough water was reserved to irrigate all the practicably irrigable acreage on the reservation . . . How many Indians there will be and what their future needs will be can only be guessed. We have concluded, as did the Master, that the only feasible and fair way by which reserved water for the reservations can be measured is irrigable acreage. The various acreages of irrigable land which the Master found to be on different reservations we can find to be reasonable.

373 U.S. at 600-601.

Winters and *Arizona* teach that for Indian reserved water rights: (1) the quantity of tribes' permissible water use is determined by the purposes of the reservation, not actual historic use, and (2) their priority is early – as of the date the reservation is created – or earlier where the reservation was created in a tribe's aboriginal land area, see *Greely* at 764, *United States v. Adair*, 723 F.2d 1394 (9th Cir. 1983) – and thus prior to even very early actual non-Indian uses of water under state law. The practicably irrigable acreage standard in *Arizona v. California* is an expression of the first of these two principles, applied to reservations whose primary purpose is agricultural. *Greely* at 764. It measures the quantity of the reserved water right based on the assumption that the future needs of the Indians will be satisfied by decreeing them sufficient water to irrigate all irrigable reservation lands. Thus, the Fort Peck Indian Reservation established in 1888 reserves to the Tribes legally senior water rights even with respect to a non-Indian who has been irrigating continuously since 1890. This is true even if the Tribes have

never exercised their rights, and non-Indians have been using the water, because – unlike appropriative water rights – reserved rights do not depend on actual past or present use of water.

The Montana Supreme Court has specifically applied these principles in a series of cases involving water rights of non-Indians on the Flathead Reservation. The basic issue before the Court in *Ciotti*, *Clinch I*, and *Stults* was whether the DNRC could issue new permits to use surface or groundwater to non-Indians on an Indian reservation. The Montana Supreme Court held DNRC could not issue permits until the Tribes' senior reserved water rights were determined. The Court reasoned that since the Tribes' rights could cut off any non-Indian right to use water under *Winters* and *Arizona v. California*, DNRC could not be certain that the proposed new use would not interfere with the Tribe's existing reserved rights until those senior tribal rights were determined. *Ciotti*, 923 P.2d at 1076-1080; *Stults*, 59 F.3d 1099-1100.²

2. Reasons why the proper implementation of the Fort Peck-Montana Compact and the Chippewa Cree Tribe-Montana Compact, and the determination of water rights for the Confederated Salish and Kootenai Tribes, require that this Court should only decree water rights under state law that have not been abandoned at the time its decree is entered for streams on the Fort Peck and Rocky Boy Reservations.

The State saw the senior nature of the Tribes' reserved rights – irrespective of their non-use – and the ability of reserved rights to supersede even longstanding actual uses of water by non-Indians arising under state law as a central problem in the negotiations to settle the Assiniboine and Sioux Tribes' reserved water rights claims in the early 1980s. A primary objective of the State in those negotiations was to protect existing non-Indian uses under state law from being cut off by future uses of water by the Tribes, as *Winters* and *Arizona v. California* permitted. After years of negotiations, the Assiniboine and Sioux Tribes finally agreed to a major concession that made the Fort Peck – Montana Compact possible: that the

² In *Clinch II*, the Supreme Court held that DNRC could consider an application of an existing water user to change a place of that existing use, since no new use of water was involved.

Assiniboine and Sioux Tribes would subordinate its reserved water rights but (1) only on certain named tributaries of the Missouri River that flow through the Reservation (not the Missouri River itself), and (2) only to “the beneficial uses of water with a priority date of December 31, 1984 or earlier established under the laws of the State” up to certain limits “identified in Appendix A to this Compact.” Fort Peck Montana Compact, Mont. Code Ann. §85-20-201, Article IV A 3(a).

In return for this concession, the Assiniboine and Sioux Tribes received significant benefits under the Compact – including a very large quantification of water in the Missouri River, certain rights to call upon water from Fort Peck Reservoir and to market water, rights to use groundwater, rights to establish instream flows on the tributaries and recognition of the Tribes’ authority to administer all uses of water by the Tribes, Indians, and any non-Indian claiming a federal reserved water right on the Reservation. See generally Loble 2011 Opinion at 15-36.

Importantly for present purposes, the limited subordination of the Assiniboine and Sioux Tribes’ rights in the Compact extends only to beneficial uses of water “established under the laws of the State” that are valid and in existence as of the time they are decreed by this Court. If a use has been abandoned at the time a decree is entered, it is of course not a “beneficial use established under the laws of the State” and the Tribes’ subordination is not effective as to that use. If this Court were to enter a decree recognizing abandoned rights, that would violate the Compact by purporting to enlarge the subordination the Tribes made beyond the intent of the Tribes and the State.

Indeed, the Compact cannot be sensibly administered on any other basis. Since the Tribes’ subordination is limited by the ceilings set in Appendix A to the Compact for each

category of use in each tributary, if this Court were to decree a water right for a use that is abandoned at the time of the decree, that decree may prejudice another non-Indian water user who has a valid and existing use that is junior to the abandoned use. The prejudice to such a junior use would occur if the ceiling set in Appendix A for that category of use on that tributary is entirely consumed by the abandoned use and other rights decreed by the Court that are senior to his or her actual valid but junior use.

Likewise, the same principles exist with respect to the water rights on the Rocky Boy Reservation under the Chippewa Cree Tribe-Montana Compact. The limited subordination of the Chippewa Cree Tribes is only to valid beneficial uses under State law. If a use has been abandoned at the time a decree is entered, the Tribes' subordination is not effective.

Finally, the Confederated Salish & Kootenai Tribes are concerned that a decree which includes rights that were abandoned at the time of the decree could have negative implications not only for federally reserved Indian water rights but other valid and existing uses of water. Such precedent is something the Confederated Tribes would need to take into consideration if it is to reach a negotiated settlement with the State of Montana and the United States.

CONCLUSION

For the reasons set forth above, this Court should adopt the position of the United States in this proceeding.

Respectfully submitted,

/s/ Reid Peyton Chambers

Reid Peyton Chambers
SONOSKY, CHAMBERS, SACHSE,
ENDRESON & PERRY, LLP
1425 K Street, N.W., Suite 600

/s/ Ryan C. Rusche

Ryan C. Rusche
ASSINIBOINE & SIOUX TRIBES OF THE
FOR PECK RESERVATION
P.O. Box 1027

Washington, D.C. 20005
Telephone: (202) 682-0240
Facsimile: (202) 682-0249
rchambers@sonosky.com

Poplar, MT 59255
Telephone: (406) 890-8450
Facsimile: (406) 768-5478
rrusche@fortpecktribes.net

Attorneys for the Assiniboine & Sioux Tribes of the Fort Peck Reservation

/s/ Daniel J. Decker

Daniel J. Decker
CONFEDERATED SALISH & KOOTENAI TRIBES
OF THE FLATHEAD INDIAN RESERVATION
Tribal Legal Department
P.O. Box 278
Pablo, Montana 59855-0278
Telephone: (406) 675-2700
Facsimile: (406) 675-4665
danield@cst.org

*Attorney for Confederated Salish & Kootenai
Tribes of the Flathead Indian Reservation*

/s/ Daniel D. Belcourt

Daniel D. Belcourt
BELCOURT LAW, P.C.
120 Woodworth Avenue
Missoula, MT 59801
Telephone: (406) 265-0934
Facsimile: (406) 926-1041

*Attorney for the Chippewa Cree Tribe
of the Rocky Boy Reservation*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion and Brief *Amici Curiae* of the Assiniboine and Sioux Tribes of the Fort Peck Reservation, the Chippewa Cree Tribe of the Rocky Boy Reservation, and the Confederated Salish and Kootenai Tribes of the Flathead Reservation was served by first-class mail to each of the parties set forth below this 20th day of December, 2013.

James J. DuBois
U.S. Department of Justice
Environment & Natural Resources Division
999 18' Street South Terrace, Suite 370
Denver, CO 80202
(303) 844-1375
james.dubois@usdoj.gov

Roselyn Rennie
Office of the Solicitor
2021 4th Ave North, Suite 112
Billings, MT 59101
(406) 247-7545
roselyn.rennie@sol.doi.gov

John Chaffin
Office of Field Solicitor
US Office of the Interior
316 North 26th Street
Billings, MT 59101
john.chaffin@sol.doi.gov

Patrick Barry
U.S. Department of Justice
Indian Resources Section, ENRD
PO Box 7611
Ben Franklin Station
Washington, DC 20044-7611
(202) 305-0269
patrick.barry@usdoj.gov

Jeanne S. Whiteing
Attorney at Law
1628 5th Street
Boulder, CO 80302
(303) 444-2549
jwhiteing@whiteinglaw.com

Hertha Lund
Breeann M. Johnson
Lund Law PLLC
502 South 19th, Ste. 102
Bozeman, MT 59718
lund@lund-law.com

Nathan A. Espeland
Espeland Law Office, PLLC
PO Box 1470
Columbus, MT 59019
(406) 322-9877
espelandnathan@gmail.com

Pamela S. West
Environment & Natural Resources Division
U.S. Department of Justice
PO Box 7611
Washington, D.C. 20044-7611
(202) 305-0457
pamela.west@usdoj.gov

I further certify that a copy of the foregoing was served by first class mail on each of the potentially interested parties set forth below this 20th day of December, 2013.

Attorney General's Office
Tim Fox, Attorney General
State of Montana
Department of Justice
PO Box 201401
Helena MT 59620-1401

DNRC
Water Resources Division
1424 Ninth Avenue
P.O. Box 201601
Helena, MT 59620-1601

Montana Fish, Wildlife and Parks
1420 East Sixth Avenue
P.O. Box 200701
Helena, MT 59620-0701
fwpgen@mt.gov

Bureau of Reclamation
PO Box 30137
Billings, MT 59107-0137
Bureau of Indian Affairs
BIA Water Resources Office
Attn: James Gappa
2021 4th Avenue North
Billings MT 59101

Senator John C. Brenden
Chair - Environmental Quality Council
PO Box 970
Scobey, MT 59263-0970

Senator Chas V. Vincent
Chair - Water Policy Interim Committee
34 Paul Bunyan Ln
Libby, MT 59923-7990

Sandra K. Watts
P.O. Box 849
Browning, MT 59417
Swats0000@hotmail.com

Daniel F. Decker, Attorney
PO Box 310
St. Ignatius MT 59865-0310
Representative Kathleen Williams
Vice Chair - Water Policy Interim
Committee
P.O. Box 548
Bozeman, MT 59771-0548

Jake Cummings
Montana Farm Bureau Federation
502 South 19th, Ste 104
Bozeman, MT 59718
info@mtbforg

Montana Association of REALTORS®
1 South Montana Avenue, M-1,
Helena, MT 59601
Western Watersheds Project
Attn: Summer Nelson, Attorney
PO Box 7681
Missoula MT 59807-7681

Chippewa Cree Tribe
Rural Route 1
P.O. Box 544
Box Elder, MT 59521

Representative Bill McChesney
Vice Chair - Environmental Quality Council
316 Missouri Avenue
Miles City, MT 59301-4140

Western Watersheds Project
Attn: Summer Nelson, Attorney
PO Box 7681
Missoula MT 59807-7681

John B. Carter
Conf. Salish & Kootenai Tribe
P.O. Box 278
Pablo, MT 59855

Montana Stockgrowers Association
420 N. California St.
Helena, MT 59601
ryan@mtbeef.org

Montana Water Resources Association
Michael Murphy, Executive Director
Wolf Creek, MT 59648
Mwra_h20@msn.com

Avista Corporation
c/o R. Blair Strong, Attorney
717 West Sprague Ave. Suite
Spokane WA 99201-3505
rbstrong@painehamblen.com

Montana Association of Counties (MACo)
MACo Administration
2715 Skyway Drive
Helena MT 59602
hblattie@mtcounties.org

Montana League of Cities and Towns
208 N. Montana Avenue - Suite 106
P.O. Box 1704
Helena, Montana 59624-1704
mlct@mt.net

Wool Growers
Montana Wool Growers Association
P.O. Box 1693
Helena, MT 59624
mwga@mtsheep.org

Montana Association of Conservation
Districts
1101 11th Avenue
Helena, MT 59601
mail@macdnet.org

Jody Miller, Special Assistant
United States Attorney
PO Box 7669
Missoula MT 59807-7669
jody.miller@ogc.usda.gov
David Harder, Trial Attorney

pamm@cstkt.org (Pam McDonald, Legal
Secretary)

PPL
c/o Holly J. Franz
Attorney at Law
PO Box 1155
Helena MT 59624-1155
hollyjo@franzdriscoll.com

Jay Weiner
Assistant Attorney General
PO Box 201401
Helena MT 59620-1401
JWeiner2@mt.gov

Christopher H. Buslee
Andres N. Haladay
Assistant Attorney General
PO Box 201440
Helena MT 59620-1440
CBuslee@mt.gov
AHaladay2@mt.gov

Southwest Montana Building Industry
Association
1716 W. Main St., Ste. 8-G
Bozeman, MT 59715
linda@svvmbia.org

Grain Growers
Montana Grain Growers 'Association
750 6th Street SW, Suite #202
P.O. Box 1165
Great Falls, MT 59403-1165
mgga@mgga.org

Montana Trout Unlimited
PO Box 7186
Missoula, MT 59807
Stan Bradshaw
sbradshaw@tu.org
Laura Ziemer
lziemer@tu.org

U.S. Department of Justice
ENRD/IRS
999 - 181h Street, South Terrace, Suite 370
Denver, CO 80202
(303) 844-1372
david.harder@usdoj.gov

John Bloomquist
P.O. Box 1185
Helena, MT 59624-1185
jbloomquist@doneylaw.com

Abigail R. Brown
P.O. Box 1288
Bozeman, MT 59771
abby@qwestoffice.net

G. Steven Brown
Attorney at Law
Power Block Building, Suite 40
7 West 6th Avenue
Helena MT 59601
stevebrown@mthelena.com

Stephen R. Brown
P.O. Box 7909
Missoula, MT 59807
srbrown@garlington.com

Renee Coppock
P.O. Box 2529
Billings, MT 59103-2529
rcoppock@crowleyfleck.com

Mike Cusick
P.O. Box 1288
Bozeman, MT 59771
morlaw@qwestoffice.net

James J. Masar
Attorney at Law
PO Box 8688
Missoula MT 59807-8688
jmasar@aol.com

Dringman Law Firm PLLC
Page C. Dringman
PO Box 1370
Big Timber MT 59011-1370
page@dr-lawfirm.com

KD Feedback
Gough, Shanahan, Johnson, & Waterman
PO Box 1715
Helena MT 59624-1715
kdf@gsjw.com

John Ferguson
Ferguson Law Office, PLLC
PO Box 8359
Missoula, MT 59807
johnf@fergusonlawmt.com

Rodd A. Hamman
2075 Central Avenue
Billings MT 59102
roddhamman@qwestoffice.net

Richard W. Heard
PO Box 926
Columbus MT 59019-0926
rheard@qwestoffice.net

William A. Hritsco
P.O. Box 28
Dillon, MT 59725
hritsco@qwestoffice.net

R. Mark Josephson
PO Box 1047
Big Timber MT 59011-1047
mark@bigtimberlaw.com

Rachel Kinkie
P.O. Box 1185
Helena, MT 59624-1185
rkinkie@doneylaw.com

Ryan Mattick
P.O. Box 1288
Bozeman, MT 59771
mattick@qwestoffice.net

W. Carl Mendenhall
P.O. Box 4747
Missoula, MT 59806-4747
cmendenhall@wthlaw.net

Jon Metropoulos
P.O. Box 1715
Helena, MT 59624
jon@metropouloslaw.com

Ross D. Miller
Miller Law Office, PLLC
708 Lobo Street
Missoula MT 59802-3501
ross.millerlawmontana@gmail.com

A. Suzanne Nellen, Attorney
1800 West Koch, Suite 5
Bozeman MT 59715
suzarmen@nellenlaw.com

Candace Payne
P.O. Box 1144
Helena, MT 59624-1144
CPayne@luxanmurfitt.com

Mac M. Smith
Church, Harris, Johnson & Williams, P.C.
114 3rd Street South
P.O. Box 1645
Great Falls, MT 59403
macsmithl@chjw.com

Chris Tweeten
17 N. California
Helena, MT 59601
c.tweeten@bresnan.net

Gregory Duncan
2687 Airport Rd., Ste. A
Helena, MT 59601
gd@mt.net

Heather Perry
P.O. Box 556
Stanford, MT 59479-0556
hperry@hubblelandandlaw.com

Patti L. Rowland
P.O. Box 1418
Dillon, MT 59725
prowland@doneylaw.com

Tom Sheehy
P.O. Box 511
Big Sandy, MT 59520
tomatty@mtintouch.net

John Tietz
825 Great Northern, Ste. 105
P.O. Box 1697
Helena, MT 59624-1697
John@bkbh.com

Monica J. Tranel
TRANEL LAW FIRM. P.C.
Great Northern Town Center
30 W. 14th Street, Suite 204
Helena MT 59601
mtranel@tranelfirm.com

Matthew W. Williams, Attorney
506 East Babcock
Bozeman MT 59715
mattheww53@aol.com

Cindy E. Younkin
Younkin Law PLLC
2066 Stadium Drive, Ste. 101
Bozeman MT 59715
younkcinlaw@gmail.com

Elena J. Zlatnick
P.O. Box 7909
Missoula, MT 59807
ejzlatnik@garlington.com

Helen Thigpen
MT Legislative Services Division
P.O. Box 201706
Helena, MT 59620-1706
hthigpen@mt.gov

Bill Bishop
Black Otter Water Resources LLP
1827 Avenue E
Billings MT 59102
BillBishop@Bresnan.net

I further certify that a copy of the foregoing was served by electronic mail on each of the potentially interested parties set forth below this 20th day of December, 2013.

Michelle Bryan Mudd
Associate Professor of Law
Director, Land Use Clinic
michelle.bryarn-nudd@umontana.edu

RWRCC
Arne Wick
AWick@mt.gov

Thomas W. Fredericks
tfredericks@ndnlaw.com

Yvette LaFrentz
ylafrentz@doneylaw.com

Bruce Loble
loble@bresnan.net

Don MacIntyre
daalaw3@qwestoffice.net

Daniel Miller
DanMillerLaw@aol.com

Jeremy Patterson
jpatterson@ndnlaw.com

Eduardo Provencio
eprovincio@ndnlaw.com

Anne Yates
ayates@mt.gov

Abigail J. St. Lawrence
abigail.stlavvrence@gmail.com

Marjorie Black
mblaw100@gmail.com

Dorothy Bradley
bench@wispwest.net

Pam Collins
pcollins@mt.gov

Todd Everts
teverts@mt.gov

Peter Fischer
legalfisch@mac.com

Misty Hauer
MHauer@mt.gov

Tim Hall (DNRC)
THal12@mt.gov

Barry Hedrich
bhedrich@ttc-cmc.net

Jim Hubble
hrp@hubblelandandlaw.com

Tammy L. Gilette
tammy.g@qwestoffice.net

Bob Goffena
goffenar@midrivers.com

Matt Murphy
matmurphy@mt.gov
John Peterson (DNRC-HLN)
johpeterson@mt.gov

Roger Renal - Mont Farm Bureau
tcr@chsmgt.com

Bill Schenk
BSchenk@mt.gov

Tracey Turek
turekwater@msn.com

Urban Bear Don't Walk
showsthepipe@imt.net

Candace West (DNRC)
WCandace@mt.gov

Tom Hughes
thughes@bresnan.net

Burt Hurwitz
bhurwitz@feltmartinlaw.com

Joe Kolman
jkolman@mt.gov

Tom Malee
tmalee@usa.com

Jason Mohr
jasonmohr@mt.gov

Gerald Mueller
gmueller@montana.com

Leanne Schraudner
lschraudner@bridgeband.com

William Slack
fjbc@blackfoot.net

Martha McClain
KeoughDuffy@msn.com

Dennis Meyer
DMeyer@mt.gov

Ross Miller
ross@mtwater.com

Kathryn Wray