

WC-0001-C-2021

August 22, 2025

Montana Water Court

KIMBERLY L. FIELD
Field Law Offices, PLLC
P.O. Box 573
Ronan, MT 59864
kim.field@kfieldlawoffices.com

Attorney for Objectors

IN THE WATER COURT OF THE STATE OF MONTANA
CONFEDERATED SALISH AND KOOTENAI TRIBES–MONTANA–UNITED STATES
COMPACT

CASE NO. WC-0001-C-2021

POST HEARING BRIEF
Hearing No. 14

COMES NOW the Objectors, as shown on Exhibit “A” attached hereto, by and through their attorney of record Kimberly L. Field, and hereby submit their *Post Hearing Brief* for hearing no. 14, which was held on May 1, 2025.

As per this Court’s April 1, 2024 Order, page 77, the Compact Parties failed to prove lack of objectors’ material injuries as a matter of law. This Court further states that the burden shifts to the Objectors and the objectors must show that their interests are ‘materially injured’ by the *operation* of the Compact”. *Id.*, page 74.

The Objectors submitted their Objections, Amended Objections, Pre-Hearing Testimony, and exhibits, regarding the proof of material injury as a matter of law and evidence sufficient to meet their burden. This Court has, by Judicial Notice, admitted the above, and further provided Judicial Notice to the 1855 Hellgate Treaty and Treaty of Peace and Friendship. The factual issue to be determined by this Court is whether the Objectors’ water rights have, now and in the past, suffered material injury and damages as a result of Compact pre-implementation.

The Objectors submit that there were numerous errors in the process leading to this Post-Hearing Brief:

1. The discovery process included the request for production of the Damage's Reports. This Court denied these Objectors' request for the reports and sealed those reports all to the Objectors' detriment.

2. In Objectors' Pre-Hearing Testimony Objectors reserved the right to supplement during oral testimony to provide proof of further damages. At the Evidentiary Hearing, Objectors' requested that they be permitted to provide additional testimony to introduce their exhibits in support of their Pre-Hearing Testimony. The Court denied that request but allowed pro se objectors the ability to provide testimony beyond their prehearing submissions. As the discovery process was ongoing, Objectors filed supplemental exhibits with this Court and the admission of Objectors testimony should have been granted.

3. The transcript of the Evidentiary Hearing was delayed by nearly 2 months. Attorney for Objectors did not receive the final transcript until July 21, 2025, despite the fact that the Hearing was held on May 1, 2024, and the fact that Post Hearing Briefs were due on August 15th. The initial transcript was then discovered to be fraught with mistakes, along with a significant portion of the Compact Parties' testimony missing. Attorney for Objectors requested that the Transcript be submitted to a second Court Reporter along with this Court's Zoom Audio and discovered that the Court's Zoom audio was also missing the Compact Parties witness testimony. In light of the Court's ruling today on Objectors' Motion for additional time to file this brief, Objectors stipulated (or will stipulate) to the content of the new transcripts but will not stipulate that those transcripts reflect all testimony presented at the hearing.

Objector's have shown that they have, are, and will suffer material injury and damages as a result of the "pre-implementation" and *further* future implementation of the Compact. Objectors have been grossly prejudiced in the process leading up to the proof of material injury. Objectors' water rights are protected interests under both State and Federal law and to the extent the Compact purports to alter those protected interests, material damages are inherent.

BRIEF

The Objectors' Objections, Amended Objections, and Pre-Hearing Testimony include factual evidence of material injury and economic loss as a result of the "pre" implementation and implementation of the myriad aspects of the Compact. The material injury and damages discussed include the lack of agricultural irrigation water and ownership of ground water, which have resulted in measurable monetary damages. The continuing effects of the material injury and damages resulting from the assumed full implementation of the Compact in the future are sure and certain. It appears inevitable what will happen since the Court has projected its future blessing when it granted the Compacting Parties' motion on April 1, 2025.

The Objectors' Exhibits 11 - 18 and Compact Parties' Exhibits 4 - 17 were all prepared by agencies and/or employees of the Compact Parties and under Montana Rules of Evidence 808(d)(2)(C) and (D), are all admissions of a party opponent. To avoid further error on the part of this Court, the Compact Parties' Exhibits 4 - 10, were not properly introduced through witness testimony and should not be used. The Proposed Pre-Trial Order lists exhibits that should be introduced at hearing to provide the opposing party, at the least, the ability to cross exam to determine the validity of the exhibits.

1. Russ Smyth, Smyth Family Trust – Obj. Doc. 950.00, Amended Obj. Doc. 1510.00, Pre-Hearing Testimony Doc. 2457.00.
2. Tad & Tamara Thomas Revocable Trust – Obj. Doc. 394.00, Amended Obj. Doc. 1520.00, Pre-Hearing Testimony Doc. 2458.00.
3. Ernie Otoupalik – Obj. Doc. 764.00, Supp. Obj. Doc. 770.00, Pre-Hearing Testimony Doc. 2460.00.
4. Longhorn Arena, LLC – Obj. Doc. 762.00, Pre-Hearing Testimony Doc. 2460.00.
5. Sheila Vallejo – Obj. Doc. 297, Amended Obj. Doc. 823, Pre-Hearing Testimony Doc. 2459.00.
6. Craig & Beth Blevins - Obj. Doc. 684.00, Amended Obj. Doc. 1519.00, Prehearing Testimony 2471.00.

1. The Compact Parties' Exhibits 9, 11, 13, 15, and 16, were *ad hoc* created by the Compact Parties' witness, Seth Makepeace, and purposefully counter the

Objectors' written testimony, that the FIIP had late turn on dates and early turn off since the ratification of the Compact by the State of Montana. Mr. Makepeace's testimony and exhibits provide that the connection between the "pre-implementation" and implementation of the Compact do not support Objectors' written testimony. All of the Objectors state in each of their Objections, Amended Objections, and Pre-Hearing Testimony that pre-implementation and implementation of the Compact, including late turn on and early shut off, has directly affected them and has resulted in material injury and damages.

Mr. Makepeace stated in his testimony supporting his exhibits, "I observed that the last four or five years, each of the diversion volumes was in the range of variable prior years" and that he "could not see a *consistent* pattern that suggested that there was a new management procedure in force". Transcript, page 34, lines 1-5. Later, at lines 10-16, he admits that there were late starts and that there were "some" addressable late starts "due to operational issues with the Irrigation Project, particularly in the Mission C-Canal and the Ninepipe Reservoir." Not surprisingly, it is Mission-C Canal and Ninepipes Reservoir that service the majority of these Objectors. In his testimony, Mr. Makepeace did not offer to define or address the operational issues described. Mr. Makepeace goes on to state that he "observed in 2024, there was a *very*, you know, the start and stop dates looked *very similar* to prior periods". However, no "prior periods" were specified. Mr. Makepeace maintains that in the following years he "could not see a consistent pattern that suggested that there was a new management procedure in force." Yet on page 34, he specifically stated that there were some late starts, however, the "start and stop dates looked very similar to prior periods". Mr. Makepeace fails to identify what prior periods he was referring to at that juncture, there he is unable to validate the exhibits that were entered into the record.

All the Objectors in their Objections and/or Pre-Hearing Testimony state that the late turn on and early shut off dates limited the Objectors' water delivery from the FIIP and caused economic hardship. On Page 24, Lines 6 – 8, Mr. Makepeace opines that "[t]he measurement network reveals to the tribal staff large insights into how the project is operated through empirical observable information". On Page 27, Line 19 – 24, Mr.

Makepeace states “[t]hese are empirical observation calculations, so they – they document what the irrigation project is doing and try to give them the tools to best utilize the available water supply in each year.” The use of the word “empirical” denotes “originating in or based on observation and experience”. Unfortunately, Mr. Makepeace’s testimony and exhibits, fail to support his argument that the empirical evidence regarding the last 2 – 5 years, negates the material injury or damage that occurred to Objectors’ interests.

As stated above, Objectors submit that the testimony they maintain is missing from the Court’s Zoom audio would have supported the Objectors’ argument that the current measurement systems, including “empirical observations”, do not support Mr. Makepeace’s exhibits which were meant to discredit the Objectors’ claims of material injury and damages.

2. Objectors, Tad and Tamara Thomas, Tad and Tamara Thomas Revocable Trust, in 2023, were instructed to file their water rights claim with the Flathead Reservation Water Management Board, a unique Compact created entity, not the Montana DNRC. Objectors received a “Certificate of Domestic Allowance – Individual”, a Compact created document never before recognized, from the Office of the Engineer of the Flathead Reservation Water Management Board, as shown on Exhibit 11. As the owner of an Indian Allotment, all water provided to the property, well water or irrigation, is considered a Walton Right and is a *right* appurtenant to the land. Objectors’ Walton Rights are not simply “permitted uses,” they are rights that run with the land. As stated in the pre-filed testimony, the new “Certificate” ignores the Objectors’ Walton Rights and replaces them with a “permitted use” of their water right. In other words, their “rights” have now somehow been relegated to permissive use through the issuance of a “Certificate,” never before known or recognized.

All of Objectors’ original Objections, Amended Objections and Pre-Hearing written testimony includes the statement of Walton Water Rights and some Secretarial Water Rights. The Court states that the following in its Order, page 50, beginning 4 lines from the bottom and continuing on page 51, including first paragraph:

[T]he Compact’s tacit preservation of the right to pursue Walton and other

private rights in Water court adjudication proceedings also is consistent with how the Water Court has treated Walton and state-based rights in other decrees. *E.g., In re Neal*, Case 43O-8, 2015 Mont. Water LEXIS 15 (confirming certain Walton rights related to Crow Reservation). It also is consistent with how the Montana Supreme Court has interpreted Walton rights. *In re Scott Ranch, LLC*, ¶ 4 (non-tribal member Walton rights must be filed under the claim filing procedures and deadlines set in the Water Use Act for state-based rights).

...

The Compact Parties have met this aspect of substantive fairness because the Compact *does not terminate any Walton right or any water right claim of any of any objector, nor could it because no proceeding has been instituted to terminate or otherwise modify the water right claims of any Objector*. The validity of any existing water right claims of any Objector involving on-reservation water use will be a matter of a separate proceeding in Basins 76L and 76LJ. *See generally, In re Jocko River Hydrological Sub-basin (Basin 76L)*. (Emphasis added)

Objectors further state that the Compact is a direct taking of their water rights and causes a material injury and damage as shown on Exhibit 12. As stated in their Pre Hearing Testimony, the Thomas purchased their property to operate as a self-sustaining homestead and their property has lost its value to them as it cannot be utilized for its intended use. The Flathead Reservation Office of the Water Engineer, as per the terms of the Compact, determines the amount of property that can be used for watered lawn and garden, .07 acres only. These actions are examples of the “pre-implementation” of the Compact, and are not authorized as the Water Court has not done its final adjudication. This is a material injury and damage to the interest of the Objectors as a result of the “pre” implementation and operation of the Compact.

In the *Compact Parties’ Answer Brief to Motion and Brief to Deny Compact Based on Adequacy and Fairness and Other Issues of Law (Dkt. No. 1814.00)*, page 8, paragraph 3, the Compact Parties state that the non-tribal water rights in Basins 76L and 76 LJ are “not at issue”. The Compact Parties go on to state that the “Compact quantifies the water rights of the CSKT only. No other water rights are determined by the Compact”. In footnote 10, the Compact Parties state that the Compact cannot be construed or interpreted to “prevent the Montana Water Court from adjudicating any properly filed

claims or objections to the use of water within the Flathead Indian Reservation.” That statement, however, is essentially meaningless when an appurtenant right (i.e., in this case, Objectors’ Walton Rights) can simply be relegated to “permissive” through the issuance of a “Certificate” from the Water Management Board. That is directly contrary to this Court’s statement that “[T]he Compact Parties have met this aspect of substantive fairness because the Compact does not terminate any Walton water right or any water right claim of any Objector, nor could it because no proceeding has been instituted to terminate or otherwise modify the water rights of any Objector.” Order, page 50, starting 4 lines from the bottom and continuing on page 51, and first full paragraph. Despite these explanations, the attached Exhibit 12 says otherwise. The “premise” of this Court’s jurisdiction lies in its authority to adjudicate “reserved” water rights of the Tribes. The Water Court states in its April 1, 2025 Order,

“The Montana Legislature assigned to the Water Court the authority to adjudicate all “existing rights” in Montana. Section 3-7-223, MCA. Existing rights include “Indian reserved water rights created under federal law. Section 85-2-102(3)

...

Under the Montana Supreme Court’s ruling in *Greely*, these statutory provisions and case law interpreting them provide the Water Court with authority to address the quantification and administration provisions of the Compact as part of Montana’s comprehensive adjudication. 219 Mont. 76.”

This Court made the determination on page 58, last paragraph, ...“as already explained, the Compact does not extinguish Walton rights, so-called secretarial rights, or any other state-based water rights held by any person who is not a party to the Compact. Whether the Court approves the Compact or not, each Objector with water right claims in Basins 76L, 76LJ, or any other basin in Montana are entitled to have properly claimed rights adjudicated by the Water Court in basin-specific proceedings where their claims are entitled to prima facie evidentiary status. Section 85-2-227(1) MCA.” Exhibit 11 above does not indicate to the Thomas’ that they have a “leg to stand on” in any future adjudication of water rights. Objector Thomas’ have had their property interest taken.

The Court states in its Order, page 60, last paragraph, “Substantive due process prevents the federal government from engaging in conduct that shock the conscience... or interferes with rights implicit in the concept of ordered liberty.” *U.S. v. Salerno*, 481 U.S.

739, 746 (1987). The Court further states that under Montana law, “[s]ubstantive due process bars arbitrary governmental actions regardless of the procedures used to implement them and serves as a check on oppressive governmental action.” *Englin v. Bd. Of Cty. Comm’rs*, 2002 MT 115, ¶ 14, 310 Mont. 1, 48 P.3d 39. As takings analysis shows, the Compact does not deprive any Objector of any water rights they hold. The Compact only quantifies the Tribal Water Right...the Objectors have been provided with significant due process – both directly and through representation by public officials.” The Thomas filed their Objections, Amended Objections and have participated in the Compact hearing proceedings. However, neither their irrigation water rights nor their Walton water rights have been recognized. Their receipt of the above Exhibits 11 and 12 did *in fact* shock their conscience as it should the conscience of this Court. The real property was purchased with a specific purpose in mind (Pre Hearing Testimony), with appurtenant Walton Rights that despite the Court’s language to the contrary, have apparently now been relegated to permissive use. Objectors have *in fact* suffered material injury, including a taking of vested property rights, and economic damage.

3. The Compact, as implemented by the Water Management Board, violates the Montana Constitution, Art. IX. This Court states that, “Apparently, the Tribes initially took the position that the Compact must recognize tribal ownership of all water on the Reservation. *The version of the Compact presented to the Court shows this position was compromised.*” (Emphasis Added). Order, page 62. Exhibits 11 and 12 did not indicate that the original “version” of the Compact was compromised, and instead, provides the Thomas with a “*Certificate – Domestic Allowance*”, indicating that the Tribe’s position is that it does *in fact* “own” all the water, regardless of any future adjudication by this Court. Contrary to the Court’s holding, that position does violate Article IX.

4. Objectors state that MCA 85-20-1901, Article G.(2) and (3) of the Compact provides the authority for the pre-implementation and implementation of the Compact provision. Article G. states the following:

G. Compact Implementation Technical Team. Within six months of the date the ratification of the Compact by the Montana Legislature takes effect under State law, the Parties shall establish a Compact Implementation

Technical team (CITT) to allow planning for ***and implementation of Operational Improvements, Rehabilitation and Betterment, and Adaptive Management prior to and following the Effective Date.***
(Emphasis Added)

...

2. The CITT shall carry out the duties specified by Appendix 3.5.
3. The CITT shall develop criteria for prioritizing and selecting project.

Objectors Exhibit 13, page 1, last paragraph, and page 2, the 1st and 2nd paragraph, specifically state that the CITT's task is to be the "Master Agreement covering and guiding the long-term goals and objectives of the Compact". Mr. Makepeace, in his testimony states, on page 37, line 20 – 21, that the Irrigation Project would have "fluent ability to use and understand" the measurement program. The use of the CITT information has been used to influence the amount of water delivery to the irrigators since the Montana Legislatures ratification of the Compact, which supports Objectors material injury, including a taking of vested property rights, and economic damage.

5. The Objectors in their Objections, Amended Objections and Pre-Hearing Testimony state that they have had less water delivered. Mr. Makepeace's testimony speaks directly to the implementation of the Compact based on the "CSKT Water measurement Program website". Mr. Makepeace states that, the CITT "information goes to the CSKT Water Measurement Program website, "which has been reported to the irrigation operators and irrigation users at district Meetings...", Page 29, Lines 6 – 16.

The Compact Parties have maintained that the irrigation project, FIIP, is operated by the Bureau of Indian Affairs, BIA. Ryan Casey, in his testimony states that he supervise[s] and support[s] "a number of staff that are directly involved in the area of Compact implementation. So that includes a lot of the operational improvements that Mr. Makepeace mentions, *including tools to the Irrigation Project and the BIA that allow them to have enhanced ability to manage finite water resources*". (Emphasis added) Although the Compact Parties make the argument that the BIA manages the delivery of the irrigation water, Ryan Casey's testimony also includes discussion of the CITT. On page 47, lines 3 – 12, Mr. Ryan notes, "I supervise and support a number of staff that are directly involved in the area of *Compact Implementation*. So, that includes a lot of the

operational improvements that Mr. Makepeace mentioned, including providing tools to the Irrigation Project and BIA that allow them to have enhanced ability to manage water resources. I also support our staff where actively engage in rehabilitation and modernization of the Flathead Indian Irrigation Project” (Emphasis added). It appears that, although the Compact Parties maintain that the BIA acts alone, that is a misnomer. Mr. Ryan’s testimony, like Mr. Makepeace’s, supports the Objectors’ claims in their Objections and Pre-Hearing Testimony these Objectors have shown material injury and damage under the applicable standard of law as the Compact has, in fact, been implemented.

6. Mr. Makepeace, in his testimony, beginning on page 37, beginning line 17 and continuing to page 39, lines 20, describes his work with the CITT. Then answered the question, “so in your estimation, is any of the historical use as far as irrigation delivery and water use, is it calculated at all in any of these calculations?” Page 39, lines 14 – 15, Mr. Makepeace states that the measurements used were “empirical observation calculations”. He continues by saying that “they calculate what the Irrigation Project is doing and try to give them the tools to best utilize the available water supply each year. ***They do not look at historic on-farm water use.*** The CSKT Compact associates the project operator with the responsibility to measure on-farm water use.”

Despite Mr. Makepeace’s statement, the Compact, under MCA 85-20-1901, under the “Whereas” states:

WHEREAS, the Parties agree to protect Tribal Instream Flows, Existing Uses, and Historic Farm Deliveries to Flathead Indian Irrigation Project Irrigators;

and

MCA 85-20-1901, Article 1, Recitals, paragraph 36, states:

36. "Historic Farm Deliveries" means the aggregate annual volume of water for irrigation and Incidental Purposes on the FIIP that was delivered to all farm turnouts within an individual River Diversion Allowance Area prior to the date the ratification of the Compact by the Montana Legislature takes effect under State law. Historic Farm Deliveries include historic crop consumption and estimated standard rates of on-farm conveyance and irrigation application inefficiencies and are used to evaluate RDA values pursuant to Article IV.D.1.e. Historic Farm Delivery volumes are specified in Appendix 3.3.

Mr. Makepeace in his testimony, page 40, lines 17 – 20, “Built certain elements that were foundational to allow the Irrigation Project to succeed with water conservation and *distribution of deliver of irrigation water*” (Emphasis added). It is clear that the CITT information was directly used for the implement the Compact, under the guise of its’ name “Compact Interim Technical Team”. The CITT played a significant role in the distribution and deliver of irrigation water by the FIIP since its inception in 2015, but disregards “*Historic Farm Deliveries*” according to the Compact Parties most seasoned witness, Seth Makepeace.

7. Exhibit #14, Appendix 3.5: Adaptive Management & CITT.

Among other things, page (3), (i) this Appendix states the following:

- i. ***The CITT is responsible for the allocation of water between instream and irrigation uses based on the projected and realized annual water supply*** (emphasis added). The Parties agree that the CITT may adjust allocations throughout the irrigation season, based on water supply, seasonal climate variability and irrigation management considerations. At all times, the CITT shall comply with the Compact and appendices setting forth MEFs, TIFs, and RDAs in its allocation of water. (Empasis Added)

The Compact Parties claim that there is no connection between the CITT and the Bureau of Indian Affairs operation of the FIIP. However, the above states otherwise.

Page 6, f.(i) sets forth approximate dates for meetings, and the purpose of each meeting. In each meeting, the purpose is clearly stated, and (i) above makes it clear where that information is to be disseminated. Clearly the CITT, which is an integral part of the “pre” implementation and implementation of the Compact shows that the Objectors have in the past, presently and in the future material injury and damages as a result of the CITT.

8. All of the Objectors have provided evidence in their original Objections, Amended Objections and Pre-hearing Testimony that as a result of the pre-implementation *and* implementation of the Compact, historical water rights claims to irrigation water have been ignored. In Mr. Makepeace’s testimony he specifically states the following:

Ms. Field: Thank you. so in your estimation, is any of the historical use as far as irrigation delivery and water use, is it calculated at all in any of these calculations?

Mr. Makepeace: These are empirical observation calculations. So they calculate what the Irrigation Project is doing and try to give them the tools to best utilize the available water supply each year. **They do not look at historic on-farm water use.** The CSKT Compact associates the project operator with the responsibility to measure on-farm water use.” Vol II, Page 27, Line 19 – 25 and Page 28, Line 1 (Emphasis added).

Again, Page 28, Line 24 through Page 29, Line 5, Mr. Makepeace states that the CITT was tasked with building “elements that were foundational to allow the Irrigation Project to succeed with water conservation and distribution and delivery of irrigation water.” As described in these Objectors’ Objections and Pre-Hearing Testimony, those “elements that were foundational” have resulted in a significant reduction in irrigation water, resulting in measurable damage to Objectors in crop production and grazing land.

9. This Court took judicial notice of the 1855 Hellgate Treaty, 1855 Treaty of Peace and Friendship, Hearing No. 14 Transcript, page 10, lines 12 – 13. The Compact Parties in their *Answer Brief to Motion and Brief to Deny Compact Based on Adequacy and Fairness and Other Issues of Law*, page 10, D(1), allege that these Objectors “misconstrue and misapply various treaties in an unsuccessful attempt to defeat the Compact”. Compact Parties, (a), state that the “broad criticisms” set forth by these Objectors are “incorrect because they demand integration of treaty provisions that do not apply to the Compact”. The Compact Parties make the allegation that the term “depredation”, as defined in Webster’s Dictionary is inapplicable. However, in the 1855 Peace and Friendship Treaty, the use of the water right for any tribal entity, which causes depredation to any other person, tribal or nontribal, on or off reservation, *would* fall under the Treaties and provides a separate “go to” remedy without any changes or amendments to the Treaties, or acknowledgement thereof. The Compact does not acknowledge, amend, abrogate, or otherwise deal with the Treaties. The Compact Parties go so far as to state, page 10, (c), “[t]he *Peace and Friendship Treaty has no relevance here*”.

Notwithstanding the Compact Parties’ attempts to ignore the Treaties and their mandates, those Treaties remain viable and in full force and effect. The Compact cannot

and does not abrogate the Treaties or their remedies. Compact implementation, however, necessarily impacts Objectors' rights guaranteed by the Treaties. The Compact provides the Compacting Parties to control water availability to the Objectors and that control inherently results in value depredation that gives rise to the Treaties' remedies. The Treaties' "relevance" is clear and unavoidable and the resulting depredation is a direct result of the powers granted to the Compacting Parties by the Compact.

10. Disclosure doesn't make the Compact compliant. The Compactors submit "the Compact specifically contemplated that Congress could make changes to one right, and Congress did". Changes were neither contemplated nor authorized by the State. The Compact states "the terms of the Compact may not be amended without the consent of all parties", MCA 85-20-1901(VII)(A). That simply did not happen.

The impact of the Act is not disclosed. The Act ratified the Compact to the extent that it is consistent with the Act, MWRPA Section 2(2). It did not ratify the Compact adopted by the State. Second, the Act controls in the event of a conflict with the Compact, MWRPA, Sec. 5(b)(3). This is not ratification and acknowledges the two documents are different. That is not fair, reasonable, or adequate. Third, the CSKT resolution or ordinance approving MWRPA and the Compact which approves and ratifies both the Act and the Compact. The USA only conditionally ratified the Compact and ratified the MWRPA. The State ratified the Compact and not the MWRPA. As specified in the Compact, changes must be consented to and they were not.

The consequence is no ratified Compact. The unknown agreement cannot be determined as fair, adequate, or reasonable because the effect on all water rights holders and users is unknown. The Compact was not amended by all parties as required. The joint motion to consider filed with this Court did not amend the State law adopted or expand the Federal approval of the Compact. That fact alone resulted in material damage to Objectors. Control of their water rights was placed in the Compacting Parties' hand by virtue of a Compact not fully ratified by all parties.

CONCLUSION

Objectors have submitted their Objections, Amended Objections and Pre-Hearing

Testimony demonstrating the material damages they sustained.

Significant factual evidence demonstrating material damages which is part and parcel of the myriad of other legal issues and factual evidence submitted in this case has, at least to date, been effectively but wrongfully rebutted. The Compact fails to protect the historic use of irrigation water and, under the guise of the UMO and Water Management Board, takes personal property rights. The Compact does not reflect the compact ratified by the Montana Legislature and is inconsistent with the Hellgate Treaty and other treaties, topics that in the Objectors' opinion have been improperly disregarded.

Objectors therefore respectfully request that the Court find in favor of the Objectors holding that Objectors have indeed suffered material damages as a result of pre-implementation of the Compact, a document not properly ratified by all Compact Parties.

DATED this 22nd day of August, 2025.

/s/ Kimberly L. Field

KIMBERLY L. FIELD

EXHIBIT "A"

Kimberly L. Field
Field Law Offices, PLLC
405 Main SW, Ste. 2
PO Box 573
Ronan, MT 59864
(406) 676-0677
kim.field@kfieldlawoffices.com

A Abel Properties LLC
Blevins, Beth M
Blevins, Craig H
Longhorn Arena LLC
Olmsted, Ronald B.
Otoupalik, Ernest

Smyth Family Trust
Smyth, Russell T.
Tad & Tamara Thomas Revocable Trust
Vallejo, Roy
Vallejo, Sheila

CERTIFICATE OF SERVICE

I, Kimberly L. Field, do hereby certify that on the ^{22nd} day of August, 2025, I served a true and correct copy of the foregoing document by email with a request for delivery receipt upon the person(s) named below.

Montana Water Court 1123 Research Drive P.O. Box 1389 Bozeman, MT 59771-1389 watercourt@mt.gov	Rebecca Ross, Senior Attorney James Cooney, Trial Attorney United States Department of Justice Indian Resources Section Environment and Natural Resources Div. 150 M Street, NE Washington DC 20002 rebecca.ross@usdoj.gov james.cooney@usdoj.gov
Molly Kelly, Legal Counsel Jennifer C. Wells, Legal Counsel Montana Department of Natural Resources and Conservation 1539 Eleventh Avenue P.O. Box 201601 Helena, Montana 59601 molly.kelly2@mt.gov J.Wells@mt.gov	Ryan C. Rusche Sonosky, Chambers, Sachse, Endreson & Perry, LLP P.O. Box 2930 Columbia Falls, MT 59912 rusche@sonosky.com
Adam Gustafson, Acting Assistant David W. Harder, Senior Attorney for Legal Issues United States Department of Justice Indian Resources Section 999 18th Street, South Terrace Suite 370 Denver, CO 80202 david.harder@usdoj.gov efile-denver.enrd@usdoj.gov	Brian K. Gallik Gallik & Bremer, P.C. 777 East Main Ste 202 Bozeman, MT 59771 brian@galliklawfirm.com

<p>Kathryn M. Brautigam Holland & Hart, LLP 401 North 31st Street, Suite 1500 P.O. Box 639 Billings, MT 59103-0639 kmbrautigam@hollandhart.com aforney@hollandhart.com</p>	<p>William Caile Holland & Hart, LLP 555 17th Street, Suite 3200 Denver, CO 80202 whcaile@hollandhart.com</p>
<p>Cassie R. Dellwo Five Valleys Law, PLLC 1410 S. Reserve St., Ste C Missoula, MT 59801 cassie@fivevalleyslaw.com</p>	<p>Kimberly L. Field Field Law Offices, PLLC 405 Main SW, Ste. 2 P.O. Box 573 Ronan, MT 59864 kim.field@kfieldlawoffices.com</p>
<p>Walter E. Congdon Lake County Special Deputy Co. Attorney 106 4th Ave., East Polson, MT 59860 (406) 883-7231 lorigoffeaapc@gmail.com</p>	<p>Debra Jackson Mineral County Attorney Walter E. Congdon Mineral Co. Deputy Co. Attorney 300 River Street, P.O. Box 339 Superior, MT 59872 djackson@co.mineral.mt.us wcongdon@co.mineral.mt.us</p>
<p>Walter E. Congdon Sanders County Special Deputy Co. Attorney 1111 Main St. W., P.O. Box 519 Thompson Falls, MT 59873 countyattorney@co.sanders.mt.us</p>	<p>Terisa Oomens Montana Attorney General Agency Legal Counsel Agency Legal Services Bureau 1712 Ninth Avenue P.O. Box 201440 Helena, MT 59620-1440 Terisa.oomens@mt.gov</p>
<p>Thomas L. Sansonetti Holland & Hart LLP 2515 Warren Avenue, Suite 450 Cheyenne, Wyoming 82001 tlsansonetti@hollandhart.com</p>	<p>Matthew W. William MW Law Firm PLLC 777 E Main Street, Ste 205 Bozeman, MT 59715 mattheww53@aol.com</p>

<p> Bruce A. Fredrickson Taylor R. Miller Angela M. LeDuc Rocky Mountain Law Partners, PC 1830 3rd Ave. E, Suite 301 Kalispell, MT 59901 bruce@rmtlawp.com taylor@rmtlawp.com angie@rmtlawp.com </p>	<p> Daniel J. Decker Melissa Schlichting Christina M. Courville Zach Zipfel Danna R. Jackson Confederated Salish and Kootenai Tribes Tribal Legal Department P.O. Box 278 Pablo, MT 59855 daniel.decker@cskt.org melissa.schlichting@cskt.org christina.courville@cskt.org zachary.zipfel@cskt.org Danna.jackson@cskt.org </p>
<p> Murray D. Fieldman Holland & Hart LLP 800 W. Main Street, Ste 1750 Boise, ID 83702 MFeldman@hollandhart.com </p>	<p> Christopher Michael Lauvane Jackson Holland & Hart LLP 555 17th Street, Ste. 3200 Denver, CO 80202 CMJackson@hollandhart.com </p>
<p> Kristin L. Omvig Benjamin J. Hammer Omvig Hammer Law, P.C P.O. Box 1202 Kalispell, MT 59903 kristin@ohlawmt.com ben@ohlawmt.com </p>	



Kimberly L. Field