

ELECTRONICALLY FILED

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Doc 833

WC-0001-C-2021

December 6, 2023

Montana Water Court

**IN THE WATER COURT OF THE STATE OF MONTANA
CONFEDERATED SALISH AND KOOTENAI TRIBES -
MONTANA - UNITED STATES COMPACT PRELIMINARY DECREE**

**CASE NO. WC-0001-C-2021
OBJECTOR'S MOTION TO AMEND OBJECTION**

On Feb.3, 2023, the objector, Richard L. Smyth, timely filed an objection (Doc. 833) to the Confederated Salish and Kootenai Tribes - Montana-United States Compact Preliminary Decree.

On October 18, 2023 the Water Court issued case management order #3 allowing for the submission of Motions to Amend existing objections no later than December 8, 2023.

Objector now moves the Court to accept his amendments to his original objection.

The GROUNDS FOR THE AMENDMENTS ARE: to provide the court with clarification, elaborate upon, add claims, further research, definitions of words and provide new information and facts that were inadvertently omitted, to add and /or to correct errors in the original objection submitted to the Court.

The attached amended objection is being submitted to the court and we request the court to accept it in place of our original objection (pleading).

DATED this 12/6/2023 day of December, 2023.

DocuSigned by:
RICHARD L SMYTH
DF9221C5C006432...
Richard L. Smyth

CERTIFICATE OF SERVICE

This is to certify that the foregoing was served on the following persons as noted below:

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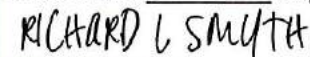
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Dated this 12/6/2023 day of December, 2023



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doc 833

December 5, 2023

IN THE WATER COURT OF THE STATE OF MONTANA

CONFEDERATD SALISH AND KOOTENAI TRIBES

MONTANA – UNITED STATE COMPACT

We-0001-2021 Doc #833

1. The objector lives at 4350 Weyers Lane SW, Port Orchard, WA 98367
2. The legal description is S2SE4E4 S01, T18N, R20W 20.13 acres, SP-9 Tr4
3. Geocode 15-2753-01-4-01-20-0000, Tax ID 21066
4. The well is used for domestic and lawn and garden watering and stock watering. FIP water right for irrigation, pasture and stock water.
5. My objection is for private and public reasons & interests.
6. I am the owner of any & all water on my property which is in Basin 76L, Lake County, Montana

Introduction to Amendments

I want the Tribes to have the water they are entitled to which is “When the United States sets aside a federal reserve (e.g., an Indian Reservation or National Forest), the simultaneous reservation of water sufficient to fulfill the reservation’s purpose is implied and the priority date is the date of the reservation.” Quote is per dnrc.mt.gov – Compact Implementation Program.

I currently live in a world where words don’t actually mean what they appear to mean. For example, the words “water right” has always been understood to mean the owner of land has the right to the water on his/her property. Another example is Time Immemorial. What does that mean? Tribal Water Right, what does that mean? No answers have been given to these questions but they must be answered.

The State of Montana Constitution has a basic truth that helps define basic human rights in Article 2, Section 3: Inalienable Rights.

"All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities, enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and seeking their safety, health and happiness in all lawful ways. In enjoying these rights, all persons recognize corresponding responsibilities.

What is more basic than water for life's necessities? Is the pursuit of water a fundamental right? Should the court determine any senior or junior rights while honoring the State Constitution? I have an inalienable right to pursue water that is appurtenant to my land which is superior to any Tribal Water Right(s).

Amendment # 1

The jurisdiction of the Tribes over all water rights is an overreach. I have a well, that is registered with the DNRC. I do not agree to the jurisdiction of the Water Management Board for any new or exiting appropriation. In my original objection, I referred to any restrictions by the Tribes Water Management Board (WMB) for new wells or new development will diminish the sale of property and or cause severe economic harm to non-tribal residents. I request a evidentiary hearing to factually determine the economic impact of the Compact.

Amendment #2

In my original objection, I referred to the provisions of the Hellgate Treaty (see **Exhibit 2**). The Hellgate Treaty of 1855 is often referred to as a priority date in the Compact, however it is never quoted. According to the Hellgate Treaty, Article VI and VI of the Omaha Treaty state the purpose of the Reservation was to create a permanent home for Indians on lots. It's ultimate purpose was assimilation (see maps from 1910 to 1935, **Exhibit 3**). In fact by 1939, the reservation was referred to as "The Former Flathead Indian Reservation". (**Exhibit 4**). The language of the treaty does not directly mention water. In fact, any such mention indirectly is couched in the language of "*citizens in common with the territory*" as per Article III of the Treaty. Courts have tried to change the meaning of these common words to mean something different. It was never the purpose of

the Treaty to create a permanent homeland with communal water rights; rather it was permanent home with water appurtenant to the land. The compact attempts to change the history of the first 70 years of the Reservation. Federal Reserve Water Rights can only be tied to permanent land set aside. This was not the purpose of the Reservation.

Amendment #3

In my original objection, I referred to fraud, collusion and overreaching. I submit the following question and answer in amending our original objection:

Is the compact the product of fraud, collusion and overreaching as stated in the Court's Notice to Objectors?

Fraud can be purposeful or done unwittingly or in ignorance (see MCA 28-3-406 (1)). The very first WHEREAS in Article 1 of the Compact is fraudulent. The Tribes did not reserve the Reservation, furthermore the United States of America own the land held in trust for the Tribes.

I claim that the following terms are specious, vague and/or fraudulent: **Time Immemorial, Tribal Water Right, Flathead Indian Reservation, Court of Competent Jurisdiction.** *Time Immemorial* is used continually throughout the Compact. How are we to understand these terms? The Tribes definition of Time Immemorial is in the Flathead Indian Reservation Timeline (**Exhibit 1**) (The Creation and time of the animal people. Coyote and Fox traveled the earth preparing the world for human beings). This reference to animal people is not acceptable to me or to any court of competent jurisdiction. Objector will file a brief concerning these terms in 2024.

Collusion has commonly been defined as *two or more persons working together to deprive a person of his/her rights by the form or authority of the law.* That there were individuals who colluded early on prior to 2015 (Legislative Session which approved the Compact only by illegally changing the rules from a Super Majority to a simple majority). Verified by the two attached Affidavits: Affidavit of Teresa McCarrick (**Exhibit 5**) and Affidavit of Art Wittich (**Exhibit 6**).

Overreach has been defined as conduct that exceeds established limits in order to gain a purposeful or unconscious advantage over others through

ignorance or deceptive and unfair means. The powers and the duties of the Water Management Board (Article IV, I. 5) is an an example of overreaching by the Montana Legislature in denying access to State Courts to non-Indian citizens who own fee simple property within the exterior boundaries of the Flathead Reservation. The Due Process procedures are vague. Overreaching is also apparent by the Compact giving off-reservation rights to the Tribes. Off Reservation Water Rights is negated by Article 1 of the Treaty (**Exhibit 2**), where the Tribes ceded "all right and interests" to any ceded lands. Under the Plain Language Doctrine, ALL right to land and water was given up. Only the State of Montana has authority concerning water rights on these ceded lands.

Amendment # 4

In my original objection, I mention "*appealing a decision (of the Water Management Board) by filing a petition for judicial review*" with a court of Competent Jurisdiction. The Board itself, as the new administrator or adjudicator of the water rights within the Reservation, is neither an elected nor delegated power as per the Constitution. Question: Under what branch of government does the Water Board operate? Do the board members take an oath to the U.S. and Montana Constitution? Did the Legislature abrogate its authority over the non-Indian citizens and to certain degree the Indians citizens by giving powers and duties to this water Board? It is enigmatic as to what branch of government the Water Board is under in Montana. It is described as an "**entity**" under the Definition of Article II. Later it was a regulatory body and later referred to as a public agency. We are told the board has "**exclusive authority**". Does this mean that there is no possibility of Judicial Review of any decision of the Board, since the Compact says the board has "**exclusive jurisdiction**" over the meaning and interpretation of the Compact (see Article IV, I. 1.)? All language concerning the Water Management Board is confusing and vague and unlawful.

The Powers and Duties of the Water Board further deny non-Indian citizens who reside within the exterior boundaries of the Reservation access to the State Courts of Montana. All State District Courts are to be available to the citizens of Montana according to the State Constitution (see Article VII, Section 4). The Water Board is not an administrative agency or a lower

court, yet it has powers like that of a court. The Tribes were confused on this issue and asked the Law Firm of Browning, Kaleczyc, Berry & Hoven what the Water Board is. With some difficulty, they determined the Water Board was an "instrumentality", an amalgamate of both state and tribal government. Of course, no such definition occurs in the Laws of Montana or in the compact. When I call the DNRC to inquire about water rights, they say they have no jurisdiction on the Reservation and refuse to offer an opinion. My opinion is that even though the concept of a joint management of the Reservation Water management is touted, the state through the DNRC will refer all questions and decisions to the Tribe – Water Management Board.

Amendment #5

My Walton Water Right

I amend my objection by providing new information. I, as a successor to an allottee, possess Walton Rights entitling me to a reserved water right consistent with other Indian Reserved Rights (see **Exhibit 7**). Walton Water rights are derived from the *Colville Confederated Tribes v Walton* (647 F. Ed 42 (9th Circuit, 1981) case. The Compact does not address Walton Water Rights. A Walton Right gives me a 1855 priority date, same as the Tribes. In a recent Montana Supreme Court case, *Scott Ranch v Montana Water Court* (2017 MT 230) The Supreme Court reversed the Water Court. The Montana Supreme Court stated:

Non-Indian successor to Indian allotment lands acquire "Walton rights" – a right to share in the reserved waters . . . Scott Ranch possesses a Walton Water Right as appurtenance to the land it acquired. . . Scott Ranch Claims are recognized under State Law and are not part of the Tribal Water Right.

As shown in Exhibit 7, I am a successor to the allotment given to Adelaide Chalwain, allottee 723. Walton water rights are recognized under State Law and I have a 1855 priority date for my well and the water flowing through my property for irrigation and stock water. This confers an 1855 priority date and an inalienable right to pursue water on my property.

Amendment #6

A new U.S. Supreme Court Case, decided in June of 2023, decided the *Arizona v Navajo Nation* (599 U.S. 2023) case. In this decision, the Court used the Plain Language Doctrine to interpret the Treaty of Basque Redondo of 1868. The Navajo Nation had argued that the U.S. Government must take affirmatives steps to secure water for the Nation. The 9th Circuit agreed but the Supreme Court reversed the decision. It stated the Court *"will not apply common-law trust principles" to infer duties not found in the test of a treaty, statute or regulation . . . Here nothing in the 1868 treaty establishes a conventional trust relationship with respect to water"*. Similarly, nothing in the Hellgate Treaty establishes a trust relationship with the Tribes to secure water for them. This compact is an attempt to do exactly that and nothing in the Treaty authorizes the security of water both on and off the Reservation.

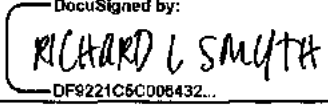
Amendment #7

As suggested in my original objection, the following is supplied due to new information provided by Mission Valley Properties concerning the economic consequences of the Water Compact.

Some non-Indian buyers are unwilling to buy land within a Indian Reservation due to the fear of Tribal governments overreach and the potential diminishment of property value as a result. The USDA Regional New Release dated August 2021, show the valuation of Montana irrigated farmland (\$3050 per acre) VS non-irrigated farmland (\$835 per acre, a difference of \$2215 per acre. Prices in Montana, including farmland, have increased since 2021, so the figures given will have increased. With the reduction of irrigation water, the value of farmland will decrease significantly due to the land being less productive, causing economic harm to the area and to individual farmers and ranchers. Their ability to borrow money using crops or livestock as security will be negatively impacted due to reduced productivity.

Not only do we have the diminishment of administration of water rights by the State, fraudulent terms and history, collusion by parties, overreaching by the transfer of individual water rights to Tribal Water Rights, the exclusive power of the Water Board, and giving off-Reservation water rights and the diminishment of property values within the boundaries of the

Reservation. All of the collusion, fraud and overreach will have detrimental consequences and are the reason this Compact Should be declared VOID.

Submitted by  12/6/2023
Date _____
Doc #833

Flathead Reservation Timeline Confederated Salish and Kootenai Tribes 2017

The Montana Tribal Histories Reservation Timelines are collections of significant events as referenced by tribal representatives, in existing texts, and in the Montana tribal colleges' history projects. While not all-encompassing, they serve as instructional tools that accompany the text of both the history projects and the *Montana Tribal Histories: Educators Resource Guide*. The largest and oldest histories of Montana Tribes are still very much oral histories and remain in the collective memories of individuals. Some of that history has been lost, but much remains vibrant within community stories and narratives that have yet to be documented.

Time Immemorial – The Creation and time of the animal people. Coyote and Fox traveled the earth preparing the world for human beings.

Traditional Life – The Salish, Pend d'Oreille, and Kootenai flourished in their aboriginal territory that included most of Montana and portions of Wyoming, Idaho, Washington, and Canada. The Salish Tribe grew, becoming so large that the people had to divide into smaller bands.

Pre-1700 – A Salish prophet, Xalıqs, Shining Shirt foresaw the coming of the “Black Robes” (Catholic Jesuits).

1650 – 1700 – The Salish and Pend d'Oreille acquired horses from the Shoshone.

1775 – Blackfeet gained continued access to firearms through Hudson's Bay Company in Canada, leading to an uneven power struggle with area tribes over a rapidly decreasing land base.

1780s – A smallpox outbreak reached a group of Salish camped in the Missoula area. The camp divided – families with smallpox and those without. One group went to the Bitterroot Valley while the other moved to the Drummond area. Only one boy in the Bitterroot camp survived the epidemic. By 1782, small pox had killed an estimated one-half to three-quarters of the Salish and Pend d' Oreille bands. The combination of the introduction of disease, firearms, and horses led to massive changes in intertribal territories. Blackfeet expansion caused eastern bands of the Salish and Pend d' Oreille to move their winter camps west of the continental divide. The Salishian people called the Tuháxn, who occupied the Rocky Mountain front, were decimated. The survivors scattered to the west and merged with other tribes, bringing about the near extinction of a native people.

1790s – The first French and British fur traders appeared in what is now western Montana and the Flathead Indian Reservation.

1803 – In the Louisiana Purchase the United States purchased from France the *right* to be the only purchaser of tribal lands when and if Indians ever chose to sell any land, and



the sovereign and commercial rights to be the only government to trade and engage in diplomatic relationships with the tribal nations in the Louisiana Territory.

1805 – The Salish allowed Lewis and Clark to enter Salish territory in the Bitterroot Valley near Darby, opening the door to fur trade in Salish territory. K^wtít Púplám - Salish place name meaning "Great Clearing" was located at Ross's Hole.

1809 – The Salish gained regular access to firearms through the establishment of fur trade in western Montana by David Thompson. Saleesh House, at Sqeyt k^wm - Salish placename in reference to "the Sound of Falling Water" located at Thompson Falls along with Kullyspell House at Lake Pend Oreille in present day North Idaho established fur posts in Salish and Pend' Oreille aboriginal territory.

1811 – 1830 – The peak years of the Fur Trade in the Northwest which had far-reaching impacts on the ecology, economy, and culture of the people of this region. The Iroquois people arrived among the Salish people.

1811 – Kullyspell House having been built off the main travel ways was abandoned.

1831, 1835, 1837, 1839 – Years the Salish sent delegations to St. Louis to bring back the "Black Robes," the Catholic Jesuit Priests.

1841 – Father De Smet and the first Jesuit missionaries arrived in Montana, establishing St. Mary's, a mission near present day Stevensville in the Bitterroot. The Salish placename for St. Mary's is Łqét mlš meaning wide cottonwoods.

1846 – The Oregon Treaty between the United States and Great Britain divided aboriginal territory along the current Canadian border on the 49th parallel. Millions of acres of aboriginal lands in current Canada were lost. Kootenai bands along with tribes in the Salish language family were now placed in separate jurisdictions.

1848 – The United States organized Oregon Territory, exerting jurisdiction over tribal aboriginal lands west of the continental divide.

1851 – The Fort Laramie Treaty impacted aboriginal territory east of the Rocky Mountains. The treaty failed to recognize use of Salish, Pend d'Oreille, and Kootenai aboriginal lands east of the Continental Divide.

1853 – Isaac Stevens surveyed a route for Northern Pacific Railroad.

1855 – Tribal leaders and US officials signed the Treaty of Hell Gate. Under terms of the treaty, tribal leaders ceded to the United States "title" to the vast majority of their lands west of the continental divide. Tribal leaders reserved 1.25 million acres for the Flathead Reservation, along with the "Conditional Bitterroot Reservation" for what the treaty said was to be for the tribes "exclusive use and benefit." In the treaty, the tribes also reserved rights on their ceded lands, including the right to hunt, fish, gather plants, and pasture livestock on "open and unclaimed lands." Tribal understanding of the boundaries of the Flathead Reservation was considerably different from what was actually written in the treaty, particularly the east, west, and northern boundaries.

1855 – Lame Bull/Judith River Treaty with the “Blackfoot Nation” (Piegan, Blood, Blackfoot, and Gros Ventre), the “Flathead Nation” (Flathead – Salish, Upper Pend d’Oreille, Kootenai), and Nez Perce. In an effort to establish peace among warring tribes, the US government convened treaty negotiations to establish a “Common Hunting Ground” that would be acknowledged and honored by all of the tribes. At these negotiations, Pend d’Oreille Chief Alexander told all the other Indian leaders present that the Sweetgrass Hills country “was an old road for our people. A long time ago our people belonged to this land.” Alexander’s statement documented tribal homelands east of the Rocky Mountains – as other tribes moved into Montana, the Salish, Pend d’Oreille, and Kootenai were forced to concentrate their populations on the west side of the mountains.

1859 – Hell Gate Treaty of 1855 was ratified by US Senate and signed by the President.

1864 – First major gold rush in Montana Territory brought thousands of non-Indian people with it.

1870 – Ȫwef xȪcin - Many Horses, Chief Victor, died out in buffalo country. His son, St mȪxe Qwoxqey - Claws of the Small Grizzly, or Chief Charlo, succeeded him as head chief of the Bitterroot Salish.

1870s – Six buffalo calves survived a journey west to the Flathead Reservation. Ȫatati, - Little Falcon Robe, brought the calves to the reservation. These calves eventually became the Pablo-Allard herd. Remnants of this herd sold to Canada made their way back to the reservation when the National Bison Range was formed.

1871 – President Grant signed an Executive Order, requiring the Salish to leave the Bitterroot Valley and go the “Jocko” reservation. The president’s action was not based on any survey or examination of the Bitterroot for a suitable place (reservation) for the Salish, as required by the 1855 Treaty of Hell Gate. Representative James Garfield was appointed by President Grant to secure the Salish removal to the Jocko Reservation.

1872 – Representative Garfield met with the Salish near present-day Stevensville to secure their approval and signature on an agreement for their removal to the Jocko Reservation. Chief Charlo refused to sign. Under the terms of the agreement, the Salish were to move from the Bitterroot Valley to the Jocko Reservation (Flathead Reservation) in exchange for \$55,000, new log houses, a side of beef for every family, and plots of land designated specifically for the Salish. Salish sub-chiefs Arlee and Adolph signed the contract, but head chief Charlo, son of Victor, refused to sign, therefore making the contract invalid. When the agreement was officially presented upon Garfield’s return, a signature mark, which was a forgery, appeared on the contract by Chief Charlo’s typed name. Chief Charlo was enraged when he found out about this deception. The senate approved the agreement for ratification.

1873 – Chief Arlee and a few families moved to the reservation and settle near the Jocko Agency.

1875 – By fall of this year, 123 Salish had moved from the Bitterroot Valley to the reservation. The North American bison population had dwindled to about one million, due to a deliberate campaign to exterminate them. “The elders say that in the second to last year of the traditional Pend d’Oreille buffalo hunts, the hunters were able to kill only 27. The following year they killed only seven.” “Going to buffalo” was becoming only a memory.

1877 – Fort Missoula established in the Bitterroot in large part due to the Nez Perce war. The non-Indians in Montana Territory feared all Indians were going to rebel against the federal government and demanded protection.

1882 – Tribal leaders were pressured into signing an agreement to allow a railroad right-of-way through the reservation, relinquishing 1,430 acres of reservation lands.

1883 – Railroad tracks were laid across the Flathead Reservation. Tribal leaders expressed their anger and resentment at the continuing loss of tribal homelands. “The country we gave the government is very valuable. Lots of white men made independent fortunes in my country ... We don’t want the railroad to go through the reservation ... When we heard that you were coming, we made up our minds what to say to you. You seem to like your money, and we like our country; it is like our parents.” Kootenai leader Eneas said, “I would like to get the Flathead Lake country back. There are things that the government promised me in that treaty that I have never seen ... We had a big country, and under those conditions we signed the treaty. Seven years after that we learned that the line of the reservation ran across the middle of Flathead Lake.... I do not wish the road to pass through the reservation. This reservation is a small country and yet you want five depots upon it ... My country was like a flower and I gave you its best part....”

1884 – Sisters of Providence boarding school was built in St. Ignatius.

1887 – The Dawes General Allotment Act was passed, mandating the breaking up of communal tribal homelands and setting a course for catastrophic land loss on reservations.

1888 – Boys boarding school was completed in St. Ignatius.

1890 – The Ursuline nuns arrived in St. Ignatius and began a kindergarten, which eventually expanded into a grade school and high school that operated until 1972.

1891 – Chief Charlo and the Salish were forcibly removed to the Jocko Reservation after 36 years of resisting removal, in the conviction that the 1855 Treaty of Hell Gate had guaranteed the Bitterroot Valley for their reservation.

1893 – Flathead Reservation Indian Agent Peter Ronan died. Indian agents that succeeded Ronan were proponents of allotment and homesteading the Flathead Indian reservation.

1895 – Congress appointed “Crow, Flathead Commission” to negotiate cession of reservation lands. Tribal leaders refused to cede any lands at any price.

1898 – The first Arlee July celebration was held in spite of the protests from the priests and Indian Agents. William Smead was appointed as the US Indian Agent for the Flathead Indian Reservation. Smead, as a state representative, had previously advocated for opening up the reservation to white settlement.

1901 – A small delegation of representatives of the US Government, led by Commissioner of Indian Affairs Charles Hoyt, met with tribal leaders on the reservation to discuss an offer to buy part of the northern end of the reservation. Tribal leaders refused to sell. Chief Charlo stated, "I will not sell a foot (of land)." Kootenai Chief Isaac responded, "My body is full of your people's lies. You told me I was poor and needed money, but I am not poor. What is valuable to a person is land, the earth, water, trees ... and all these belong to us ... We haven't any more land than we need, so you had better buy from somebody else."

1901 – 1904 – Agricultural production statistics of 1902 recorded there were 25,000 cultivated acres with 120,000 bushels of grain, 25,000 tons of hay, and 20,900 bushels of vegetables produced by tribal members. There were 25,000 horses, 27,000 cattle, and 600 bison owned by tribal members.

1901 – Last documented small pox outbreak among the Salish. A quarantine camp was set up near Mission Creek.

1903 – Montana Congressman Joseph Dixon introduced a bill to Congress to impose the Allotment Act on the Indians of the Flathead Indian Reservation.

1904 – Congress passed the Flathead Allotment Act, setting the course for the loss of over 60% of the reservation land base. Heads of household were assigned 160 acres, while single adults received 80 acres. Two rounds of allotments were held. An enrollment and census were done to assign allotments. At this time, many names were altered, as the census workers insisted on each individual having two names. Upon completion of the census, 2,390 tribal members were eligible to receive allotments. Of the 1,245,000 acres, only 245,000 were secured by allotments. The remaining grazing and agricultural lands were opened up to homesteading. Amendments to the act seized additional lands for town sites, the Indian agency, churches, reservoirs, and power sites, along with 61,000 acres for Montana school lands. The 16th and 36th section of each township were set aside for school support. Immediately following allotment, Indian owned cattle dropped to 5,000 head and the horse herd was reduced to 4,000.

1905 – Chief Charlo traveled to Washington, D.C., to try to persuade the President to halt the allotment process on the Flathead Reservation.

1906 – Chief Charlo sent tribal leaders Antoine Moïese and Alicot to Washington, D.C., to make another allotment protest to the President, Congress, or anyone who would listen. Indian Agent Smead forced Michel Pablo to sell buffalo. Between 1906 and 1913, buffalo were gradually rounded up and shipped to Canada, the sole purchaser.

1906 – Congress passed the Burke Act that allowed Indian allotments to be taken out of federal trust if the allottee was deemed "competent."

1908 – The first round of allotment of lands to tribal members was completed. After 2,400 allotments were issued, covering 228,434 acres, the remaining land was declared “surplus.” The Salish, Pend d’Oreille, and Kootenai Tribes suffered another loss of reservation lands as a Congressional Act passed in 1908 took 16,000+ acres for a National Bison Range. The Flathead Irrigation Project bill passed, justified as aiding Indians in transition to agriculture. The project actually benefited non-Indian farmers and ranchers and harmed many native subsistence operations. Many Indians lacked the money to pay the irrigation charges, which led to allotments being seized for settlement of debts. A state game warden killed four members of a Pend d’Oreille family hunting party in Swan Valley. The game warden was killed by one of the tribal women who acted in self-defense.

1910 – Chief Charlo died on January 10. In April the Flathead Reservation was officially opened up to non-Indian settlement. “Surplus” reservation lands were sold to homesteaders.

1911 – Public schools began to open to serve the non-Indian homesteaders.

1911 – 1934 – By 1930, most of the Indian allotments were now in non-Indian ownership.

1917 – 1919 – The United States participation in World War I included many American Indian soldiers, among them members of the Confederated Salish and Kootenai Tribes.

1920 – A second round of allotments transferred 124,795 acres from communal Tribal ownership to individual tribal member ownership.

1924 – Congress granted citizenship to American Indians.

1927 – After learning of plans to construct a massive hydroelectric power plant and dam on the lower Flathead River, a coalition of non-Indian reservation residents, the Rocky Mountain Power Company, the Bureau of Indian Affairs, and other profiteers attempted to take ownership of the proposed dam site.

1928 – Congress affirmed the Confederated Salish and Kootenai Tribes’ ownership of the proposed dam site.

1930 – Rocky Mountain Power Company secured a license from the FPC to build the hydroelectric power plant on the proposed reservation site.

1933 – Sixty percent of the original tribal allotments were lost. This land became fee land owned by non-Indians.

1933 – 1942 – The Civilian Conservation Corps was funded during these years employing tribal members building trails and roads on the reservation.

1934 – Congress passed the Indian Reorganization Act. This Act repealed the Dawes Act and enabled tribes to voluntarily organize and adopt federally approved constitutions and by-laws.

1935 – The Confederated Salish and Kootenai Tribes organized under the 1934 Indian Reorganization Act, ratified a tribal constitution and created an elected government of ten tribal council representatives and the last two federally recognized head chiefs, Chiefs Charlo and Koostahtah. The first Tribal Council meeting was held at the Flathead Agency in Dixon. The Council representatives were Edwin Dupuis, Alexander Clairmont, Louis Tellier, Eneas Conko, Nicolai Lassaw, Duncan (Charlie) McDonald, William Gingras, Louis Adams Sr., Louis Couture, and Joseph Blodgett. Chief Martin Charlo and Chief Koostahtah were life members and active members of all committees. The first committees established were Land, Finance, Law and Order, Health, Labor, and Education. The council made a recommendation to designate an area of the Mission Mountains for management similar to the National Parks, keeping it undeveloped and allowing only foot and horse trails.

1936 – The Confederated Salish and Kootenai Tribes (CSKT) adopted a corporate charter. A first order of business was to address issues with Montana Power Company and their license at Kerr Dam. This included appropriate rental fees, preference hiring of tribal members in the construction work. The original annual rental fee was \$140,000.

1936-1938 – Kerr Dam was built.

1941 – 1945 – Years of World War II, during which 25,000 American Indians served in the military, including many Confederated Salish and Kootenai tribal members. Indian people also worked in defense-related industries. According to late tribal elder Margaret Finley, life changed very rapidly for Indian people, "...when we got in the war with the Japanese, Pearl Harbor, right after that. Everything changed very fast, very, very fast ... how we do things together, happiness, all that. It all changed." American Indian people left their home communities – many for the first time – to serve in the war or work in defense projects. People who still held the collective memory of an old tribal world were exposed to a global world that would forever change the country their world was now situated in.

1951 – 1953 – Tribal members again enlisted in the military and served during the Korean War.

1953 – House Concurrent Resolution 108, the Termination Act, targeted the Confederated Salish and Kootenai Tribes. Termination ended a tribe's sovereign status and relationship with the federal government as a political entity. The Confederated Salish and Kootenai Tribes were at the top of the list of tribes to be terminated. Termination was considered "voluntary" and required tribal member consent, although pressure and coercion were not uncommon.

1954 – The Confederated Salish and Kootenai Tribes successfully resisted the US government's attempt to terminate their tribes and reservation.

1960 – The Tribal Constitution was amended to change the blood quantum requirement for membership to one-quarter degree Salish or Kootenai or both combined. The change was not retroactive, and only applied to people born after the amendment was approved.

1961 – The tribes entered into a Public Law 83-280 agreement with the state of Montana. This law allowed the state to assume criminal and civil jurisdiction on the reservation. Five states were mandated to this jurisdiction change and Alaska became the sixth mandatory state in 1958. Montana was not one of the mandatory states; however, the remaining 44 states, including Montana, had the option to assume jurisdiction in Indian Country. PL83-280 was amended between 1953 and 1968, allowing states to assume jurisdiction unilaterally. In response, after tribal opposition, Congress amended PL 83-280 to include a requirement for tribal consent for the jurisdiction change, and also to allow acceptance of “retrocession” of the state’s assumption of jurisdiction. In 1963 the state of Montana passed legislation to allow the state to assume jurisdiction on reservations. However, by this time the law had been amended to require tribal consent. The Confederated Salish and Kootenai Tribes were the only tribe in the state to agree to PL 83-280.

1965 – The Confederated Salish and Kootenai Tribes passed a Tribal Ordinance defining the terms under which they would come under PL 83-280.

1965 – The Indian Claims Commission determined that Confederated Salish and Kootenai Tribes had not been compensated for the lands ceded in the 1855 Treaty of Hell Gate. “...the Tribes had surrendered 12, 005,000 acres to the government which were worth \$5,300,000. The total payment to the tribes, however, had only been \$593,377.82.” After fees were taken out, the tribes received \$4,016,293.29 in 1967. The compensation was determined in 1855 land values. No interest was paid for the 112 years the Tribes had been deprived of the money.

1971 – The US Court of Claims found that the Flathead Allotment Act was a breach of the 1855 Treaty of Hell Gate. Compensation to the Tribes was determined in 1912 land values, totaling \$7,410,000, of which only \$1,783,549 had been paid. The balance of \$5,626,451 was paid a few years later.

1974 – Tribal elders Christine Woodcock, Louise McDonald, and Annie Pierre protested the Ashley timber sale in the Mission Mountains, successfully stopping it.

1975 – Two Eagle River School was founded, serving high school students with a dominant focus on cultural studies.

1975 – The Culture Committee was formed and then divided into the Salish-Pend d’Oreille Culture Committee and the Kootenai Culture Committee. The Indian Self-Determination and Education Act passed, which recognized the right of Indian tribes to self-government “as domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory.”

1976 – Salish Kootenai College was founded. Prior to 1976, only 41 tribal members had college degrees, compared to 423 from 1976 to 1995.

1978 – The Supreme Court ruled that Tribal Courts do not have criminal jurisdiction over non-Indians, and that tribal courts DO have jurisdiction over non-Indians in matters such as permits, licensing, and environmental protection.

1981 – The Confederated Salish and Kootenai Tribes’ Natural Resources Department was established.

1982 – The Confederated Salish and Kootenai Tribal Council approved Tribal Ordinance 79A, setting aside approximately 91,778 acres of the Mission Range as the Mission Mountain Wilderness.

1984 – The Tribes negotiated re-licensing of Kerr Dam, which secured the option to take control of the dam in 2015, and raised the fee from \$2.6 million to \$9 million annually, along with annual adjustments for inflation.

1985 – The Tribes secured minimum stream flows to protect fisheries.

1997 – The National Trust for Historic Preservation named “the Flathead Indian Reservation one of 11 Most Endangered Places in the United States” due to the proposed radical expansion of US Highway 93.

1998 – The Atlantic Richfield Company (ARCO) agreed as part of a legal settlement to pay the Confederated Salish and Kootenai Tribes \$18.3 million to restore, replace, and/or acquire the equivalent of Tribal treaty- protected resources that were injured by the release of hazardous substances in the Clark Fork River through mining and smelting in Butte and Anaconda.

1999 – The “Squaw” word bill passed Montana State Legislation. The Salish and Pend d’ Oreille Culture Committee begin work to rename over 20 “S” word sites with Salish place names. By 2009, 19 proposed Salish place names were approved by the US Board of Geographic Names to replace “S” word sites across Montana.

2002 – Nkwusm, the Salish Language Immersion School, opened in Arlee.

2015 – Kerr Dam administration reverted to the Confederated Salish and Kootenai Tribes and was renamed Salish Kootenai Dam.

TREATY WITH THE FLATHEADS, &c. JULY 16, 1855.

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Treaty between the United States and the Flathead, Kootenay, and Upper Pend d'Oreilles Indians. Concluded at Hell Gate in the Bitter Root Valley, July 16, 1855. Ratified by the Senate, March 8, 1859. Proclaimed by the President of the United States, April 18, 1859.

JAMES BUCHANAN,

PRESIDENT OF THE UNITED STATES OF AMERICA,

TO ALL AND SINGULAR TO WHOM THESE PRESENTS SHALL COME, GREETING: July 16, 1855.

WHEREAS a treaty was made and concluded at the treaty ground, at Hell Gate, in the Bitter Root Valley, on the sixteenth day of July, eighteen hundred and fifty-five, between Isaac I. Stevens, governor and superintendent of Indian affairs for the Territory of Washington, on the part of the United States, and the hereinafter named chiefs, headmen, and delegates of the confederated tribes of the Flathead, Kootenay, and Upper Pend d'Oreilles Indians, on behalf of and acting for said confederated tribes and duly authorized thereto, by them, which treaty is in the words and figures following, to wit:

Articles of agreement and convention made and concluded at the treaty ground at Hell Gate, in the Bitter Root Valley, this sixteenth day of July, in the year one thousand eight hundred and fifty-five, by and between Isaac I. Stevens, governor and superintendent of Indian affairs for the Territory of Washington, on the part of the United States, and the undersigned chiefs, headmen, and delegates of the confederated tribes of the Flathead, Kootenay, and Upper Pend d'Oreilles Indians, on behalf of and acting for said confederated tribes, and being duly authorized thereto by them. It being understood and agreed that the said confederated tribes do hereby constitute a nation, under the name of the Flathead nation, with Victor, the head chief of the Flathead tribe, as the head chief of the said nation, and that the several chiefs, headmen, and delegates, whose names are signed to this treaty, do hereby, in behalf of their respective tribes, recognise Victor as said head chief.

Contracting parties.

ARTICLE I. The said confederated tribes of Indians hereby cede, relinquish, and convey to the United States all their right, title, and interest in and to the country occupied or claimed by them, bounded and described as follows, to wit:

Cession of lands to the United States.

Commencing on the main ridge of the Rocky Mountains at the forty-ninth (49th) parallel of latitude, thence westwardly on that parallel to the divide between the Flat-bow or Kootenay River and Clarke's Fork; thence southerly and southeasterly along said divide to the one hundred and fifteenth degree of longitude, (115°,) thence in a southwesterly direction to the divide between the sources of the St. Regis Borgia and the Cœur d'Alene Rivers, thence southeasterly and southerly along the main ridge of the Bitter Root Mountains to the divide between the head waters of the Koos-koos-kee River and of the southwestern fork of the Bitter Root River, thence easterly along the divide separating the waters of the several tributaries of the Bitter Root River from the waters flowing into the Salmon and Snake Rivers to the main ridge of the Rocky Mountains, and thence northerly along said main ridge to the place of beginning.

Boundaries.

ARTICLE II. There is, however, reserved from the lands above ceded, for the use and occupation of the said confederated tribes, and as a general Indian reservation upon which may be placed other friendly tribes

Reservation.

TREATY WITH THE FLATHEADS, &c. JULY 16, 1855.

and bands of Indians of the Territory of Washington who may agree to be consolidated with the tribes parties to this treaty, under the common designation of the Flathead nation, with Victor, head chief of the Flathead tribe, as the head chief of the nation, the tract of land included within the following boundaries, to wit:

Boundaries.

Commencing at the source of the main branch of the Jocko River; thence along the divide separating the waters flowing into the Bitter Root River from those flowing into the Jocko to a point on Clarke's Fork between the Camash and Horse prairies; thence northerly to, and along the divide bounding on the west the Flathead River, to a point due west from the point half way in latitude between the northern and southern extremities of the Flathead Lake; thence on a due east course to the divide whence the Crow, the Prune, the So-ni-el-em and the Jocko Rivers take their rise, and thence southerly along said divide to the place of beginning.

Whites not to reside thereon unless, &c.

All which tract shall be set apart, and, so far as necessary, surveyed and marked out for the exclusive use and benefit of said confederated tribes as an Indian reservation. Nor shall any white man, excepting those in the employment of the Indian department, be permitted to reside upon the said reservation without permission of the confederated tribes, and the superintendent and agent. And the said confederated tribes agree to remove to and settle upon the same within one year after the ratification of this treaty. In the meantime it shall be lawful for them to reside upon any ground not in the actual claim and occupation of citizens of the United States, and upon any ground claimed or occupied if with the permission of the owner or claimant.

Indians to be allowed for improvements on lands ceded.

Guaranteeing however the right to all citizens of the United States to enter upon and occupy as settlers any lands not actually occupied and cultivated by said Indians at this time, and not included in the reservation above named. *And provided,* That any substantial improvements heretofore made by any Indian, such as fields enclosed and cultivated and houses erected upon the lands hereby ceded, and which he may be compelled to abandon in consequence of this treaty, shall be valued under the direction of the President of the United States, and payment made therefor in money, or improvements of an equal value be made for said Indian upon the reservation; and no Indian will be required to abandon the improvements aforesaid, now occupied by him, until their value in money or improvements of an equal value shall be furnished him as aforesaid.

Roads may be made through reservation.

ARTICLE III. *And provided,* That if necessary for the public convenience roads may be run through the said reservation; and, on the other hand, the right of way with free access from the same to the nearest public highway is secured to them; as also the right in common with citizens of the United States to travel upon all public highways.

Rights and privileges of Indians.

The exclusive right of taking fish in all the streams running through or bordering said reservation is further secured to said Indians; as also the right of taking fish at all usual and accustomed places, in common with citizens of the Territory, and of erecting temporary buildings for curing; together with the privilege of hunting, gathering roots and berries, and pasturing their horses and cattle upon open and unclaimed land.

Payments by the United States.

ARTICLE IV. In consideration of the above cession, the United States agree to pay to the said confederated tribes of Indians, in addition to the goods and provisions distributed to them at the time of signing this treaty the sum of one hundred and twenty thousand dollars in the following manner — that is to say: For the first year after the ratification hereof, thirty-six thousand dollars, to be expended under the direction of the President in providing for their removal to the reservation, breaking up and fencing farms, building houses for them, and for such other objects as he may deem necessary. For the next four years, six thousand dollars each year; for the next five years, five thousand dollars each year; for

TREATY WITH THE FLATHEADS, &c. JULY 16, 1855.

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Exhibit 2

the next five years, four thousand dollars each year; and for the next five years, three thousand dollars each year.

All which said sums of money shall be applied to the use and benefit of the said Indians, under the direction of the President of the United States, who may from time to time determine, at his discretion, upon what beneficial objects to expend the same for them, and the superintendent of Indian affairs, or other proper officer, shall each year inform the President of the wishes of the Indians in relation thereto.

How to be applied.

ARTICLE V. The United States further agree to establish at suitable points within said reservation, within one year after the ratification hereof, an agricultural and industrial school, erecting the necessary buildings, keeping the same in repair, and providing it with furniture, books, and stationery, to be located at the agency, and to be free to the children of the said tribes, and to employ a suitable instructor or instructors. To furnish one blacksmith shop, to which shall be attached a tin and gun shop; one carpenter's shop; one wagon and ploughmaker's shop; and to keep the same in repair, and furnished with the necessary tools. To employ two farmers, one blacksmith, one tinner, one gunsmith, one carpenter, one wagon and plough maker, for the instruction of the Indians in trades, and to assist them in the same. To erect one saw-mill and one flouring-mill, keeping the same in repair and furnished with the necessary tools and fixtures, and to employ two millers. To erect a hospital, keeping the same in repair, and provided with the necessary medicines and furniture, and to employ a physician; and to erect, keep in repair, and provide with the necessary furniture the buildings required for the accommodation of the said employees. The said buildings and establishments to be maintained and kept in repair as aforesaid, and the employees to be kept in service for the period of twenty years.

United States to establish schools.

mechanic's shops.

saw and grist mills.

a hospital.

And in view of the fact that the head chiefs of the said confederated tribes of Indians are expected and will be called upon to perform many services of a public character, occupying much of their time, the United States further agree to pay to each of the Flathead, Kootenay, and Upper Pend d'Oreilles tribes five hundred dollars per year, for the term of twenty years after the ratification hereof, as a salary for such persons as the said confederated tribes may select to be their head chiefs, and to build for them at suitable points on the reservation a comfortable house, and properly furnish the same, and to plough and fence for each of them ten acres of land. The salary to be paid to, and the said houses to be occupied by, such head chiefs so long as they may be elected to that position by their tribes, and no longer.

to pay salary to head chiefs.

And all the expenditures and expenses contemplated in this article of this treaty shall be defrayed by the United States, and shall not be deducted from the annuities agreed to be paid to said tribes. Nor shall the cost of transporting the goods for the annuity payments be a charge upon the annuities, but shall be defrayed by the United States.

Certain expenses to be borne by the United States and not charged on annuities.

ARTICLE VI. The President may from time to time, at his discretion, cause the whole, or such portion of such reservation as he may think proper, to be surveyed into lots, and assign the same to such individuals or families of the said confederated tribes as are willing to avail themselves of the privilege, and will locate on the same as a permanent home, on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas, so far as the same may be applicable.

Lots may be assigned to individuals.

Vol. x. p. 1044.

ARTICLE VII. The annuities of the aforesaid confederated tribes of Indians shall not be taken to pay the debts of individuals.

Annuities not to pay individual debts of Indians.

ARTICLE VIII. The aforesaid confederated tribes of Indians acknowledge their dependence upon the government of the United States, and promise to be friendly with all citizens thereof, and pledge themselves to commit no depredations upon the property of such citizens. And should

Indians to preserve friendly relations.

TREATY WITH THE FLATHEADS, &c. JULY 16, 1855.

Indians to pay for depredations. any one or more of them violate this pledge, and the fact be satisfactorily proved before the agent, the property taken shall be returned, or in default thereof, or if injured or destroyed, compensation may be made by the government out of the annuities. Nor will they make war on any other tribe except in self-defence, but will submit all matters of difference between them and other Indians to the government of the United States, or its agent, for decision, and abide thereby. And if any of the said Indians commit any depredations on any other Indians within the jurisdiction of the United States, the same rule shall prevail as that prescribed in this article, in case of depredations against citizens. And the said tribes agree not to shelter or conceal offenders against the laws of the United States, but to deliver them up to the authorities for trial.

not to make war except, &c

to surrender offenders.

Annalties to be reserved from those who drink, &c., ardent spirits.

Guaranty of reservation against certain claims of Hudson Bay Company.

Vol. ix. p. 870.

Bitter Root Valley to be surveyed, and portions may be set apart for reservation.

meanwhile not to be opened for settlement.

When treaty to take effect.

Signatures, July 16, 1855.

ARTICLE IX. The said confederated tribes desire to exclude from their reservation the use of ardent spirits, and to prevent their people from drinking the same; and therefore it is provided that any Indian belonging to said confederated tribes of Indians who is guilty of bringing liquor into said reservation, or who drinks liquor, may have his or her proportion of the annuities withheld from him or her for such time as the President may determine.

ARTICLE X. The United States further agree to guaranty the exclusive use of the reservation provided for in this treaty, as against any claims which may be urged by the Hudson Bay Company under the provisions of the treaty between the United States and Great Britain of the fifteenth of June, eighteen hundred and forty-six, in consequence of the occupation of a trading post on the Pru-in River by the servants of that company.

ARTICLE XI. It is, moreover, provided that the Bitter Root Valley, above the Loo-lo fork, shall be carefully surveyed and examined, and if it shall prove, in the judgment of the President, to be better adapted to the wants of the Flathead tribe than the general reservation provided for in this treaty, then such portions of it as may be necessary shall be set apart as a separate reservation for the said tribe. No portion of the Bitter Root Valley, above the Loo-lo fork, shall be opened to settlement until such examination is had and the decision of the President made known.

ARTICLE XII. This treaty shall be obligatory upon the contracting parties as soon as the same shall be ratified by the President and Senate of the United States.

In testimony whereof, the said Isaac L Stevens, governor and superintendent of Indian affairs for the Territory of Washington, and the undersigned head chiefs, chiefs and principal men of the Flathead, Kootenay, and Upper Pend d'Oreilles tribes of Indians, have hereunto set their hands and seals, at the place and on the day and year hereinbefore written.

ISAAC I. STEVENS, [L. S.]
Governor and Superintendent Indian Affairs W. T.

VICTOR, Head chief of the Flathead Nation, his x mark. [L. S.]
ALEXANDER, Chief of the Upper Pend
d'Oreilles, his x mark. [L. S.]
MICHELLE, Chief of the Kootenays, his x mark. [L. S.]
AMBROSE, his x mark. [L. S.]
PAH-SOH, his x mark. [L. S.]
BEAR TRACK, his x mark. [L. S.]
ADOLPHE, his x mark. [L. S.]
THUNDER, his x mark. [L. S.]
BIG CANOE, his x mark. [L. S.]
KOOTEL CHAH, his x mark. [L. S.]
PAUL, his x mark. [L. S.]

TREATY WITH THE FLATHEADS, &c. JULY 16, 1855.

ANDREW,
MICHELLE,
BATTISTE,

his x mark. [L. S.]
his x mark. [L. S.]
his x mark. [L. S.]

Kootenays.

GUN FLINT,
LITTLE MICHELLE,
PAUL SEE,
MOSES,

his x mark. [L. S.]
his x mark. [L. S.]
his x mark. [L. S.]
his x mark. [L. S.]

JAMES DOTT, *Secretary.*
R. H. LANSDALE, *Indian Agent.*
W. H. TAPPAN, *Sub Indian Agent.*
HENRY R. GROSIRE,
GUSTAVUS SOHON, *Flathead Interpreter.*
A. J. HOEKEN, *Sp. Mis.*
WILLIAM CRAIG.

And, whereas, the said treaty having been submitted to the Senate of the United States for their constitutional action thereon, the Senate did, on the eighth day of March, eighteen hundred and fifty-nine, advise and consent to the ratification of the same, by a resolution in the words and figures following, to wit:

Consent of Senate, March 8, 1859.

“IN EXECUTIVE SESSION,
“SENATE OF THE UNITED STATES, March 8, 1859.

“Resolved, (two thirds of the senators present concurring,) That the Senate advise and consent to the ratification of treaty between the United States and Chiefs, Headmen and Delegates of the confederate tribes of the Flathead, Kootenay, and Upper Pend d’Oreilles Indians, who are constituted a nation under the name of the Flathead Nation, signed 16th day of July, 1855.

“Attest:

“ASBURY DICKINS, *Secretary.*”

Now, therefore, be it known that I, JAMES BUCHANAN, President of the United States of America, do, in pursuance of the advice and consent of the Senate, as expressed in their resolution of the eighth of March, one thousand eight hundred and fifty-nine, accept, ratify, and confirm the said treaty.

Proclamation, April 18, 1859.

In testimony whereof, I have hereunto caused the seal of the United States to be affixed, and have signed the same with my hand.

Done at the city of Washington, this eighteenth day of April, in the year of our Lord one thousand eight hundred and fifty-nine, and of the Independence of the United States the eighty-third.

JAMES BUCHANAN.

By the Presidents
LEWIS CASS, *Secretary of State.*

Treaty with the Omaha, 1854

March 16, 1854. | 10 Stats., 1043. | Ratified Apr. 17, 1854. | Proclaimed June 21, 1854.

Articles of agreement and convention made and concluded at the city of Washington this sixteenth day of March, one thousand eight hundred and fifty-four, by George W. Manypenny, as commissioner on the part of the United States, and the following-named chiefs of the Omaha tribe of Indians, viz: Shon-ga-ska, or Logan Fontenelle; E-sta-mah-za, or Joseph Le Flesche; Gra-tah-nah-je, or Standing Hawk; Gah-he-ga-gin-gah, or Little Chief; Ta-wah-gah-ha, or Village Maker; Wah-no-ke-ga, or Noise; So-da-nah-ze, or Yellow Smoke; they being thereto duly authorized by said tribe.

Article VI

The President may, from time to time, at his discretion, cause the whole or such portion of the land hereby reserved, as he may think proper, or of such other land as may be selected in lieu thereof, as provided for in article first, to be surveyed into lots, and to assign to such Indian or Indians of said tribe as are willing to avail of the privilege, and who will locate on the same as a permanent home, if a single person over twenty-one years of age, one-eighth of a section; to each family of two, one quarter section; to each family of three and not exceeding five, one half section; to each family of six and not exceeding ten, one section; and to each family over ten in number, one quarter section for every additional five members. And he may prescribe such rules and regulations as will insure to the family, in case of the death of the head thereof, the possession and enjoyment of such permanent home and the improvements thereon. And the President may, at any time, in his discretion, after such person or family has made a location on the land assigned for a permanent home, issue a patent to such person or family for such assigned land, conditioned that the tract shall not be aliened or leased for a longer term than two years; and shall be exempt from levy, sale, or forfeiture, which conditions shall continue in force, until a State constitution, embracing such lands within its boundaries, shall have been formed, and the legislature of the State shall remove the restrictions. And if any such person or family shall at any time neglect or refuse to occupy and till a portion of the lands assigned and on which they have located, or shall rove from place to place, the President may, if the patent shall have been issued, cancel the assignment, and may also withhold from such person or family, their proportion of the annuities or other moneys due them, until they shall have returned to such permanent home,

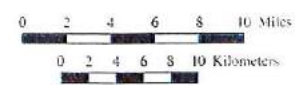
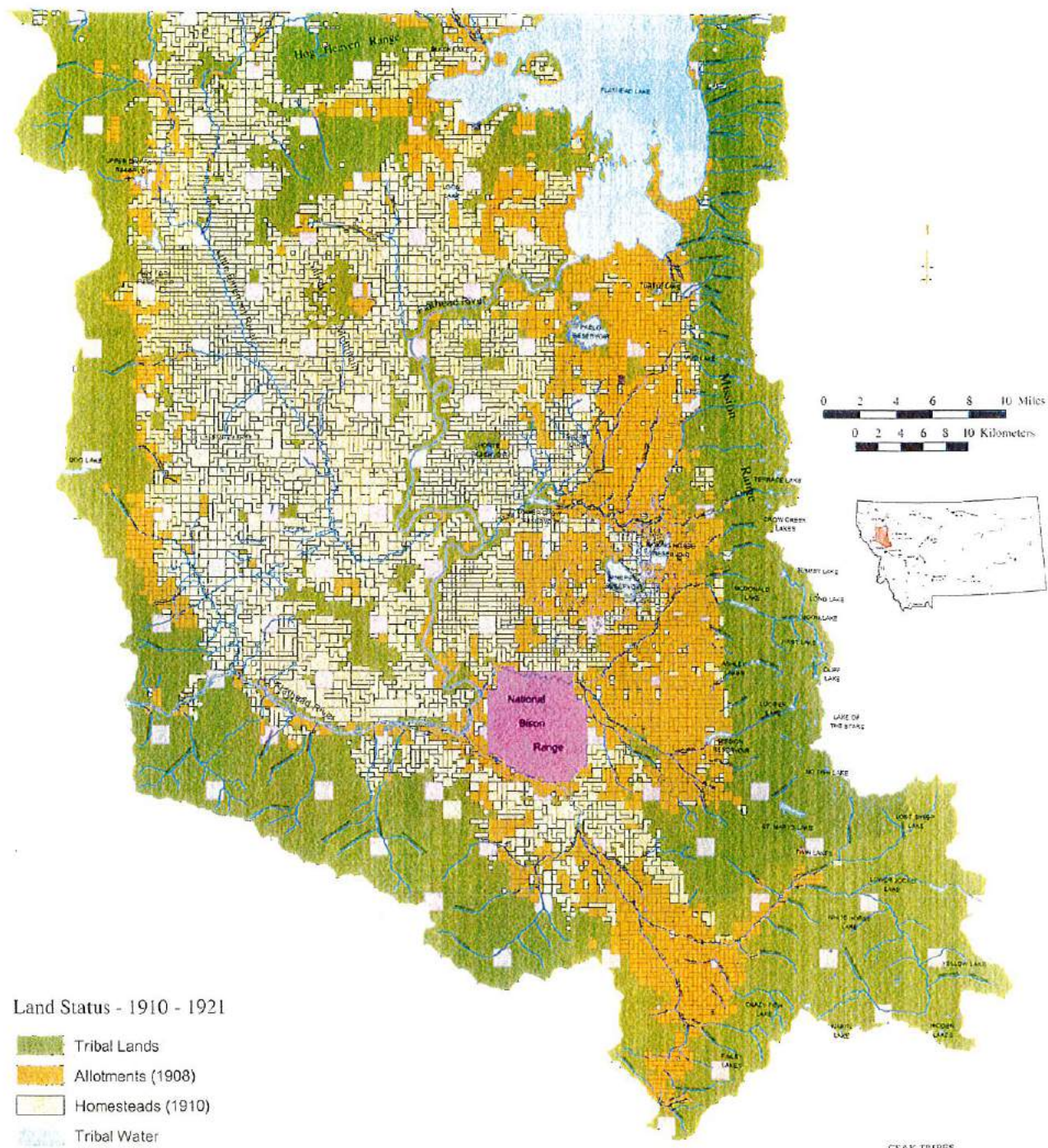
Treaty with the Omaha, 1854

Article VI Continued

and resumed the pursuits of industry; and in default of their return the tract may be declared abandoned, and thereafter assigned to some other person or family of such tribe, or disposed of as is provided for the disposition of the excess of said land. And the residue of the land hereby reserved, or of that which may be selected in lieu thereof, after all of the Indian persons or families shall have had assigned to them permanent homes, may be sold for their benefit, under such laws, rules or regulations, as may

hereafter be prescribed by the Congress or President of the United States. No State legislature shall remove the restrictions herein provided for, without the consent of Congress.

THE CONFEDERATED SALISH & KOOTENAI TRIBES OF THE FLATHEAD NATION



Land Status - 1910 - 1921

- Tribal Lands
- Allotments (1908)
- Homesteads (1910)
- Tribal Water
- State
- National Bison Range
- Townsite

CS&K TRIBES NATURAL RESOURCES DEPARTMENT GIS PROGRAM

This map is intended for descriptive purposes only and does not reflect current land status. This map is a representation of the physical features, subdivisions, and land ownership boundaries. This map should not be relied upon to establish legal title, boundaries, area, or location of improvements.

Please observe all tribal, local, and agency regulations and ordinances. This map was created from various and existing map sources, not from field surveys. Actual land status is determined by the Confederated Salish & Kootenai Tribes, Title and Resource Public Members.

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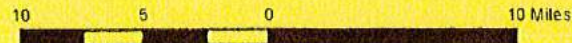
THE CONFEDERATED SALISH & KOOTENAI TRIBES
OF THE
FLATHEAD NATION

Exhibit 3



Land Status 1922 - 1935

- Allotments (1908)
- Allotments (1922)
- Tribal Lands
- Tribal Water
- Homesteads (1910)
- National Bison Range
- Townsite
- State

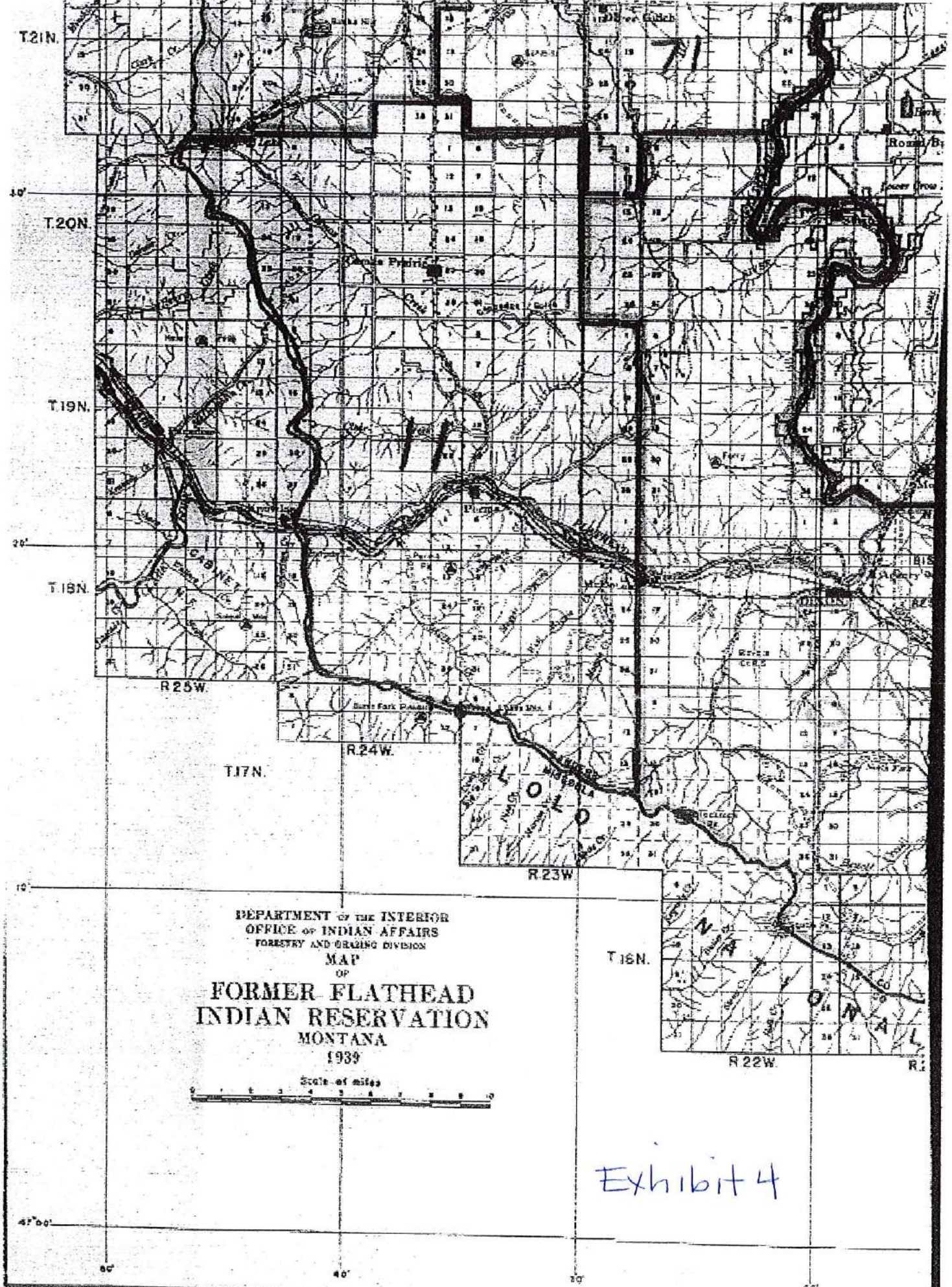


CHIEF OF BUREAU
NATURAL RESOURCES DEPARTMENT
JIC PROGRAM

This map is intended for general planning purposes related to the Flathead National Recreation Area. It is not a representation of the physical features, administrative, or land ownership boundaries. The map should not be used to resolve boundary disputes. Boundaries shown are of general nature.

Most of the land depicted on this map is either owned or controlled by the Confederated Salish and Kootenai Tribes. Please refer to all applicable laws and regulations regarding land use.

The map was created using GIS software and data provided by the Flathead National Recreation Area, the Confederated Salish and Kootenai Tribes, and the Bureau of Land Management.



DEPARTMENT OF THE INTERIOR
 OFFICE OF INDIAN AFFAIRS
 FORESTRY AND GRADING DIVISION
 MAP
 OF
**FORMER FLATHEAD
 INDIAN RESERVATION**
 MONTANA
 1939



Exhibit 4

General Affidavit

STATE OF: Alabama
COUNTY OF: Cullman

Personally came and appeared before me, the undersigned Notary, Teresa K. McCarrick, who is a resident of Cullman County, State of Alabama, and makes this her statement and General Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true and correct to the best of her knowledge:

Statement:

On 08/02/2012, I attended a meeting of the Montana Reserved Water Rights Compact Commission (MRWRCC) in Helena Montana. At the time of the meeting, I was a resident of Lake County Montana, living in St. Ignatius.

At this meeting, Jay Weiner, attorney for the Montana Reserved Water Rights Compact Commission stated:

"One of the complaints frankly that I expect that we are likely to hear from the tribes in the not too distant future, is that the state has asked too much of them. We've asked for too many compromises, too many protections, we've asked them to put too many constraints on their exercise of their water rights. And I think in many ways our response to that ought to be that we have been looking to work with the proposal that they made to us, the Unitary Administration, and many of the consequences flow from a unitary administration, where a joint state / tribal management board will administer all of the water use on the reservation both the existing rights and permitting of future rights requires us to look at some things we've done in prior compacts a little differently. One of the major things that it requires is the third major component of the settlement documents which in a shorthanded mode is known as the Ordinance. The ordinance is basically intended to be the water use act for the reservation."

In response to Jay Weiner's comments, Chris Tweeten, chairman of the MRWRCC stated:

Jay talked about pushback from the tribe at some point about what they're being asked to give, and I think, that in addition to the point that Jay made, the response is to remind the tribes about the Grand Bargain, and the fact that we agreed to do this extraordinary thing, frankly, with respect to agreeing to subject or to remove non-Indian rights on the reservation from the jurisdiction and control of the state, and place that somewhere else at the tribe's request.

These comments were made in the context of discussing the Unitary Management Ordinance provisions in the Flathead Compact. There is an official state recording of the entire meeting.

Signature of Affiant: Teresa K McCarrick

Print Name: Teresa K. McCarrick

Sworn and subscribed before me this 8th day of November 2023 A.D.

Notary Public: Tiffany Pierce

Print Name: Tiffany Pierce

My Commission expires: Oct. 8, 2024



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

CASE NO. WC-0001-C-2021

AFFIDAVIT

I, Art Wittich, do swear and say:

1. I was the elected in 2014 as Representative for House District 68, and served during the 2015 Montana Legislative Session when the Flathead Reservation Water Compact (“Compact”) came up for ratification.
2. I served on the House Rules Committee during the 2015 Legislative Session.
3. During this session, SB 262 was introduced, and entitled “*An act ratifying water rights compact entered into by the confederated Salish and Kootenai tribes of the Flathead reservation, the State of Montana, and the United States of America; creating a unitary administration and management ordinance to govern water rights on the Flathead Reservation*”.
4. The minority party, which whole heartily supported the Compact, was well aware that they would have to overcome opposition to the Compact even before the Session started, because during the 2013 Session a similar bill ratifying the Compact failed in Committee.
5. As such, at the beginning of the 2015 Session the House minority party, and just enough cross over members of the majority party, demanded a quid pro quo for the election of Speaker Knutson, namely a temporary amendment to the Rules for just the 2015 Session.

6. Their Rule amendment, later codified as new 40-90 (2), allowed a simple majority to request to withdraw six tabled bills from a committee on to the House Floor for 2nd reading, instead of the traditional 3/5 majority under Rule 40-90 (which was subsequently codified as sub section (1)), as shown below:

H40-90. Legislation withdrawn from committee. (1) Except as provided in subsection (2), legislation may be withdrawn from a House committee by House motion approved by not less than three-fifths of the members present and voting. (2) For the 2015 Session, the majority party leadership and the minority party leadership may each make up to six separate requests to withdraw a bill from a House committee, and these requests require only a simple majority of those present and voting to withdraw a bill from a House committee.

7. The stated intent and all discussion on the temporary change to allow withdrawal by a simple majority concerned “tabled” bills, which traditionally precluded further action by the Floor. The new rule advocates termed their 6 bills “silver bullets.”
8. Notably, the codification of the temporary rule change was to Rule 40-90, not Rule 40-100.
9. After SB 262 passed the Senate, the House Judiciary Committee then heard the bill.
10. In Executive Session, House Judiciary Committee issued a “not concurred as amended” decision on SB 262. This is commonly referred to as an “adverse committee report.” This differs from tabling a bill.
11. An Adverse Committee Report is specifically addressed in the House Rule 40-100, which states in paragraph (2):

A recommendation of “do not pass” or “be not concurred in” must be announced across the rostrum and, on the following legislative day, may be debated and adopted or rejected on Order of Business No. 2. A motion to reject an adverse committee report must be approved by not less than three-fifths of the members voting. Failure to adopt a motion to reject an adverse committee report constitutes adoption of the report.
12. On April 13th, Minority Leader Representative Chuck Hunter, rose to address the chairman/speaker to request to place SB 262 as one of their six “silver bullet” bills as per House Rule 40-90 (2), arguing it should be excepted from the traditional 60-vote requirement. As such, Hunter was asking the House to reject the adverse committee report without obtaining the required 60 votes.

- 13. Speaker Knudsen referred to House Rule 70-50 which gave him the authority to interpret the rule. He stated House Rule 40-90 (2) did not supersede House Rule 40-100 (2).
- 14. Rep. Hunter then "appealed" the Speaker's ruling, to effectively rewrite the Rules as approved by the House before the Session, and applying a simple majority for an "appeal" to effectively change the super majority rules. Utilizing such a simple majority "appeal" process absurdly negates any existing rule that requires a super majority vote, which mocks and violates the Rules.
- 15. House Rule 40-100 (2) still was in effect when Rep. Hunter requested SB 262 to be withdrawn for 2nd reading on the 76th Legislative Day under the grand pre session compromise. Overcoming the "adverse committee report" still required 60 votes.
- 16. Notably, Rep. Hunter's appeal of the Speaker's ruling to withdraw the bill only received 52 votes. The subsequent 2nd reading concurrence on April 15th only received 53 votes. The bill never received the requisite super majority of 60 votes to overcome the committee action, and so its substantive consideration by the Floor, "approval" on the Floor, and passage into law, violated the traditional, and even as amended, House Rules.

Further Affiant Sayeth Not:

_____  11/14/23

Art Wittich

Date

STATE OF Florida)

: ss.

County of Monroe)

This instrument was acknowledged before me on the 14 day of November, 2023 by Arthur Wittich as the name of party on behalf of whom instrument was executed, known to me to be the person whose name is subscribed to the within instrument. Proof of MTD
 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove first written.

(NOTARIAL SEAL)



Signed: Christina M. Geide
 Printed Name: Christina M. Geide
 Notary Public for the State of Florida
 Residing at Rancho Key, Florida
 My Commission expires: 4/19/2027

The United States of America,

723.

On all to follow these presents shall come, Granting:

WHEREAS, There has been deposited in the General Land Office of the United States a schedule of allotments approved by the Secretary of the Interior

June 20, 1908, whereby it appears that

ADELAIDE CHALMAIN an Indian of the

Flathead tribe or band, has been allotted

the following-described land:

The south half of the southeast quarter of Section one in Township eighteen north of Range twenty west of the Montana Meridian, Montana, containing eighty acres,

Cancelled by Secretary of Interior
See 1303706
B. LIST 1055
CALDWELL/22/28

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, has allotted, and by these presents does allot, unto the said Adelaide Chalmain

the land above described, and hereby declares that it does and will hold the land thus allotted (subject to all statutory provisions and restrictions) for the period of twenty-five years, in trust for the sole use and benefit of the said Indian, and at the expiration of said period the United States will convey the same by patent to said Indian, in fee, discharged of said trust and free from all charge and incumbrance whatsoever, if said Indian does not die before the expiration of the said trust period; but in the event said Indian does die before the expiration of said trust period, the Secretary of the Interior shall ascertain the legal heirs of said Indian and either issue to them in their names a patent in fee for said land, or cause said land to be sold for the benefit of said heirs as provided by law.

And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, Theodore Roosevelt, President of the

United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the

_____ eighth _____ day of _____ October _____, in the year

of our Lord one thousand nine hundred and _____ eight _____,

and of the Independence of the United States the one hundred

and _____ thirty-third.

By the President: *Theodore Roosevelt*

By: *M. W. Young*, Secretary.

H. S. ..., Recorder of the General Land Office.

Search Documents Results List Patent Details

Exhibit 7

Accession Nr: 19381 Document Type: Serial Patent State: Montana Issue Date: 10/8/1908 Cancelled: Yes

Patent Details

Patent Image

Related Documents

Printer Friendly

Names On Document

CHALWAIN, ADELAIDE

Military Rank: ---

Miscellaneous Information

Land Office: Washington Ofc

US Reservations: Yes

Mineral Reservations: No

Tribe: Flathead

Militia: ---

State In Favor Of: ---

Authority: June 15, 1880: Indian Trust Patent (21 Stat. 199)

General Remarks: Canceled Document

Document Numbers

Document Nr: 119392-08

Misc. Doc. Nr: 5426-08

BLM Serial Nr: MT NO S/N

Indian Allot. Nr: 723

Coal Entry. Nr: ---

Survey Information

Total Acres: 80.00

Survey Date: ---

Geographic Name: ---

Metes/Bounds: No

Land Descriptions

Map	State	Meridian	Twp - Rng	Aliquots	Section	Survey #	County
<input checked="" type="checkbox"/>	MT	Montana PM	018N - 020W	S1/2SE1/4	1		Lake

