

WC-0001-C-2021

July 10, 2024

Montana Water Court

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ATTORNEYS FOR OBJECTORS  
WILLIAM SEGO, BILL & IRENE LLC,  
AND GRACE SLACK

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

**CASE NO. WC-0001-C-2021**

**MOTION FOR ENTRY OF SUMMARY JUDGMENT ON LEGAL ISSUES**

Pursuant to the Court's October 18, 2023 Case Management Order No. 3, Objectors William Segó, Bill & Irene LLC, and Grace Slack ("Objectors"), by and through their counsel, Holland & Hart LLP, respectfully submit this motion for summary judgment addressing issues of law relating to the validity of the State of Montana – Confederated Salish and Kootenai Tribes – United States Water Rights ("Compact"), codified at Mont. Code Ann. § 85-20-1901.

Objectors move that the Court enter an order declaring that:

1. The "Tribal Water Right" under the Compact stems from, and therefore must be consistent with, the federal law established in the *Winters* and *Winans* cases.

2. The Tribal Water Right, as well as any other water right provided for by the Compact to the Confederated Salish and Kootenai Tribe (“CSKT”) or its members, must be quantified.
3. To the extent that any portion of the Tribal Water right stems from the *Winters* doctrine, that right must be limited to (i) the amount of water that is necessary to accomplish the purposes for which the Flathead Indian Reservation, Montana (“Reservation”) was created by the United States Congress and (ii) water that is on or appurtenant to the Reservation.
4. To the extent that any portion of the Tribal Water Right stems from the *Winans* case and Article III of the Treaty of Hellgate, that right must be limited (i) in amount to the water necessary to support the CSKT’s hunting and fishing rights as currently exercised; (ii) nonconsumptive use; and (iii) geographically to streams running through or bordering the Reservation or at the usual and accustomed places that the CSKT is able to document and where it engages in fishing.
5. The Objectors, and all other persons and entities that hold water rights regulated by the Compact, are entitled to due process protections under the Montana and Federal Constitutions.
6. These due process protections require, at a minimum, notice and a meaningful opportunity to be heard before the Flathead Reservation Water Management Board (“Board”) or any other governmental entity that might impact those water rights.
7. The Compact violates the Montana Constitution by purporting to strip the Montana state courts of their exclusive jurisdiction to adjudicate civil claims.

8. The Compact's creation of exclusive jurisdiction for the Board over any controversy over the right to the use of water between the Parties to the Compact or between or among holders of other water rights and water uses on the Reservation violates Article III, Section 1 of the Montana Constitution.
9. The Compact's Unitary Administration and Management Ordinance creates a special and local law applicable only to the Reservation and violates Article V, Section 12 of the Montana Constitution.

This motion is supported by the Objectors' accompanying Brief in Support of Motion for Entry of Summary Judgment on Legal Issues, the Affidavits of William Sego and Grace Slack, and all other items of record before this Court.

WHEREFORE, Objectors respectfully request that the Court grant the Motion.

Dated this 10th day of July, 2024.

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## CERTIFICATE OF SERVICE

This is to certify that the foregoing was served to the following persons as noted below,  
on the date herein.

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Dated this 10th day of July, 2024.

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