

valerie root  
Pro Se Objector  
73503 Grey Wolf Drive  
Arlee, MT 59821  
Phone: (406)360-0288  
Email: rootfarmarlee@gmail.com

ELECTRONICALLY FILED

WC-0001-C-2021

February 21, 2025

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

Montana Water Court

\*\*\*\*\*

CASE NO. WC-0001-C-2021

---

REQUEST FOR HEARING

---

Comes now, Valerie Root, Pro Se, and submits this notice of intent to participate in an evidentiary hearing and notice of necessary discovery. As required by the January 31, 2025 Case Management Order No. 5, this notice of intent includes the following:

a. Objector's name: Valerie Root

Docket number: 1486 (Amended Objection)

b. Valerie Root lives within the boundaries of the Flathead Reservation. Agency Creek is on her property. Valerie gives notice of her intent to participate in an evidentiary hearing to present evidence that her existing water rights are negatively affected by the Flathead Compact, i.e., material injury. MCA 85-2-233 (1). She will also present evidence that shows that the Compact Parties, individually and/or jointly, failed to meet their burden of providing, in the Flathead Compact, for the protection of Walton and Secretarial Water Rights on the Flathead Reservation. I will offer multiple exhibits. She anticipates that she will be her only witness.

c. Valerie has Walton water rights in that the original owner of the land she owns was Eneas Finley, a member of the CSKT, who received a patent in 1908 pursuant to 21 Stat. 199, Indian Trust Patent. She has secretarial rights. As a matter of Montana law, the Flathead Compact cannot cause harm to these water rights. Agency creek is appurtenant to her land. The Objector also owns the following real property and water rights:

(a) 73503 Greywolf Dr., Arlee, MT 59821. Water Right: 76L 64218-00

Geocode: 15-2536-17-4-01-03-0000-Y

Basin: 76L, Reservation: Inside, Source: GroundwaterUse: Domestic

Family Transfer now has a well. Do not have a number for it.

Tract 9463, S17, T16N, R19W, COS 7664. It will have the same basin and inside the Reservation as well. This land has always been irrigated out of the pond mentioned in this dispute.

The evidence will show that the Flathead Compact negatively affects these water rights. The pond that once was on her property is now gone because, pursuant to the Flathead Compact, the CSKT diverted the creek that used to feed the pond. As a result, Objector Root can no longer grow crops or raise animals. In addition, the value of her property has

thereby been reduced. Valerie also claims pain and suffering which resulted from the actions of the CSKT and other Compact Parties, taken pursuant to the Flathead Compact or otherwise.

The Treaty of Hellgate, Article 8, prohibits the depredation upon the property of citizens. What the Flathead Compact has done to Valerie's water rights amounts to depredation, and as such, is a violation of the Treaty of Hellgate, i.e., a violation of the law. The Treaty of Hellgate, Article 8, provides that where there is depredation upon the property of citizens, compensation may be made by the Government out of annuities. The Court should order CSKT to compensate Valerie for her damages, including loss of crops, reduction in the value of her property and for pain and suffering.

The evidence will also show that the Compact Parties did not meet their burden of evaluating the Walton and/or Secretarial Water Rights on the Flathead Reservation before creating the Flathead Compact. The evidence will also show that the Compact Parties, through the Flathead Compact, or otherwise, did not take steps to ensure that the Flathead Compact does no harm to those water rights as is required by Montana Water Law.

d.

e. I am not available on any of the proposed hearing dates. Because I am not available on those dates, I respectfully request that I be allowed to present my evidence in the form of offering exhibits and an affidavit.

f. Discovery will be made to each Compact Party individually. Requests for Admission will be made with regard to 1. the Compact Parties' failure to ascertain the extent of Walton and Secretarial Water Rights on the Flathead Reservation before and/or during the creation of the Flathead Compact; 2. the Compact Parties' failure to quantify the Walton and Secretarial Water Rights; and 3. the Compact Parties' failure to make sure that the Walton and Secretarial Water Rights would not be affected by the Flathead Compact. Interrogatories will ask for explanations of any denial and identification of all documents that support such denial. Requests for Production will be made for 1. all documents identified in answer to the Interrogatories; 2. all documents that research by the Compact Parties, individually or together, uncovered that show the Walton and Secretarial Water Rights on the Flathead Reservation; 3. all documents that show how the Flathead Compact ensures protection of the Walton and Secretarial Water Rights.

g. One harm that is of grave concern is the due process if this compact goes through. Who is going to give me back the water that is not only a water right, but also will have a very large financial impact? If someone takes my truck without permission I can call 911. Who do I call to get my water back? One fear I have is what injury will there be to me and my property if I am put under the jurisdiction of an entity of the tribes choosing?

h. Proposed discovery requests are not attached:

Who made the decision to divert Agency Creek and who approved it? Who wrote and sent the letter that made me try to get my water from Jocko Road? Who is capable of giving me my Secretarial and Walton Water rights on a piece of paper that will allow me to start irrigating? Who authorized the rerouting of the fish from Agency Creek and who did it? Who can tell me what all this water is for that is was being used for irrigation and now not?

We provide the following definition which is reasonable and applies directly to this case:

Material Injury:

Whether physical, economic or of rights secured by the Constitution, particularly Article II,

Section 3:

The loss, the damage or the takings of the use of water, including the violation of an inalienable right to pursue water for the proper use, function, and decision-making concerning one's person, home, land or stock. Material injury is also indicated by the decision making of any governmental entity over the use of water on a person's property which violates his or her right to pursue water for beneficial use. Injury can occur to the public interest if the improper or erroneous decision making of any governmental entity, whether local or statewide, violates the constitutional rights of a large number of citizens

whether regionally or statewide who pursue their inalienable right to water.

Dated this 21th day of February, 2025.

/s/ Valerie Root

VALERIE ROOT

*pro se objector*

#### CERTIFICATE OF SERVICE

I declare under penalty of perjury, that I emailed a true and accurate copy of the foregoing document on February 21, 2025, to the following email addresses:

Montana Water Court: watercourt@mt.gov

Daniel J Decker

Confederated Salish & Kootenai Tribes: objections@cskt.org

David W. Harder

U.S. Department of Justice

Indian Resources Section

Environment & Natural Resources Division: efile\_denver.enrd@usdoj.gov

Molly M. Kelly

Montana Department of

Natural Resources and Conservation: Jean.Saye@mt.gov

Chad Vanisko

Montana Attorney General Agency

Legal Counsel Agency Legal Services Bureau: chad.vanisko@mt.gov

/s/ Valerie Root February 21, 2025.