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

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

**ORDER ON PAGE LIMIT MOTION**

On October 18, 2023, the Court issued Case Management Order No. 3 (“CMO-3,” Doc. 1395.00<sup>1</sup>). As part of CMO-3, the Court set a briefing schedule. The briefing schedule includes a deadline of July 10, 2024 for motions “regarding Compact adequacy and fairness, and any other issues of law.” The briefing schedule includes deadlines for answer briefs and reply briefs, and also sets page limits applicable to all parties. The CMO-3 page limits for the July 10, 2024 motions are as follows:

Opening briefs	Answer briefs	Reply briefs
25 pages	25 pages	10 pages

On May 8, 2024, the United States, DOI Bureau of Indian Affairs, Montana Department of Natural Resources and Conservation, and Confederated Salish and Kootenai Tribes (collectively “Compact Parties”) filed a “Motion to Enlarge Page Limits for Compact Parties’ Opening Brief on July 10, 2024.” (Doc. 1761.00). The Motion asks the Court to grant the Compact Parties leave to exceed the page limit set in CMO-3 and

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<sup>1</sup> “Doc.” refers to the document sequence number in the Court’s Full Court Enterprise case management system.

to file an opening joint brief of up to 100 pages. Numerous Objectors responded to the Motion objecting to it on various grounds and offering a variety of suggestions for alternative page limits.

Much of the debate between the parties surrounds the question of how the page limits in CMO-3 should be interpreted. The Compact Parties contend the order authorizes multiple parties to file a combined brief with an aggregated page limit. As to the three Compact Parties, this limit would be 25 pages per party, or 75 pages. Given the complexity of the case, and the number of remaining objections, the Compact Parties ask the Court to increase this aggregated limit to 100 pages.

The several parties who responded to the Motion either dispute the Compact Parties' interpretation, or ask the Court to either expand their own page limits or revise the briefing schedule. The Compact Parties summarize the various responses in their reply brief. (Doc. 1780.00).

The Court sees little merit in parsing the nuances of the various arguments. The Court concedes CMO-3 might have been more clear as to how parties aggregating their briefing might affect page limits. Additionally, the Court agrees this case remains complex given the number of objections and amended objections that remain. While the Court cautions the parties that it is skeptical whether any correlation exists between the word or page volume of a brief and the persuasiveness of its content, the Court concludes the briefing requirements for the July 10, 2024 deadline set of motions should be clarified.

The Court will grant the Compact Parties' Motion in part and will revise the opening brief and answer brief page limit to 30 pages per separately represented party. Up to three separately represented parties may file a combined brief with an aggregated page limit equivalent to the sum of the individual limits. In the Compact Parties' case, this means a 90 page limit if the brief is filed jointly by all three separately represented Compact Parties. This revision also will be applicable to all other parties.

In reviewing the various briefs of the parties, the Court also concludes some additional clarification is appropriate. In conjunction with this Order, the Court also

issues Case Management Order No. 4, which incorporates the provisions of this Order and several other revisions and clarifications.

THEREFORE, it is ORDERED that the Compact Parties' Motion is GRANTED IN PART. The Compact Parties may file a combined brief of up to 90 pages. The provisions of Case Management Order No. 4 shall apply to the Compact Parties' brief, and to the briefing of all other parties.

/s/ Stephen R. Brown  
Stephen R. Brown  
Water Judge

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