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WC-0001-C-2021

February 27, 2025

Montana Water Court

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

CASE MANAGEMENT ORDER NO. 6

Filings for Evidentiary Hearings

The Water Court issues this Order in connection with proceedings for resolution of objections filed to the Preliminary Decree for the Confederated Salish and Kootenai Tribes – Montana – United States Compact (“Compact”). For purposes of this Order, the parties to the Compact are referred to as the “Compact Parties.” Persons or entities that filed objections to the Preliminary Decree for the Compact are referred to individually as an “Objector” or collectively as “Objectors.”

BACKGROUND

This Order follows the hearing issues identified in Case Management Order No. 5 (“CMO-5”), hearing requests filed by various Objectors, and a case management conference conducted by the Court on February 26, 2025. This Order sets deadlines and other requirements for evidentiary hearings.

ORDER

Therefore, it is ORDERED that the following amends and supplements the prior case management orders.

1. Evidentiary Hearings. Based on the filings by Objectors, and discussions at the February 26, 2025 conference, the Court schedules hearings for Objectors to present factual evidence of material injury, commencing as follows:

<u>Location</u>	<u>Date (2025)</u>	<u>Objector</u>	<u>Request doc. no.</u>
Missoula County Courthouse	April 22	Sego-Slack	2128.00
Missoula County Courthouse	April 23	Ammen	2132.00
Missoula County Courthouse	April 23	Mission-Jocko	2125.00
Missoula County Courthouse	April 24	Missoula Irr. Dist.	2117.00
Missoula County Courthouse	April 24	Palmer, Doty, etc.	2120.00
Missoula County Courthouse	April 24	Root	2130.00
Missoula County Courthouse	April 25	(Reserved)	
Lake County Courthouse	April 29	Lake County, etc.	2115.00
Lake County Courthouse	April 29	Mineral County, etc.	2116.00
Lake County Courthouse	April 29	Vallejo, etc.	2118.00
Lake County Courthouse	April 30	Krantz	2113.00
Lake County Courthouse	April 30	Sauer	2114.00
Lake County Courthouse	April 30	Shea	2123.00
Lake County Courthouse	April 30	Yelin	2124.00
Lake County Courthouse	April 30	Wagner, Jore, etc.	2121.00
Lake County Courthouse	May 1	(Reserved)	
Flathead County Courthouse	May 6	Carter	2111.00
Flathead County Courthouse	May 6, 2:00	Allen	2112.00
Flathead County Courthouse	May 7	(Reserved)	

The Missoula County Courthouse is located in Missoula, Montana. The Lake County Courthouse is located in Polson, Montana. The Flathead County Courthouse is located in Kalispell, Montana. Hearings each day will commence at 9:00 a.m., unless otherwise specified or further ordered by the Court. Objectors shall endeavor to limit direct examination to the time estimates included in their filings. Additional time will be provided for cross-examination and rebuttal testimony. Parties should be prepared for

hearings potentially to continue to the day following the scheduled date. Additional dates have been reserved each week at each location to ensure adequate time is provided for cross-examination and rebuttal.

Objectors who testify at a hearing are not required to attend any hearing date other than that specified for their respective hearing.

2. Discovery.

Objectors that requested discovery and the Compact Parties may conduct limited discovery, with the understanding that all of the documents in the Preliminary Decree and its appendices already are before the Court and certain other documents already are a matter of public record. The following procedures and deadlines govern discovery, in addition to provisions in the applicable rules.

- a. Discovery shall be served and responded to by email or other electronic means unless other means of service is approved by the Court.
- b. Copies of all discovery requests shall be filed with the Court. Discovery responses shall not be filed with the Court without first seeking leave of the Court.
- c. The deadlines for service of discovery are staggered in correlation to the weeks of the hearing. Each deadline is followed by a discovery dispute conference. Each party who sends discovery must attend the corresponding discovery dispute conference. Parties who receive discovery shall attend the discovery dispute conference if they object to any discovery request. Failure to attend a discovery dispute conference shall be deemed to be a waiver of any objection to discovery.
- d. The following table sets the deadlines and dates for discovery:

	Missoula Co. hearings	Lake Co. hearings	Flathead Co. hearings
Discovery served	March 7	March 14	March 21
Discovery dispute conference	March 13	March 20	March 27
Discovery responses due	April 4	April 11	April 18

3. Pre-filed testimony.

Any Objector scheduled for a hearing may file pre-filed direct testimony for any hearing witness according to the following schedule:

	Missoula Co. hearings	Lake Co. hearings	Flathead Co. hearings
Pre-filed testimony deadline	April 8	April 15	April 22

The following procedures apply to pre-filed testimony:

- a. The pre-filed testimony witness must be available in person at the hearing for cross-examination based on the pre-filed testimony. If any witness with pre-filed testimony fails to appear at the hearing, the testimony will be excluded from the record.
- b. Pre-filed testimony is subject to the following:
 - i. A statement of facts personally known to the witness necessary for the Court to make a finding of material injury or other facts relevant to the Objector for whom the witness is testifying;
 - ii. The preferred, but not required, format for pre-filed testimony is by question and answer. The following is an example of format:
 1. Q. *Please identify yourself.*
 2. A. *My name is Jane Doe.*
 3. Q. *Where do you live?*
 4. A. *I reside at 123 Maple Street*
 5. Q. *What is the purpose of your testimony?*
 6. A. *The purpose of my testimony is*
 - iii. If any pre-filed testimony refers to an exhibit, the exhibit shall be attached; provided that if the pre-filed testimony refers to the Preliminary Decree or any appendix, it shall be referenced by section and page or other reference number and not attached. If

the pre-filed testimony refers to a previously filed objection, it may be referenced by objection or amended objection docket number from the Court docket and need not be attached.

- iv. A signature verifying the testimony is true and accurate to the witness's best personal knowledge, information, and belief. A signature may be electronic and need not be notarized.

4. Evidentiary motions.

Parties may file motions to limit or exclude evidence (sometimes called a “motion *in limine*”) according to the following schedule:

	Missoula Co. hearings	Lake Co. hearings	Flathead Co. hearings
Motion deadline	April 8	April 15	April 22
Response deadline	April 15	April 22	April 29

No reply briefs shall be filed to any evidentiary motions. Failure to file an evidentiary motion shall not be deemed to waive any right to object to evidence or testimony at a hearing. No substantive or other motions shall be filed without leave of the Court.

5. Prehearing conference and prehearing order.

A prehearing conference shall precede each hearing as provided in Rule 16(c), M.R.Civ.P. Following the prehearing conference, the Court will issue a prehearing order to control the course of the hearing. Prior to the prehearing conference, each party shall file with the Court the following:

- a. A concise list of contentions;
- b. A list of exhibits, including the exhibit number and a brief description of the exhibit;
- c. A list of witnesses who may be called at the hearing (including any witness for whom prehearing testimony has been filed).
- d. A concise list of issues of fact to be litigated at the hearing that may be dispositive;

- e. A concise list of issues of law to be litigated at the hearing;
- f. Any stipulations or other issues to be addressed by the Court.

The following deadlines apply to the prehearing conference:

	Missoula Co. hearings	Lake Co. hearings	Flathead Co. hearings
Prehearing order filing deadline	April 15	April 22	April 29
Prehearing conference date	April 18, 10:00 a.m.	April 25, 10:00 a.m. ¹	May 2, 10:00 a.m.

The conferences will take place via Zoom, with instructions to be provided by the Court in future orders.

6. Hearing exhibits.

Each party must bring one original set of paper versions of the exhibits to their hearing. The paper sets shall be contained in binders, which must bear an extended tab showing the number of the exhibits. Each hearing exhibit shall also be Bates-stamped with a unique number or otherwise paginated.

7. Integration.

Except as modified by this Order, the provisions of all prior Case Management Orders remain in effect.

Stephen R. Brown
Chief Water Judge

¹ April 25 is a “reserved” hearing date in Missoula. If a hearing is conducted on that date, the conference will be rescheduled to a time later in the day when the hearing has concluded.

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