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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

CASE MANAGEMENT ORDER NO. 4

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

The Court has issued several case management orders to assist the parties and the Court in addressing the various issues necessary to bring the case to resolution. On October 18, 2023, the Court issued Case Management Order No. 3 (“CMO-3,” Doc. 1395.00¹). 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.

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

On May 8, 2024, the Compact Parties filed a “Motion to Enlarge Page Limits for Compact Parties’ Opening Brief on July 10, 2024.” (Doc. 1761.00) The Motion asked the Court to grant the Compact Parties leave to exceed the page limit set in CMO-3. Numerous Objectors responded to the Motion. The Court issued an Order granting the Motion in part. As part of its Order, the Court also revised the page limits for briefing and indicated it would describe the limits in more detail in this separate Case Management Order No. 4. This Order provides that detail and clarifies requirements for briefing.

ORDER

Therefore, it is ORDERED that the following requirements apply to all parties filing motions regarding Compact adequacy and fairness, and any other issues of law. This Case Management Order amends and supplements the prior case management orders and applies to the Compact Parties and all Objectors.

1. Deadline. The deadline for motions regarding Compact adequacy and fairness, and any other issues of law remains July 10, 2024, as specified in CMO-3.

2. Motions and Briefs. Each motion must be accompanied by a brief in support of the motion. The brief may be included in the same document as the motion, or it may be filed separately. If the motion is contained in the same document as the brief, the combined motion and brief shall be subject to the page or word limits specified in this Order. No party may file more than one motion and one supporting brief. Duplicate filings by any party will be rejected.

3. Additional Requirements for Motions and Briefs.

a. *Opening and answer brief length.* Except as otherwise specified in this section, the opening brief and any answer brief filed by any Compact Party and any Objector, respectively, may not exceed 30 pages in length using not less than 12-point font and not less than 1.5 line spacing. Alternatively, a brief is acceptable if it contains no more than 10,000 words. Any brief in excess of 30 pages shall contain a certification that the brief does not exceed 10,000 words. Indented quotes and footnotes may be single spaced.

b. *Briefs filed by separately represented parties.* The briefing length limits set forth in this section may be multiplied by the number of separately represented parties filing a joint brief up to a maximum of three (3). By way of example, if two separately represented parties file a joint brief, the length limits for the brief are expanded to 60 pages or 20,000 words. If three or more separately represented parties file a joint brief, the length limits are expanded to 90 pages or 30,000 words using the same font and line spacing guidelines. Any answer brief to a brief with expanded page or word limits under this section may be up to, but not in excess of the number of pages of the opening brief. By way of example, if an opening brief is 60 pages (or 20,000 words), any party may file an answer brief of up to 60 pages (or 20,000 words). For purposes of this section, a separately represented party includes any self-represented Objector.

c. *Reply briefs.* Reply briefs may not exceed one-half the length of the page limit or word volume of the answer brief being replied to.

d. *Parties subject to multiple motions.* The Compact Parties or any other party that is subject to multiple motions may file a separate answer brief to each motion. The page and word limits apply to each separate brief.

e. *Exclusions.* The following items are excluded when calculating the brief length limit:

- i. Motions if filed in a document separate from the brief.
- ii. Table of contents;
- iii. Table of authorities;
- iv. Exhibits;
- v. Signature blocks;
- vi. Word limit certifications;
- vii. Certificates of service.

f. *Table of Contents and Table of Authorities.* Any combined brief exceeding 30 pages (or 10,000 words) must contain a table of contents and a table of authorities. The table of authorities must include the page number in the brief where the authority is referenced. For purposes of this provision, the term “authority” means case

law, statute, regulation, treaty, or other authority issued by a court or other tribunal, legislative, or a federal, tribal, state, or local administrative body.

g. *Exhibits and References to Exhibits.* Extensive exhibits are discouraged. If exhibits are attached to briefs, each exhibit shall include a page number, and preferably a Bates number. References in any brief to information in exhibits must be to the page number of the referenced exhibit.

h. *Duplicative motions and briefs.* Duplicative motions and briefs are discouraged. Instead, parties seeking to join another party's motion or brief may file a statement of joinder referencing the motion or brief being joined.

i. *Noncompliance.* Briefs not complying with these requirements may be stricken by the Court.

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

/s/ Stephen R. Brown

Stephen R. Brown
Water Judge

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This Order has been served on all other self-represented Objectors. Pursuant to Rule 5(c), M.R.Civ.P. a copy of the complete Master Service List is available at:
<https://courts.mt.gov/Courts/Water/cskt/>