

Montana Water Court
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WC-0001-C-2021

March 27, 2023

Montana Water Court

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

CASE NO. WC-0001-C-2021

**COURT MINUTES AND
CASE MANAGEMENT ORDER NO. 2**

This Order is issued 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 “Compacting Parties.” Those persons or entities that filed objections to the Compact are referred to as “Objectors.”

MINUTES

On March 22, 2023, the Water Court conducted an initial Case Management Conference by Zoom. Prior to the conference, all the Compacting Parties and Objectors were provided notice and Case Management Order No. 1. The Court also posted a final agenda for the conference on the Court’s website. All items on the agenda were discussed

at the conference. The conference was recorded using the Zoom recording system. A link to the recording of the conference is posted on the Court's website.

ORDER

The Court may issue Case Management Orders at such times as it deems appropriate. The Case Management Orders apply to and bind all parties, control the course of proceedings, and may be modified only by an order of the Court.

Therefore, it is ORDERED that Case Management Order No. 1 is amended and supplemented as follows:

1. **Settlement Track Proceedings.** The following provisions shall apply to Settlement Track proceedings:

a. As with all other issues in this case, the Settlement Track is limited to issues relating to objections to the Compact and is not intended to cover issues relating to an Objector's private state-based water rights.

b. Only the Compacting Parties and Objectors may participate in the Settlement Track proceedings.

c. The Court previously appointed Senior Water Master Madeleine Weisz as the mediator (referred to as the "Mediator") to conduct the Settlement Track proceedings. The Mediator is a neutral person with the responsibility of encouraging and facilitating resolution of objections in an informal and non-adversarial process. The goal is to assist the parties in reaching mutually acceptable and voluntary agreements; however, the Mediator cannot compel a settlement agreement.

d. The Mediator is given full authority to issue appropriate orders to govern the time, place, and manner for settlement proceedings. This authority includes organizing objections into settlement subcases and issuing orders regarding the procedural aspects of those proceedings as the Mediator sees fit. The Mediator also may send specific instructions for settlement proceedings.

e. If an agreement is reached on any matter or issue, including legal and factual issues to be determined by the Court, the agreement shall be reduced in

writing, signed by the parties and their Counsel, if any, and filed with the Court. If an agreement is reached that resolves an objection and the agreement is not filed with the Court, a completed withdrawal of objection, signed by the Objector, shall be filed. The Court will address settlements filed with the Court pursuant to its authority under Rule 17(c), W.R.Adj.R.

f. All communications, discussions, representations, and settlement proposals made during the settlement proceedings are privileged and confidential and are not subject to discovery or admissible at any trial or hearing in this case. The Mediator will not disclose any such confidential settlement information with any other person, including any person at the Water Court other than those staff persons specifically assigned to assist the Mediator.

g. Following the conclusion of the Settlement Track, the Mediator will file a report with the Court identifying Objectors who resolved their objections in settlement proceedings. The Mediator also may file interim reports. Reports from the Mediator will be docketed in the Court's Full Court Enterprise ("FCE") electronic filing system for this case, but will report no information other than whether an objection is resolved by settlement or not.

h. All parties shall conduct themselves professionally and shall participate in good faith in Settlement Track proceedings.

i. If an Objector fails to participate in Settlement Track proceedings, the Court will dismiss the Objector's objection.

2. **Objection Withdrawals.** Any Objector who desires to withdraw their objection outside the Settlement Track proceedings shall file with the Court (not the Mediator) a withdrawal of objection. A form for withdrawal may be found on the Court's website. In the event an Objector files a withdrawal of objection, the party filing the withdrawal is excused from participation in Settlement Track proceedings.

3. **Hearing Track Case Management Conference.** A Hearing Track Case Management Conference is set for **October 3, 2023** at 10:00 a.m., Mountain Time. The conference will commence a Hearing Track as to all objections that have not been

withdrawn or otherwise resolved. A schedule for Hearing Track proceedings will be set at the conference. Prior to the conference, the Court will post an agenda on the Court's website and will file the agenda in the FCE docket for this case. Participation at the conference is optional for Objectors, but each Objector shall be bound by decisions made at the conference, regardless of whether the Objector attends. A representative for each of the Compacting Parties must attend the conference. The conference will be recorded and the Court will make the recording available on the Court's website.

Instructions for accessing the call are as follows:

To join from a PC, Mac, iPad, iPhone or Android device:

Click on this URL, or type the URL into your browser to join:

[\[https://mt-gov.zoom.us/j/81763851300?pwd=TGs0UIA1L1VyNkZCM0tSTUhTVHBTZz09\]](https://mt-gov.zoom.us/j/81763851300?pwd=TGs0UIA1L1VyNkZCM0tSTUhTVHBTZz09)

Passcode: 901056

To join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 206 337 9723 or +1 213 338 8477 or +1 646 558 8656

Webinar ID: 817 6385 1300

Passcode: 901056

If you have any questions or if you experience technical difficulties, please contact the Montana Water Court at (406) 586-4364.

4. Legal Representation.

a. Any withdrawals or changes of legal counsel shall comply with the applicable statutes and rules set forth in § 37-61-403 through -405, MCA, and Uniform District Court Rule 10, provided that service of such notice only is required as to the particular Objector, and to each of the Compacting Parties.

b. Attorney representation during the Hearing Track is subject to Rule 16, W.R.Adj.R., which requires persons, such as corporate entities, that are not a natural person be represented by an attorney after the Hearing Track commences.

5. **Case Website and Case Record.** The Court has established a page on its website dedicated to providing forms and information about the process for resolution of the Objections in this case. The address for the website is:

<https://courts.mt.gov/courts/water/CSKT/>

The official record for this case will continue to be maintained on the Court's FCE electronic filing system.

6. **Integration.** Except as modified by this Order, all provisions of Case Management Order No. 1 remain in full force and effect.

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/>