

IN THE WATER COURT OF THE STATE OF MONTANA

WC-0001-C-2021

Case No. WC-0001-C-2021

September 9, 2025

DELBERT PALMER and RANDOLPH DOTY,
Petitioners,

Montana Water Court

v.

STATE OF MONTANA, DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION;
THE CONFEDERATED SALISH AND KOOTENAI TRIBES;
and UNITED STATES OF AMERICA,
Respondents.

RESPONSE TO COMPACT PARTIES' MOTION AND HEARING EVIDENCE

I. INTRODUCTION

Petitioners Delbert Palmer and Randolph Doty, appearing pro se, respectfully submit This Response to the Compact Parties' Motion and Hearing Evidence. The Compact Parties' arguments mischaracterize the factual record, rely on improper evidence, and overlook controlling law. This filing addresses those deficiencies and preserves Petitioners' objections for appeal.

II. FACTUAL BACKGROUND

1. Petitioners are on-reservation irrigators and water right holders, whose irrigation seasons and crop yields are directly impacted by mismanagement under the Compact.

2. Petitioners introduced evidence at the April 24, 2025 hearing showing:

Snowpack levels were average or above average. Water delivery was delayed, cutting into Petitioners' irrigation seasons

(Doty: May 1 – Oct. 1; Palmer: April 15 – Sept. 15).

3. Montana Fish, Wildlife, and Parks authored a report relied upon by the State, but The Court excluded Petitioners' rebuttal on the grounds of authorship.

4. The Compact Parties introduced an irrigation rule book not available to irrigators, showing unequal access to material evidence.

III. ARGUMENT

A. Unequal Access to Rule Books Leaves Irrigators in the Dark

Petitioners acknowledge that, as laymen unfamiliar with courtroom procedure, we allowed certain evidence into the record that we would have objected to had we possessed the legal training of the Court or opposing counsel. Specifically, the Compact Parties introduced irrigation rule books—documents that are not distributed annually to irrigators as they should be. This practice leaves irrigators without notice of governing rules while permitting the Compact Parties to selectively use these same materials as evidence. Such unequal access undermines due process and violates Article II, Sections 8 and 9 of the Montana Constitution, which guarantees the

people's right to know and to participate.

B. The Ruling Class Overrides the People's Will

The people of Montana elect representatives to secure fair water policy. Yet, as the DNRC's own December 12, 2022 report concedes, the political ruling class resists addressing these inequities because it is deemed "too much trouble politically." Such reasoning mirrors the dismissive attitude shown toward irrigators in this case—that Petitioners and similarly situated citizens are "not smart enough" to understand or challenge the process. This approach undermines not only Petitioners' rights but the democratic foundation of the State's water governance.

C. Legal Errors Requiring Correction

1. *Arizona v. Navajo Nation*, 599 U.S. 555 (2023) – establishes limits on federal authority absent explicit congressional direction.

The government's role here exceeds that scope.

2. *Arizona v. Navajo Nation*, 599 U.S. 555 (2023) – confirms no affirmative duty exists for the federal government to secure water rights absent statute. The Compact Parties' reliance on federal participation is misplaced.

3. *MECI v. Governor of Montana* – Montana Supreme Court precedent requiring lawful legislative process, not back room deals was ignored.

D. Petitioners' Evidence Was Excluded in Violation of Due Process

The exclusion of Petitioners' crop loss evidence and Montana Fish & Game documentation prevents a fair record. Courts cannot demand precise economic quantification where the State's own mismanagement renders such calculation speculative.


IV. CONCLUSION

For the reasons above, Petitioners respectfully request this Court:

1. Deny the Compact Parties' Motion;
2. Strike or disregard improperly admitted evidence;
3. Recognize Petitioners' uncontested testimony regarding water delivery and crop loss; and
4. Grant such other relief as the Court deems just and proper.

Respectfully submitted, and

Dated this 9 day of September, 2025

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