

Commissioner of Political Practices
1205 Eighth Avenue
Post Office Box 202401
Helena, MT 59620-2401
Phone: 406-444-2942
Fax : 406-444-1643
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COMMISSIONER OF
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Lobbying

Complaint Form (10/09)

Type or print in ink all information on this form except for verification signature

Person bringing complaint (Complainant):

Complete Name Terry Threlkeld
Complete Mailing Address 12140 Gooch Hill Rd.
Gallatin Gateway, MT 59730
Phone Numbers: Work (406) 763-4185 Home _____

Person or organization against whom complaint is brought (Respondent):

Complete Name Confederated Salish & Kootenai Tribes
Complete Mailing Address P.O. Box 278
Pablo, MT 59855
Phone Numbers: Work (406) 675-2700 Home _____

Please complete the second page of this form and describe in detail the facts of the alleged violation.

Verification by oath or affirmation

State of Montana, County of GALLATIN

I, TERRY THRELKELD, being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief.

(SEAL)

Terry Threlkeld
Signature of Complainant



AMANDA M MENASCO
NOTARY PUBLIC for the
State of Montana
Residing at Bozeman, Montana
My Commission Expires
October 12, 2016

Subscribed and sworn to before me this 24th day of
June, 2015.

Amanda M Menasco
Notary Public

My Commission Expires: 10/12/2016

THE STATE OF MONTANA

Commissioner of Political Practices
1205 Eighth Avenue
Post Office Box 202401
Helena, MT 59620-2401
Phone: 406-444-2942
Fax: 406-444-1843
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Lobbying

Complaint Form (10/09)

Type or print in ink all information on this form except for verification signature

Person bringing complaint (Complainant):

Complete Name Walter E. Morris
Complete Mailing Address 488
542 E. Bench Rd.
Twin Bridges, MT 59754
Phone Numbers: Work (406) 684-5413 Home _____

Person or organization against whom complaint is brought (Respondent):

Complete Name Confederated Salish & Kootenai Tribes
Complete Mailing Address P.O. Box 278, 42487 Complex Blvd
Pablo, MT 59855
Phone Numbers: Work (406) 675-2700 Home _____

Please complete the second page of this form and describe in detail the facts of the alleged violation.

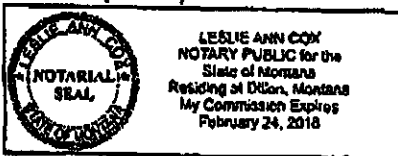
Verification by oath or affirmation

State of Montana, County of Madison

I, Walter E Morris, being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief.

Walter E Morris
Signature of Complainant

(SEAL)



Subscribed and sworn to before me this 24 day of June, 2015.

Leslie Ann Cox
Notary Public

My Commission Expires:

Statement of facts:

Describe in detail the alleged violation(s) and cite the statute or statutes you believe have been violated. Please attach copies of documentary evidence to support the facts alleged in your statement.

If the space provided below is insufficient, you may attach additional pages as necessary.

See attached complaint.

Complaints must be:

- signed**
- notarized**
- delivered in person or by certified mail.**

1 Matthew G. Monforton (Montana Bar # 5245)
2 Monforton Law Offices, PLLC
3 32 Kelly Court
4 Bozeman, Montana 59718
5 Telephone: (406) 570-2949
6 Facsimile: (406) 551-6919
7 E-mail: matthewmonforton@yahoo.com

8 Attorney for Complainants

9 **BEFORE THE COMMISSIONER OF POLITICAL PRACTICES**

10	WALTER MORRIS, TERRY)	
11	THRELKELD,)	Case No. COPP 2015-LOB ____
12)	
13	Complainants,)	
14	vs.)	COMPLAINT
15)	
16	CONFEDERATED SALISH AND)	
17	KOOTENAI TRIBES,)	
18	Respondent.)	

19
20 COMES NOW Complainants Walter Morris and Terry Threlkeld, who allege as
21 follows:

22
23 **I. INTRODUCTION**

24 1. This is a complaint brought pursuant to Montana's lobbying disclosure laws.
25 The Confederated Salish and Kootenai Tribes (Tribes) created and bankrolled a
26 nonprofit corporation, Farmers And Ranchers For Montana (FARM), for purposes of
27 lobbying Montana legislators to ratify the water compact negotiated between
28

1 Governor Steve Bullock and the Tribes. FARM acted as a lobbyist by engaging in
2 both direct lobbying and lobbying activities on behalf of the Tribes. The Tribes failed
3 to report FARM's lobbying and lobbying activities and are therefore subject to
4 penalties under Montana's lobbying disclosure laws.

5 6 **II. PARTIES**

7 2. Complainant Walter Morris resides in Twin Bridges, Montana, and is a
8 fourth-generation Montana rancher.

9
10 3. Complainant Terry Threlkeld resides in Gallatin Gateway, Montana, and is
11 an engineer and senior water rights holder in Gallatin County.

12
13 4. Respondent Confederated Salish and Kootenai Tribes are a federally-
14 recognized confederation of Indian tribes. The Tribes' principal place of business is
15 in Pablo, Montana.

16 17 **III. JURISDICTION**

18 5. The Commissioner of Political Practices has jurisdiction over this matter
19 pursuant to § 5-7-305(2), MCA.

20
21 6. Tribal sovereign immunity does not shield the Tribes from an enforcement
22 action under Montana's lobbying disclosure laws. *Cf. Agua Caliente Band of*
23 *Cahuilla Indians v. Superior Court*, 148 P.3d 1126, 1140 (Cal. 2006) (federal
24 constitution's Tenth Amendment and Guarantee Clause in Article IV, § 4, precluded
25 invocation of tribal sovereign immunity in suit by California against tribe for refusal
26 to disclose contributions to California political campaigns).

1 **IV. STATEMENT OF FACTS**

2 7. On December 16, 2014, Legislative Services received a request to draft what
3 would eventually become SB 262, a bill ratifying the water compact negotiated
4 between Gov. Bullock and the Tribes.
5

6 8. On or about January 9, 2015, the Tribes (along with their registered lobbyist,
7 Mark Baker), created FARM as a nonprofit public benefits corporation that claims to
8 be a "grassroots organization of farmers and ranchers, together with local leaders,
9 tribes businesses and other Montanans to support the Water Compact."
10

11 9. The Tribes are a member of FARM and bankrolled FARM's activities, as
12 they admit in paragraph 10 of their response to the complaint filed in *Peters v.*
13 *Confederated Salish & Kootenai Tribes*, COPP 2015-LOB-001.
14

15 10. On January 13, 2015, FARM transmitted an email to Montana legislators.
16 A copy of this email is attached as Exhibit H to the complaint filed in *Peters v.*
17 *Confederated Salish & Kootenai Tribes*, COPP 2015-LOB-001 and is attached as
18 **Exhibit 1** to this complaint.
19

20 11. The upper portion of the email contains FARM's logo.
21

22 12. Below the logo is the following statement: "The Helena Compact
23 Commission public meeting attendees show that the Compact Commission as well as
24 farmers, ranchers, and water users are united in overwhelming support of the
25 Compact."
26
27
28

1 13. The email also includes the following statement from Walt Sales, co-chair
2 of FARM: “ Our agricultural economy is essential to the livelihood of our state – and
3 the Compact is essential to preserving that livelihood. We need to make sure that
4 Montanans know the facts about the tremendous benefits of the Water Compact.”
5

6 14. On February 1, 2015, FARM transmitted another email to Montana
7 legislators. A true and correct copy of this email is attached as **Exhibit 2**.
8

9 15. The upper portion of the email contains FARM’s logo.
10

11 16. Below the logo is the following phrase: “ANALYSIS OF THE 2015
12 WATER COMPACT.”
13

14 17. Below that phrase are the following four headings: (1) “PROTECTION
15 FOR WATER AND PROPERTY RIGHTS,” (2) “LOCAL CONTROL & INPUT, (3)
16 NEW RESOURCES FOR WATER USERS,” (4) “PROTECTS MONTANANS
17 FROM FUTURE LITIGATION AND COSTS.”
18

19 18. The email contains several bullet points under each heading describing how
20 ratification of the water compact will supposedly achieve the goals identified in the
21 headings.
22

23 19. The Senate Judiciary Committee held a hearing on SB 262 on February 16,
24 2015.
25

26 20. Lorents Grosfield, a resident of Big Timber, Montana, and a former member
27 of the Montana Senate, testified at that hearing.
28

1 21. Sen. Grosfield identified himself as a co-chair of FARM, and the Senate
2 Judiciary Committee listed him in its minutes as a representative of FARM. Pertinent
3 portions of these minutes are attached as **Exhibit 3** and can also be found at
4 [http://montanalegislature.granicus.com/MediaPlayer.php?clip_id=15688&meta_id=97](http://montanalegislature.granicus.com/MediaPlayer.php?clip_id=15688&meta_id=97432)
5 432.

6
7 22. In his testimony, Sen. Grosfield explained that he “strongly support[ed]” the
8 water compact and was “very fearful of the consequences of not passing it,” which he
9 claimed would include significant costs associated with the Tribes filing water claims
10 throughout the state.

11
12 23. Also on February 16, 2015, FARM transmitted another email to Montana
13 legislators. A true and correct copy of the email is attached as **Exhibit 4**.

14
15 24. The upper portion of the email contains FARM’s logo and its subject line
16 states “To Legislators, From Former Representative and State Senator Walt McNutt.”

17
18 25. Underneath the logo is the following salutation: “Dear Members of the
19 Legislature”.

20
21 26. The email describes several negative legal consequences that would
22 supposedly result from a failure by the Legislature to ratify the water compact.

23
24 27. The email further states that “[t]he CSKT Compact is fair to water users
25 both on and off the reservation.”

1 28. The final sentence of the email states the following: "This is a good deal for
2 Montana and I am hopeful that the 2015 Legislature recognizes the significant
3 opportunity that lies before you."
4

5 29. On February 20, 2015, FARM transmitted another email to Montana
6 legislators. A true and correct copy of the email is attached as **Exhibit 5**.
7

8 30. The upper portion of the email contains FARM's logo and its subject line
9 states the following: "Must Read Article on CSKT Compact from former Montana
10 Water Court Senior Master, Colleen Coyle."
11

12 31. The email contains a message to legislators from Colleen Coyle, a former
13 Water Court senior master, claiming that failure to ratify the water compact would
14 result in protracted water rights litigation.
15

16 32. On March 6, 2015, FARM transmitted another email to Montana legislators.
17 A copy of this email is attached as Exhibit G to the complaint filed in
18 *Peters v. Confederated Salish & Kootenai Tribes*, COPP 2015-LOB-001 and is
19 attached as **Exhibit 6** to this complaint.
20

21 33. This email included the following claim: "Many supporters of the Compact
22 are encouraging legislators to listen to their constituents – the farmers, ranchers, and
23 irrigators who would be directly impacted if the Compact fails."
24

25 34. On March 23, 2015, FARM transmitted another email to Montana
26 legislators. A true and correct copy of the email is attached as **Exhibit 7**.
27
28

1 35. The upper portion of the email contains FARM's logo and its subject line
2 states "City of Polson: Vote Yes on CSKT Water Compact."
3

4 36. Underneath the logo, the email contains the following message: "Below is a
5 letter encouraging your support of SB 262, the CSKT Water Compact, from the City
6 of Polson."
7

8 37. The email also contains the following salutation: "Dear Chairman Bennett
9 and House Judiciary Committee Members".
10

11 38. Below the salutation is a statement purportedly from the City of Polson
12 explaining how the water compact would supposedly benefit the city.
13

14 39. On April 2, 2015, FARM transmitted another email to Montana legislators.
15 A true and correct copy of the email is attached as **Exhibit 8**.
16

17 40. The upper portion of the email contains FARM's logo and its subject line
18 states "CSKT Water Compact Update."
19

20 41. The email purports to be a "compilation of the latest news on the growing
21 support for the CSKT Water Compact."
22

23 42. It also contains snippets of letters from various individuals expressing their
24 support for the water compact.
25

26 43. On April 11, 2015, the House Judiciary Committee held a hearing on SB
27 262.
28

1 44. Walt Sales, a resident of Manhattan, Montana, presented written testimony
2 at that hearing. A true and correct copy of this statement is attached as **Exhibit 9** and
3 can be found at <<http://leg.mt.gov/bills/2015/Minutes/House/Exhibits/juh73a15.pdf>>.

4
5 45. Sales identified himself in his written testimony to the House Judiciary
6 Committee as “a current director and a founding member of the Association of
7 Gallatin Agricultural irrigators (AGAI) and a co-chair of Farmers And Ranchers for
8 Montana (FARM).”

9
10 46. Sales trumpeted the protection and certainty the water compact will
11 supposedly provide for all water rights holders and described the compact as “the best
12 option for all Montanans.”

13
14 47. Sales further claimed that failure to pass the water compact would
15 “unquestionably hurt irrigators.”

16
17 48. Throughout the 2015 session of the Montana Legislature, FARM paid for
18 mass mailings urging the public to make telephone calls to legislators to voice support
19 for the water compact.

20
21 49. The Tribes have never disclosed that FARM has been their lobbyist nor has
22 it filed with the Commissioner of Political Practices reports of FARM’s activities as
23 required by Montana’s lobbying disclosure laws.

1 **IV. VIOLATIONS OF MONTANA'S LOBBYING DISCLOSURE LAWS**

2
3 **Count I**

4 **Failure of the Tribes to Report Lobbying by FARM**

5
6 50. All previous paragraphs are incorporated by reference.

7
8 51. A "lobbyist" is a person who engages in the practice of lobbying, and such
9 "persons" can include individuals as well as corporations. § 5-7-102(12)(a) & (14),
10 MCA.

11
12 52. A corporation lobbies when it engages in the practice of promoting or
13 opposing the introduction or enactment of legislation before the legislature or
14 legislators. § 5-7-102(11)(a)(i), MCA.

15
16 53. FARM engaged in the practice of lobbying Montana legislators by
17 transmitting at least seven emails that promoted ratification of the water compact to
18 legislators during the 2015 session of the Montana Legislature.

19
20 54. FARM also engaged in the practice of lobbying when Sen. Lorents
21 Grosfield and Walt Sales appeared before legislative hearings in their capacity as
22 agents of FARM in order to promote the ratification of the water compact.

23
24 55. The Tribes employed FARM to promote the ratification of the water
25 compact during the 2015 session of the Montana Legislature by creating FARM,
26 becoming a FARM member, and bankrolling its activities.

1 56. The Tribes failed to cause FARM's name to be entered upon the docket in
2 violation of § 5-7-203, MCA.

3
4 57. Because the Tribes made payments to one or more lobbyists in 2015
5 exceeding the threshold amount in § 5-7-112, MCA, they violated Montana's
6 lobbying laws by failing to report payments made to FARM.

7
8
9 **Count II**

10 Failure of the Tribes to Report Lobbying Activities by FARM

11
12 58. All previous paragraphs are incorporated by reference.

13
14 59. Lobbying activities are "efforts by a lobbyist or an individual to lobby or to
15 support or assist lobbying, including preparation and planning activities after a
16 decision has been made to support or oppose official action, and research and other
17 background work that is intended, at the time it is performed, for use in lobbying or to
18 support or assist lobbying activities." Adm. R. Mont. 44.12.102(4).

19
20 60. From the time it was created by the Tribes in January 2015, FARM has
21 lobbied for ratification of the water compact by the Legislature.

22
23 61. It directly lobbied legislators by sending them numerous emails claiming
24 that the water compact enjoyed widespread public support. See, e.g., Exhibit 1 ("the
25 Compact Commission as well as farmers, ranchers, and water users are united in
26 overwhelming support of the Compact"); Exhibit 6 ("Many supporters of the Compact
27 are encouraging legislators to listen to their constituents – the farmers, ranchers, and
28 irrigators who would be directly impacted if the Compact fails"); Exhibit 8 (providing

1 a "compilation of the latest news on the growing support for the CSKT Water
2 Compact").

3

4 62. Along with this direct lobbying, FARM prepared and published mass
5 mailings to the public in order to support and assist its direct lobbying efforts.

6

7 63. These mass mailings encouraged telephone calls by the public to legislators
8 in order to create the appearance of widespread public support for ratification of the
9 water compact, thereby buttressing claims of widespread support for the compact
10 made by FARM in its emails to legislators.

11

12 64. Because the costs of these mass mailings constituted lobbying activities by
13 FARM, the Tribes, which were the principal of FARM, violated Montana law by
14 failing to report these costs to the Commissioner.

15

16 **PRAYER FOR RELIEF**

17 Complainants hereby respectfully request that the Commissioner promptly
18 investigate and seek penalties against the Tribes for their violations of Montana's
19 lobbying disclosure laws.

20

21 DATED: June 25, 2015

22 Respectfully submitted,

23 Monforton Law Offices, PLLC,

24 

25 Matthew G. Monforton
26 Attorney for Complainants

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 29th day of June, 2015, that a copy of the foregoing will be delivered this day via U.S. Mail to the following:

Steven Eschenbacher
Office of the County Attorney
106 4th Ave East
Polson, MT 59860

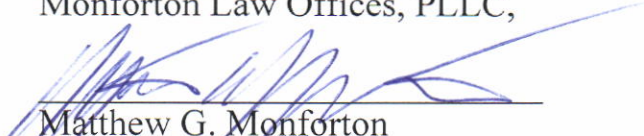
Commissioner Jonathan Motl
1205 8th Ave.
Helena, MT 59620

Attorney General Tim Fox
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

DATED: June 29, 2015

Respectfully submitted,

Monforton Law Offices, PLLC,


Matthew G. Monforton
Attorney for Complainants