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Lawyer spearheads water compact legal challenge

By SAMUEL WILSON/The Daily Inter Lake | Posted: Monday, June 15, 2015 8:00 pm

The fight over the Confederated Salish and Kootenai Tribes' water compact is not over, according to a New York City lawyer who says he will spearhead a legal challenge to the compact as it heads through Congress.

Lawrence Kogan, an attorney specializing in international business law and policy, said the decision to create the group came after a May 21 meeting in Billings that featured several longtime opponents of the water rights compact.

The meeting featured a panel including activist Elaine Willman and former Republican gubernatorial candidate Robert Fanning.

The compact, a water rights settlement among the state, tribes and federal government, produced substantial controversy throughout Western Montana during the 2015 legislative session. It ultimately passed and was signed by the governor despite strong opposition from both inside and outside the Legislature to kill the ratification bill.

The compact now heads to Congress, which along with the tribes must ratify the agreement before it becomes binding.

Kogan said the group will be called Regulatory Lawfare Relief LLC and will consist of his law firm, Kogan Law Group, along with an as-yet-unselected Montana-based law firm. He said the group will not engage in any lobbying activity.

"We're going to focus mostly on processes and procedures that were denied parties and interests in order to secure a vote in favor of the compact," Kogan said. "[We'll] also seek to secure restitution for the economic damages this compact has already caused and will cause in the future when it is implemented."

Kogan also plans to focus his legal arguments on what many opponents believe was too little time afforded to the Legislature to understand the complex bill, along with environmental and other legal reviews that he says should have been undertaken prior to passage.

"It also involves operations outside the state intended to raise awareness of those ... adversely affected by the compact," he said. "[The compact] is intended to be used as a template to go statewide, then region-wide and ultimately across the nation."

Acknowledging that the effort to derail the compact would likely take at least several years, Kogan declined to reveal funding sources for campaign. He said that identifying financial backers was the main reason for the Billings meeting.