

Rebuttal to concerns submitted by Confederated Salish and Kootenai Tribes (CSKT) on Ballot initiative #10.

1. CSKT receives zero dollars for the hunting of deer, elk, or bear. Montana Fish Wildlife and Parks (FWP) prohibits the use of a state license to hunt these species on all lands within reservation boundaries. CSKT has never sold licenses for deer, elk, and black bear to non-tribal members. The only hunting revenue that CSKT receives is through the **bird hunting** and fishing agreement. For the hunting of **BIRDS**. Initiative #10 only pertains to private lands, NOT Indian owned or federal trust lands. CSKT contention that they will lose money is not true.
2. CSKT receives no money from fines or restitution resulting from violations of state FWP deer, elk, and black bear hunting regulations. Those funds go to the county and state of Montana. No other Montana Tribes receive license revenue from deer, elk or black bear hunting on private property owned by non-tribal members. Blackfeet, Fort Belknap and Fort Peck tribes do sell a very limited number of trophy big game licenses to hunt on **tribal lands only**. These licenses are very expensive.

FWP will see an increase in license sales due to the fact that over **2.4 million additional acres** will now be open to hunting of deer, elk, and black bear.

3. FWP already has game wardens stationed throughout the entire state. Montana Wardens already patrol private lands, including those within Federal Indian Reservations. There should not be a need to increase their force.
4. The Sandra Shook case was my case. It based its argument around racial discrimination of only allowing tribal members to hunt within exterior boundaries of Indian Reservations. Shook was not hunting on her own property. The federal lawsuit against the State has a stay based on the bird hunting and fishing agreement. That case is cited below.

“First, in the federal litigation, the court clearly stated that the Tribes were contesting jurisdiction over all hunting and fishing on the reservation. The opinion states:

Plaintiff [the Tribes] filed this suit seeking declaratory judgment that the State of Montana (State) has no authority to regulate hunting and fishing on the Flathead Indian Reservation (Reservation), and that regulation of hunting and fishing within the exterior boundaries of the Reservation is exclusively vested in the Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation (Tribes or Indians). The Tribes also seek a permanent injunction prohibiting the State from enforcing its hunting and fishing regulations on the Reservation. [Emphasis added.]

Further, as the State and the Tribes agree, that litigation is stayed pending the duration of the settlement agreement between the State and the Tribes. See Order, CV 90-49-M-CCL (May 8, 1991). Finally, the State stated in its briefing in Shook that the issues involved in the federal case were “settled by a bird hunting and fishing agreement, **and by a continuation of this prior regulation prohibiting nonmembers from big game hunting there.**” **Therefore, the last sentence of ¶ 28 quoted above merely refers to the State's representation that were the State to discontinue the prohibition on the Flathead Reservation against big game hunting by non-tribal members, the federal stay would no longer be in effect.**

However, because the last sentence of ¶ 28 is dictum and is not intended to bind any future interpretations regarding the issue of jurisdiction over hunting and fishing on the Flathead Reservation, we hereby amend the Shook Opinion to delete the last sentence from ¶ 28 in its entirety. Accordingly.

IT IS ORDERED that the last sentence of ¶ 28 of State v. Shook, 2002 Mont. 347, 313 Mont. 347, 67 P.2d 863, is deleted in its entirety.

IT IS FURTHER ORDERED that Appellant's Petition for Rehearing filed with this Court is DENIED.

IT IS FURTHER ORDERED that the Clerk of this Court give notice of this Order to all recipients of our Opinion in State v. Shook, 2002 Mont. 347, 313 Mont. 347, 67 P.3d 863.”

5. It should also be noted that our neighboring states of Wyoming, North and South Dakota have always allowed big game hunting on private property within the exterior boundaries of federal Indian reservations with a state issued license. It’s about time Montana did too.
6. CSKT says that Initiative #10 will impact local and special laws. The only laws would be tribal civil ordinances. These are not part of any state/tribal agreement. Tribes have no criminal or statutory authority over private lands of non-tribal members. The 1981 Montana decision against the Crow Tribe determined this. No city or country laws would be impacted by initiative #10.

Thank you for listening to reason and the other side of the story. CSKT is a powerful entity with a lot of money to hire lobbyists. I am a one man show with the backing of a large silent majority. Let the voters of Montana decide.

Rick Schoening
Montana Game Warden(retired)
Polson Montana.
Rickschoening112@gmail.com