

Comparison: Adjudication of CSKT Claims vs. CSKT-MT Compact Rights (updated 12-4-18)

As of July 2018, the Confederated Salish and Kootenai Tribes (CSKT or Tribes) and United States Department of Justice (USDOJ) have filed 10,109 claims in place of the Compact. These claims, filed as placeholders to the Compact, are currently *stayed* before the Montana Water Court. If the Compact is approved by the U.S. Congress, the Tribes, and the Water Court, both sets of claims will be dismissed. If the Compact is not approved, both sets of claims will be adjudicated through the Montana Water Court.

Without Compact - Total Claims to be Adjudicated Absent the Compact - 10,109

The CSKT filed 1,720 on-Reservation water claims. They also filed 1,094 off-Reservation instream water claims, all with *time immemorial* priority dates. The off-Reservation claims are located in 51 of Montana's 85 adjudication basins. The USDOJ also filed 7,295 total claims in trust for the CSKT including 1,094 off-Reservation instream claims that are identical to those filed by CSKT. All 10,109 claims would need to be adjudicated in the absence of the Compact.

With Compact – CSKT-MT Compact Rights - 308

The Compact grants the Tribes' 211 on-Reservation water rights, 10 new off-reservation rights, and co-ownership in 87 existing instream flow, in-lake, and storage rights held by the Montana Dept. of Fish Wildlife & Parks (DFWP) which comes to 308 total rights.

The 211 on-Reservation water rights quantify the Tribes' rights including: instream flows, Hungry Horse Reservoir Water, high mountain lakes, wetlands, and Flathead Indian Irrigation Project (FIIP) water. The Compact also includes an administrative process to grant over 1,000 non-tribal on-Reservation groundwater certificates left in limbo by the absence of a regulatory framework on the Reservation.

New off-Reservation water rights granted to the Tribes include:

- Eight *time immemorial* instream rights on the Swan River, Kootenai River, Lower Clark Fork River, and five headwater streams, all with protections for existing water users;
- One *time immemorial* Flathead Lake water right that protects the natural lake level; and
- One 1855, any purpose, on- and off-reservation right that includes 11,000 acre-feet (AF) of Hungry Horse Reservoir storage that can be allocated by Montana; and

Co-ownership of DFWP rights includes:

- Two instream flow rights formally associated with Milltown Dam;
- 83 instream/in-lake rights, and
- Fisheries storage shares in Lake Como and Painted Rocks Lake.

For more information:

<http://dnrc.mt.gov/divisions/reserved-water-rights-compact-commission/confederated-salish-and-kootenai-tribes>