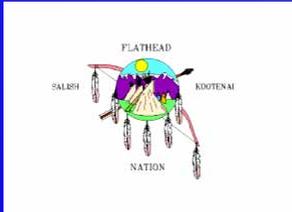


**Proposed Water Rights Compact  
between  
the State of Montana,  
the Confederated Salish and Kootenai  
Tribes  
and the United States**

Clark Fork Task Force  
December 4, 2013



# 2004 CFB Water Management Plan: Recommendation 6-1

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The State of Montana should open discussions with the US Bureau of Reclamation to determine the availability and cost of temporary and long-term contracting options and to determine a quantity of firm storage available from Hungry Horse Reservoir for Montana uses other than Hydropower.

# Flathead System Compact Water

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That portion of the Tribal Water Right consisting of 229,383 AFY that the Tribes may withdraw from Flathead River or Flathead Lake which includes up to 90,000 AFY stored water in Hungry Horse Reservoir, with a maximum total volume consumed of 128,158 AFY. (Article II.33, Article III.C.1.c., Appendix 9)

# Flathead System Compact Water

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- ◆ Source: Flathead River, Flathead Lake, SF Flathead River up to HH Reservoir.
- ◆ POD: Flathead Lake or Flathead River either on or off the Reservation.
- ◆ Purpose: Any beneficial use.
- ◆ POU: Any place of use within Flathead and Clark Fork River Basins (Montana).
- ◆ Priority Date: July 16, 1855.

# Hungry Horse Reservoir storage water component

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- ◆ As part of FSCW the Tribes are entitled to 90,000 AFY of Hungry Horse storage water.
- ◆ Tribes shall dedicate 11 KAF of the 90 KAF block for off-Reservation lease for mitigation of net depletions arising from new or existing DCMI within the Clark Fork Basin. (Article IV.B.7.)

# Limits on use of FSCW direct flow

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## RECLAMATION *Managing Water in the West*

### FLATHEAD BASIN TRIBAL DEPLETIONS STUDY

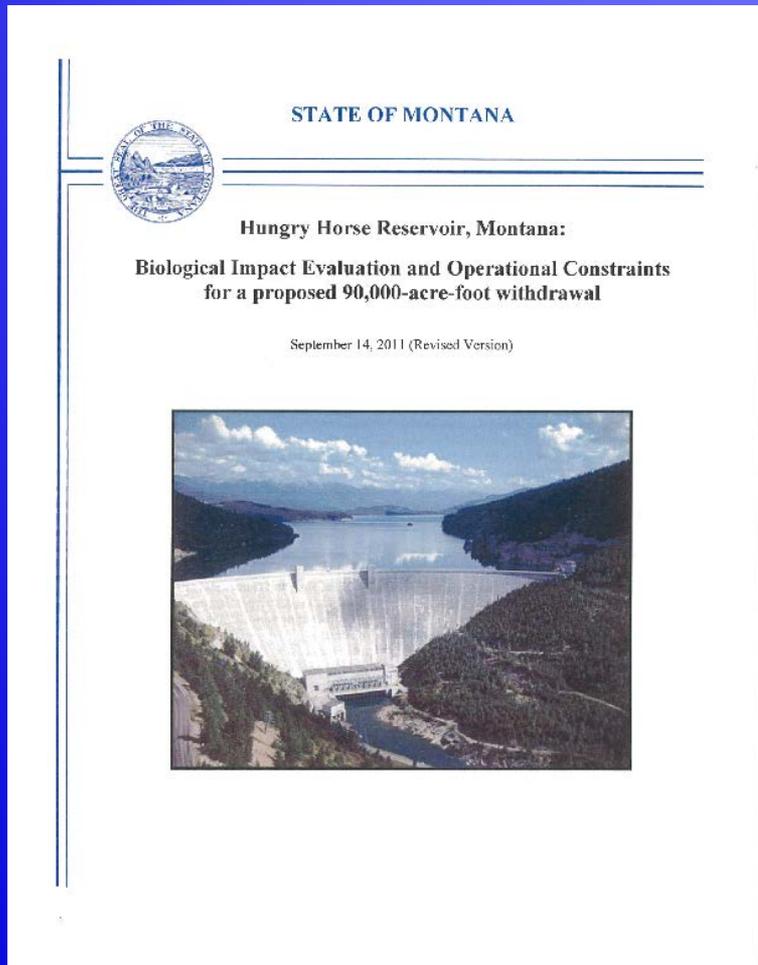


U.S. Department of the Interior  
Bureau of Reclamation  
Pacific Northwest Region  
Boise, Idaho

September 2012

- ◆ Conform to ISF schedules at Columbia Falls (12363000), Polson (12372000) and Perma (123887000).
- ◆ Conform to ramping rates at Kerr Dam and Hungry Horse Dam.
- ◆ Conform to Flathead Lake filling criteria.

# Limits on use of Hungry Horse Storage Water



- ◆ Biological impacts are non-existent or minimal in all but driest 15th percentile water years.
- ◆ Parties agreed to a set of reservoir release rules based on water year to mitigate biological impacts.

# Implementation

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- ◆ Tribes may **develop** FSCW for use on or off the Reservation. (Article IV.B.5.)
- ◆ On-Reservation use regulated by Water Management Board pursuant to Unitary Administration and Management Ordinance 2-2-188.
- ◆ Off-Reservation use treated as a change of use; DNRC administers pursuant to Title 85 MCA.

# Implementation

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- ◆ Tribes may **lease** FSCW for use on or off the Reservation. (Article IV.B.6.c.)
- ◆ Term not to exceed 99 years; option for an additional 99 years.
- ◆ On-Reservation use regulated by Water Management Board pursuant to UAMO 2-2-118.
- ◆ Off-Reservation use treated as a change of use; DNRC administers pursuant to Title 85 MCA.
- ◆ Exception: Lease delivered wholly from HH Reservoir.

# Lease of 11 KAF of HH water for off Reservation mitigation

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- ◆ Baseline price for end user to lease water from Tribes set at \$40.00 per AFY adjusted annually to changes in CPI-U. (Article IV.B.7.e.ii.)
- ◆ Tribes and end user shall negotiate non-price terms of lease agreement.
- ◆ Process for resolving disputes over non-price terms of lease agreement. (Article IV.B.7.g.)

# Lease of 11 KAF of HH water for off Reservation Mitigation

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- ◆ 11 KAF subject to Biological Constraints reservoir release rules. (Article IV.B.7.d.)
- ◆ DNRC, under Title 85 MCA, retains responsibility for determining mitigation requirements. (Article IV.B.7.c)

# Status of Compact

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- ◆ Compact approved by the RWRCC and brought to 2013 Legislature as HB 629.
- ◆ Compact tabled in House Judiciary Committee.
- ◆ Tribes have until July 1, 2015 to file all their water rights claims both east and west of the Continental Divide.

# Where to find Compact

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- ◆ Compact in bill format as considered by 2013 Legislature as HB 629 is at:

<http://leg.mt.gov/bills/2013/billpdf/HB0629.pdf>

- ◆ Compact including all Appendices is at:

<http://www.dnrc.mt.gov/rwrc/Compacts/CSKT/Default.asp>