

# DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Water Resources Division

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## STATE OF MONTANA

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### **Notice of 180-Day Registration Period for Unrecorded Existing State-based Water Uses within the Flathead Indian Reservation**

**Date:** October 11, 2021  
**To:** Affected residents of the Flathead Indian Reservation  
**From:** DNRC Water Resources Division

This notice is being sent to all known landowners within the Flathead Indian Reservation (the "Reservation") to notify you of the opportunity to register certain types of previously unrecorded existing water uses (for both state-law based water rights and tribal water rights) within the exterior boundaries of the Reservation. The Effective Date of the Confederated Salish and Kootenai Tribes ("CSKT" or "Tribes") – Montana Compact (the "Compact") is September 17, 2021. The Compact is found in State law at § 85-20-1901, Montana Code Annotated ("MCA").

#### **BACKGROUND INFORMATION**

1. The Compact established the Flathead Reservation Water Management Board (the "Board") to administer and manage water rights within the Reservation. Within 180 days of the Compact Effective Date (9/17/2021), two members of the Board will be appointed by the Governor of the State of Montana, two by the Tribes, and a fifth chosen by the other four members. The Board, in turn, will establish the Office of the Engineer, which is the professional staff managing the day-to-day work of the Board.
2. Concurrent with the Compact, the State and the Tribes codified the Unitary Administration and Management Ordinance ("Ordinance") which is the law that will be implemented by the Board and exclusively governs future water right administration on the Reservation. The Ordinance is found in State law at § 85-20-1902, MCA, and in parallel tribal law at CSKT Ordinance No. 111-A.
3. Section 2-1-106 of the Ordinance allows certain previously unrecorded state-based water uses (i.e., uses which were put to use on or before 9/17/2021 but for which a water right has not been previously issued by the Department of Natural Resources and Conservation ["DNRC"]) to be registered with the Board within 180 days of the Compact's Effective Date to ensure the water use has a legally established priority date. That registration deadline is **3/16/2022**. Section 2-1-107 of the Ordinance sets out the registration process. See "Registration Information" below.
4. During the 180-day registration period, the State, through the DNRC, will accept registration forms, which will be transmitted to the Board for processing once it is operational. Recognizing the Board's role, DNRC will not process the registration forms.

**Note:** Section 2-1-101 of the Ordinance allows the Tribes, their members, and Allottees to register an existing use of the Tribal Water Right that was not quantified by the Compact, and that was in existence on or before

9/17/2021, to be registered with the Board within five years of the Compact's Effective Date. That registration deadline is 9/17/2026. Section 2-1-102 of the Ordinance sets out the registration process. For information related to registering an existing use of the Tribal Water Right, please contact Mary Price (CSKT Legal Department) at 406-675-2700 ext. 1167 or Seth Makepeace (CSKT Natural Resources Department) at 406-675-2700 ext. 6255.

### **REGISTRATION INFORMATION**

The following state law-based existing water uses are eligible for registration with the Board at this time and must be submitted by 3/16/2022:

Category 1: Exempt rights, as defined in § 85-2-222, MCA, for water **put to use prior to July 1, 1973**, and for which statements of claim were **not** filed in the Montana General Stream Adjudication on or before June 30, 2019. *Use Registration Form No. 222F (Stock) or Form No. 222F (Domestic).*

Category 2: Uses that were **developed on or after July 1, 1973** and before September 17, 2021, at a volume and flow rate that would qualify as an exception to the permit requirements of § 85-2-306, MCA, and for which a Notice of Completion of Groundwater Development (DNRC Form 602) or an Application for Provisional Permit for Completed Stock Water Pit or Reservoir (DNRC Form 605) was **not** previously filed with the DNRC. *Use Registration Form No. 602F (groundwater development) or Form No. 605F (stock water pit or reservoir development).*

- Registration forms do **not** need to be submitted for Category 2 uses if a Notice of Completion of Groundwater Development (DNRC Form 602) or an Application for Provisional Permit for Completed Stock Water Pit or Reservoir (DNRC Form 605) was previously filed with DNRC. Section 2-1-107 of the Ordinance provides that DNRC will transmit these previous filings to the Board within 30 days of the Effective Date, by 10/17/2021. **DNRC's transfer of these filings satisfies the registration requirement.** If you have questions about whether forms have been filed for a Category 2 use on your property, please contact the appropriate DNRC Water Resources Regional Office (see below for contact information).

*\* All post-Effective Date water administration, including but not limited to applications for new water rights, domestic and stock allowances, and changes in use, will be managed exclusively by the Board and Office of Engineer, and forms will not be accepted or processed by DNRC. A future notice will be sent when the Board and Office of the Engineer are operational.*

**To search your property for water rights:** Input your parcel geocode using DNRC's Water Right Query <http://wrqs.dnrc.mt.gov>. If you cannot find your water right, please call a DNRC Regional Office for assistance. Registration forms may be downloaded from the DNRC Compact Program webpage <http://dnrc.mt.gov/cskt-mt-compact-registrations> or obtained from the DNRC Water Resources Regional Offices. **Contact information:**

- Kalispell Regional Office, 655 Timberwolf Parkway, Ste 4 Kalispell, MT 59901-1215 (Phone: 406.752.2288)
- Missoula Regional Office, 2705 Spurgin Road, Bldg. C, PO Box 5004, Missoula, MT 59806 (Phone: 406.721.4284)

For more information related to the Compact implementation efforts, please visit DNRC's CSKT Compact webpage or call DNRC's Compact Implementation Program at 406-444-6601.



Anna Pakenham Stevenson, Water Resources Division Administrator  
Montana Department of Natural Resources and Conservation (DNRC)