



## Summary of the Confederated Salish & Kootenai Tribes - Montana Compact

### Introduction

The [Confederated Salish and Kootenai Tribes – Montana Compact](#) (Compact) is a water rights agreement between the State of Montana, the Confederated Salish and Kootenai Tribes (CSKT), and the United States. The Compact resolves CSKT's reserved water right claims and creates a joint state-tribal system for administering water rights on the Flathead Indian Reservation. The CSKT-Montana Compact provides flexibility, local control, and certainty. This document summarizes the Compact, the associated [Unitary Administration and Management Ordinance](#) (Ordinance), and recent Water Court updates.

### Protection of Existing Uses of Water:

- **Limits CSKT's rights to make call on junior water users.** CSKT agreed to relinquish their right to ***make call*** against any non-irrigation water user with a priority date
  - prior to September 17, 2021, on the Flathead Reservation, and in the Bitterroot, Lower Clark Fork, Kootenai, and Flathead basins.
  - prior to April 24, 2015, in the Upper Clark Fork and Blackfoot basins.

CSKT agreed to further limits to its right to make call as described in Article III, Section G, Paragraphs 1-5 of the Compact.

- **The State of Montana through DNRC** continues to administer water rights off the Flathead Reservation. Within the boundaries of the Flathead Reservation, a state-tribal Board administers applications for new water uses and changes to existing uses.
- **Quantifies and conditions CSKT's instream flow rights** on and off the Flathead Reservation in exchange for CSKT's agreement to relinquish all other claims within Montana.
- **Recognizes existing Tribal uses**, including traditional Tribal cultural and religious uses.
- **Provides funding for improving Flathead Indian Irrigation Project** water management and reducing impacts on fisheries.

#### What does it mean to ***make call***?

"Call" means the right of the holder of a water right with a senior priority date and an immediate need for a use of water to require a holder of a water right with a junior priority date to refrain from appropriating water otherwise physically available until the senior water right is satisfied.

### Administration of Water Rights on the Flathead Reservation

- **Establishes the state-tribal Flathead Reservation Water Management Board**

**(Board)** to administer water rights for both state and tribal water users on the Reservation. The Board has five voting members: two members selected by the Governor; two members appointed by the Tribal Council; and the fifth member selected by the other four members. The United States Department of the Interior appoints a sixth, non-voting member.

- **Enacts the Unitary Administration & Management Ordinance** to govern the administration of water uses on the Reservation. The Ordinance provides procedures for permitting new uses of water or changing existing uses and the process for enforcing water rights. The Montana Legislature and the CSKT Tribal Council approved the Ordinance.
- **Describes the powers and duties of the Board** and the process to review the Board's decisions. Neither the Board's jurisdiction nor the Ordinance's jurisdictional area extend off the Reservation.
- **Makes no changes to how water right ownership transfers** to the buyer, or is withheld by the seller, in real estate transactions.
- **Water Office Opens for Business:** In 2022 the Board hired primary staff and began processing water right applications. Its Water Office is located at 400 Main Street SW in Ronan. Contact the Water Office at [contact@frwmb.org](mailto:contact@frwmb.org) or 406-201-2532.

#### **Registration of existing water uses on the Flathead Reservation:**

- **Registration opportunity:** Provided a filing period (September 17, 2021, through March 16, 2022) for registering certain previously unrecorded existing uses of water on the Flathead Reservation that were put to use before the Compact went into effect on September 17, 2021.
- **Transfer to Board:** In care of the Board, the DNRC maintains a complete record of water use registrations on the Flathead Reservation filed with the DNRC between August 22, 1996 (when the Montana Supreme Court Ciotti decision paused DNRC water rights administration on the Reservation) and March 16, 2022 (the due date for registrations). DNRC will transfer the registrations to the Board when the Board is prepared to receive them. The Board's Water Office will process these filed registrations and issue certificates for water uses in compliance with registration requirements.
- **No additional action needed:** Water users do not need to register a water use if they previously 1) filed a claim in the adjudication, 2) registered the water use, or 3) if the use is of Flathead Indian Irrigation Project water.

#### **Water Court Update**

- The Montana Water Court is reviewing the CSKT-MT Compact (Compact) through its decree process to ensure it is fair and reasonable.
- On June 9, 2022, the Water Court issued a preliminary decree and noticed approximately 72,700 water users in western Montana hydrologic water basins described in the Compact by mail of the preliminary decree's entry and availability.
- Water Court procedures allow for objections that demonstrate a water right claimant is or will be materially injured by operation of the Compact. Objections can be filed no

later than February 9, 2023. For more information visit the [Water Court website](#).

- The Water Court will review filed objections and determine whether to approve the Compact and enter a final decree adjudicating the water rights of the Tribes. A final decree marks the final step in the Compact process.
- At a future date, the Water Court, will issue basin-wide preliminary decrees for state-based water rights on the Flathead Reservation. Currently, the Water Court's adjudication of these on-reservation state-based water rights is stayed, or on hold, as the CSKT-MT Compact progresses through the Water Court decree process. The Water Court is reviewing a petition regarding an Extension of Stay of Adjudication of All Claims in Basins 76L and 76LJ.

For more information visit the [DNRC CSKT-MT Compact](#) page.

Or call the DNRC Compact Implementation Program at 406-444-5700.