

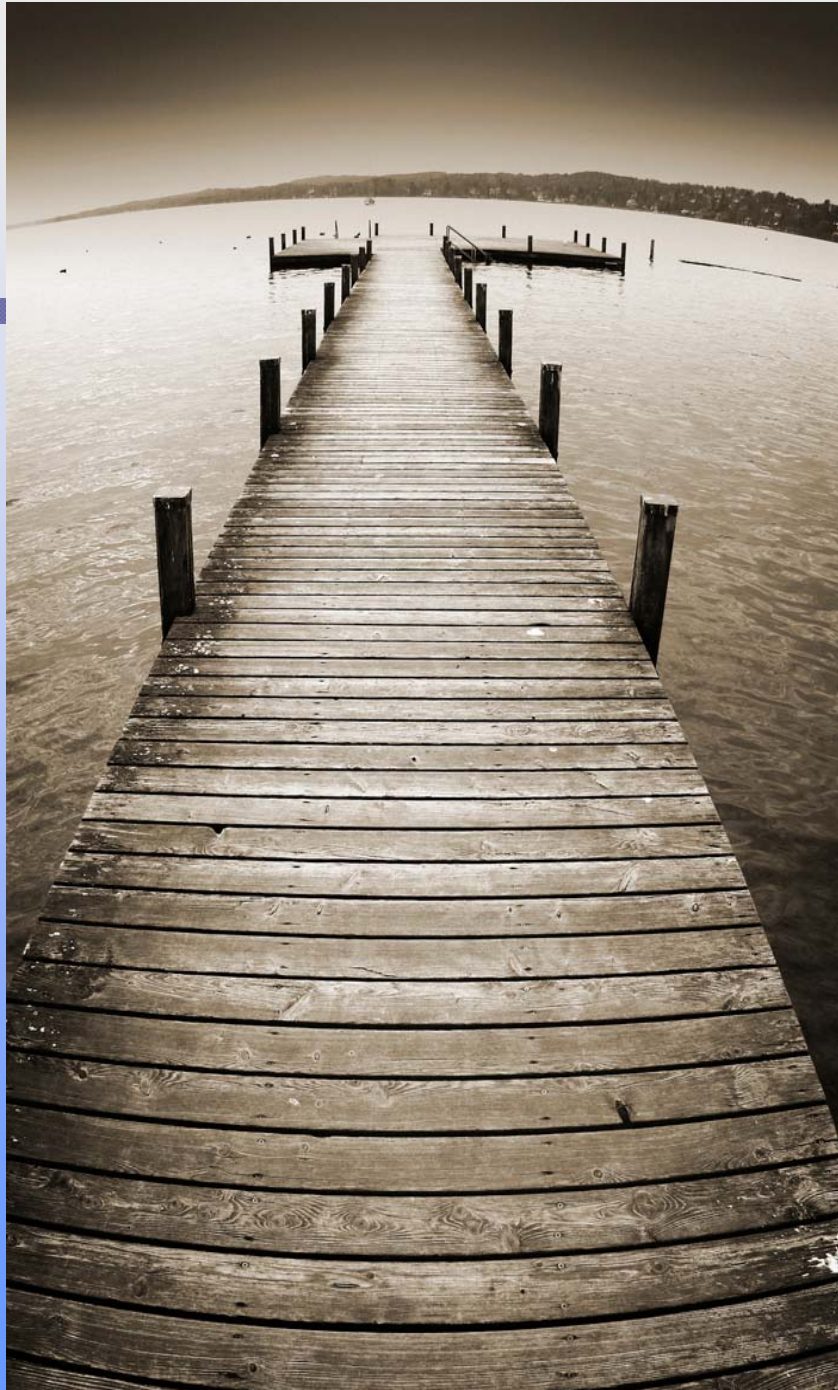


A People of Vision

Tribal Reserved Water Rights Negotiations

Laws and Policies Needed

After many court cases, the U.S. Supreme Court said that States should quantify Tribal Water Rights. But, States are required to use Federal law when quantifying Tribal Water Rights.



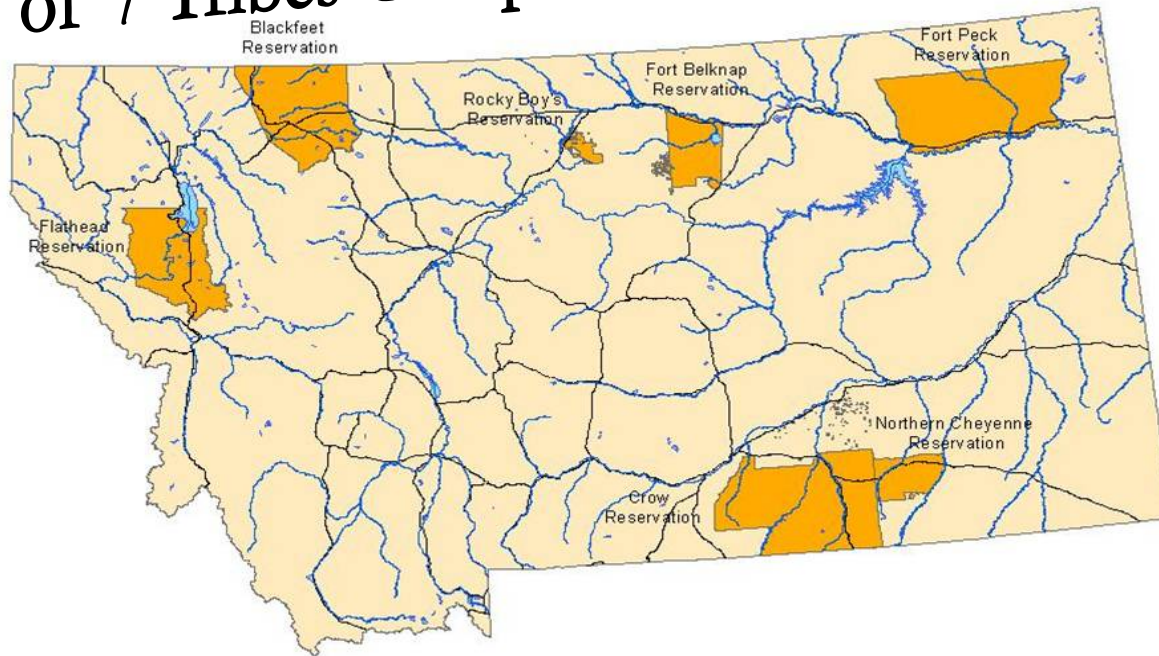
One way or another ...

- Courts said that if Tribes don't work to quantify water rights, it will be done for them.

Last but not Least

Five of Seven Montana Tribes have settled water rights. The Blackfeet are close. Only Confederated Salish and Kootenai remain.

5 of 7 Tribes Completed water compacts



Completed Compacts Include:

Fort Peck Reservation
Fort Belknap Reservation
Northern Cheyenne Reservation
Crow Reservation
Rocky Boy Reservation

The Blackfeet are close.
The Salish-Kootenai are making
steady progress



Negotiation vs. Litigation

CSKT prefers negotiation

- More local control over the issues to be settled
- Broader range of issues can be resolved
- Less cost: No cost to individual claimants
- Less time
- More locally sensitive
- Offers a comprehensive solution



Wind River went to court



The Wind River Indian Reservation is a 2.2 Million acre reservation of which 1.8 Million acres are owned by the Shoshone and Arapahoe Tribes. Their water lawsuit began in 1977 and continues today.

Negotiation Parties

- Confederated Salish and Kootenai Tribes
- Montana Reserved Water Rights Compact Commission
- United States

CSKT Negotiation Team

- Tribal Council members
- Tribal Attorney
- Tribal Lands Department Head
- Cultural Preservation Representative
- Kootenai Elder Representative
- Salish Elder Representative
- Natural Resources Department Head
(water rights spokesman)



A People of Vision

Federal Water Rights Negotiation Team

- Bureau of Reclamation
- Bureau of Indian Affairs
- U.S. Fish and Wildlife Service
- U.S. Department of Justice
- US. Department of Interior,
Office of the Solicitor



Montana Reserved Water Rights Compact Commission

MONTANA



- Four members appointed by the Governor's Office
- Two members appointed by the President of the Senate
- Two members appointed by the Speaker of the House
- One member appointed by the Attorney General
- Compact Commission is supported by a staff of about eleven legal and technical professionals

Elements of a Tribal Water Rights Settlement

- Quantification of the Tribal Water Right;
- Administration of Water Rights
- Financial Support



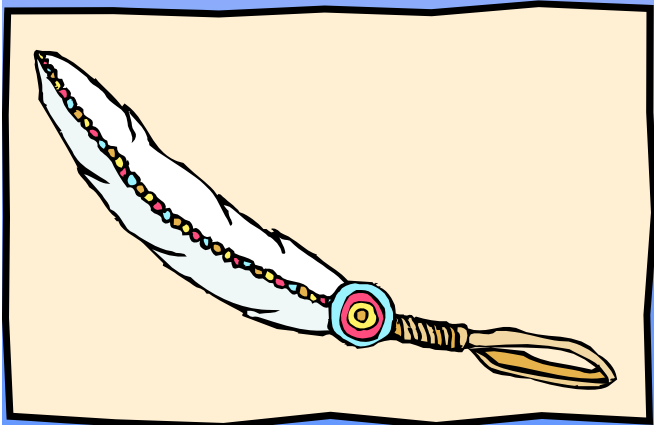
What's included in Tribal Water Rights?



- The Quantification of water for all past, present and future uses
- On-Reservation and Off-Reservation water rights
- Non-consumptive uses such as in-stream flows for fish

Tribal Water Rights

- Consumptive uses such as agricultural uses
- Surface water and Groundwater
- Tribal Water Rights will be based on Cultural, Aboriginal, and Winters (reserved water rights) Claims



The Tribal Water Rights Proposal of 2001

- In June 2001, CSKT submitted “A PROPOSAL FOR NEGOTIATION OF RESERVED AND ABORIGINAL WATER RIGHTS IN MONTANA”

The proposal didn't
get very far
And talks slowed
down.

Main Elements 2001 Proposal

- **First**, all water on and under the Flathead Reservation is “owned by the United States in trust for the Confederated Salish and Kootenai Tribes.”
- **Second**, the Tribes recognize all verified existing water uses on the Reservation.
- **Third**, the Tribes propose the establishment of a single water administration system.

Also, Negotiations include Tribal off-reservation aboriginal water rights.
Again, this proposal was rejected by the State.

Status of CSKT 2001 Water Rights Negotiations

- State rejected 2001 proposal, stating that it did not form the basis of negotiations.
- CSKT responded by preparing a quantification proposal
- State invited CSKT to negotiate an interim agreement
- After 2½ years, CSKT and State discontinued negotiations on the interim agreement
- In December 2007 the CSKT submitted a new proposal to the State of Montana

The 2007 CSKT Proposal

- Unitary management of all water rights on the Reservation
- CSKT/State/Federal representatives on a management board
- Water within the Federal Irrigation Project will have an 1855 priority date and fall under the umbrella of the Tribes' water right
- Still under consideration between the parties

More Details

- CSKT agrees to protect verified existing uses
- CSKT planned future-uses development deferred until water conservation and supplemental water are made available
- The Settlement will include off reservation aboriginal water rights
- The State of Montana, CSKT and the U.S. continue to make significant progress toward a negotiated settlement based on the present CSKT proposal

Concerns-Deadlines

- The Reserved Water Rights Compact Commission sunsets and ceases to exist after July 1, 2009
- Unless the legislature extends the life of the Commission, the matter goes to court.

All water users impacted ...

- Montana's Legislature could extend the life of the Reserved Water Rights Compact Commission in the 2009 session, which would give time for negotiations to continue.
- If negotiations stop, CSKT has six months to file claims in the Montana Water Court.
- If it goes to court, all water claimants **must** go to court. Every reservation water user who filed water rights claims will have to pay lawyers and expert witnesses to protect their claims.

How to Help

Contact your Legislators before the next session begins January 2009. Encourage an extension of the Reserved Water Rights Compact Commission.

Extending the sunset date on the Compact Commission will speed the process to a completed agreement.

Going to court will take decades and cost scores of millions of dollars.

Contacts

- Confederated Salish and Kootenai Tribes
 - Tribal Council (406) 675-2700
 - Natural Resources Department, Clayton Matt, Water Rights Spokesman, (406) 675-2700 or 883-2888 ext. 7263
- Montana Reserved Water Rights Compact Commission, Susan Cottingham, Director, (406) 444-6716
- United States, Duane Mecham , Chairman, Federal Reserved Water Rights Negotiation Team, (503) 231-2166