

WHAT'S NEXT?

To do nothing is not an option. This compact will be devastating to water resources, agriculture and ranching, and the future of western Montana.. **The compact must be killed.**

Between 2012 and 2015 there was no good faith effort by the parties to find an agreement that works for all Montanans.

We must stop compact implementation and challenge the agreement on legal and constitutional grounds. Other challenges with respect to the failure to study the impacts of the compact should take place concurrently.

Although the compact is currently in litigation, the state and the federal government are implementing the compact as though no legal questions exist concerning its questionable passage. **In other words both the state and the federal government will not stop until they ARE stopped through legal challenges.**

Did the federal government defraud homesteaders invited to this area when the reservation was opened to settlement more than a century ago? Homesteaders were promised land patents and water rights as enjoyed by other citizens throughout the county.

Your Help is Needed

We cannot do this without your continued support. MLWA has retained attorneys with more than 100 years combined experience in water law and federal reserved rights, who have successfully taken cases to the U.S. Supreme Court. Please contribute to our efforts by becoming a member, and by donating funds to assist us with upcoming legal challenges to the compact.

MONTANA LAND AND WATER ALLIANCE

Our mission is to preserve and protect all rights and benefits associated with the ownership of property in the state of Montana. We exist to advocate for, protect and defend all aspects of property ownership. This will be accomplished through a variety of means including but not limited to:

- Legally defending the constitutional rights of property owners whose rights to possession, control, exclusion, enjoyment, or disposition are negatively impacted by the actions of others, including government and its agencies, individuals, and organizations or corporations.
- Developing and advocating for appropriate legislation to strengthen property rights, and opposing legislation that is destructive of or impedes such rights.
- Investigating, publishing and disseminating research specific to water, land and other property rights issues,
- Providing public information, education, and networking with similar efforts across the state.

Your support is greatly appreciated. To donate or become a member, contact us at 406-552-1357 or send donations to:

MLWA
PO Box 1061
Polson, MT 59860

Website: landandwateralliance.com
Blog: westernmtwaterrights.wordpress.com
Email: 4mtlandwater@gmail.com

WHERE WILL YOU DRAW THE LINE?



**A Citizen's Guide to the
CSKT Water Compact
and what we must
do to defeat it**

THE FLATHEAD WATER COMPACT



“Let these truths be indelibly impressed on our minds: (1) that we cannot be happy without being free; (2) that we cannot be free without being secure in our property; (3) that we cannot be secure in our property if without our consent others may as by right take it away.” John Dickinson

No matter how you look at it, the Flathead Water Compact is a bad deal for Montana. It assaults the water and property rights of many of its citizens, includes a litany of legal and constitutional violations, and its economic consequences remain largely unknown.

It will devastate agriculture in western Montana. Can we afford to look the other way when agriculture goes the way of our mining and timber industries?

We believe the time has come for western Montanans to say ENOUGH! It’s time to draw our line in the sand and work together to defend private water and property rights using whatever means necessary for success.

Background:

The courts have ruled that federal reserved water rights are created when federal lands are withdrawn from the public domain. Their priority date is the date the reservation of land was created, and include the minimum amount of water necessary to satisfy uses of water for the primary purposes for which the land was withdrawn.

In 1979, the Montana legislature created the Reserved Water Rights Compact Commission to negotiate reasonable settlements of federal reserved water rights throughout the state for federal lands as well as Indian reservations.

The commission successfully negotiated compacts with six other tribes in Montana and in 2013 announced an agreement with the Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation. This compact was the result of more than a decade of negotiations and was widely advertised by state officials as being a great deal for Montana.

Compact Problems / Issues:

The compact is fraught with legal and constitutional problems, making it impossible to list them all. Here are just a few:

- It awards nearly all of the water in western Montana, on and off the Flathead reservation to the CSKT. **Federal reserved water rights are only for the reservation of land, not ceded lands.**
- The volume of water awarded to the CSKT is 4 times more water than has been awarded to 31 other tribes in the United States combined. **Why?**

- The state ceded bare legal title to 100% of Flathead Irrigation Project water to the tribe. **How is that okay when 90% of the lands served by the project are privately owned?**
- It removes a large number of Montana citizens from the protection of the state and places under tribal jurisdiction for their water needs. **This violates due process and equal protection guarantees of the U.S. and Montana Constitutions.**
- Montana will forever be banned from administering water for its citizens within reservation boundaries. **The Montana constitution requires the state to administer the water for its citizens.**

Montana Legislature:

The compact failed in the 2013 legislature. In 2015, it passed both houses with a simple majority vote. Immunity language in the bill however, required a 2/3 vote of both houses for passage. **The compact is currently under litigation for this reason.** A decision concerning this issue is anticipated sometime later this year (2015).

While we cannot know for sure why a simple majority of legislators supported the compact, we do know that by supporting it, they willfully chose to give the federal government control over the waters of western Montana. The State also failed to study the economic, environmental and legal consequences of the compact setting itself up for decades of legal challenges.

No person shall bedeprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. Amendment V, U.S. Constitution