FLATHEAD IRRIGATION AND POWER PROJECT TIMELINE



1908

Bureau of Reclamation authorizes the Flathead Irrigation Project and specifies that after majority of costs are paid for, project management will be passed to the owners of lands served by it 1909-1927

Reclamation files state based water claims for Irrigation and Power per Montana statute

1924

Project Transferred from Reclamation to Bureau of Indian Affairs. Funding, reimbursement and construction remain under reclamation laws. BIA mismanages project

1930

Federal Power Commission license issued to Rocky Mountain Power

1985

DOI Comprehensive review illegally separates power from irrigation and gives the CSKT a 638 contract for the power division of the project.

Project stops receiving net power revenues causing further disrepair

2010

Management
Transfer Agreement
implemented through
Cooperative Mgt
Entity giving CSKT a
minimum of 50%
control of project
operations in violation
of 1908 federal law

2012

Water Use Agreement between CSKT, US, FJBC proposed to relinquish project water rights to the CSKT. Declared an unconstitutional taking without compensation in 20 12.

1900 1910 1920 1930 1940 1950 1960 1970 1980 1990 2000 2010 2020

1909

Congress authorizes
Secretary of
Interior to set
aside lands
for power
purposes

1911

Congress authorizes easement
on land adjacent
to Flathead Lake
as reservoir for
irrigation project
power

1928

Congress authorizes
Federal Power
Commission to issue
licenses for power
sites and of water
rights appropriated
for irrigation project

1949

Repayment contract commits net power revenue to pay off the project applied in this order:

- 1)Liquidate matured construction costs-power
- 2)Liquidate matured construction costs irrigation
- 3)Liquidate unmatured construction costs- power
- 4) Liquidate unmatured construction costsirrigation
- 5)Liquidate deferred construction costs for Indian owned lands
- 6) Liquidate annual operation maintenance costs of irrigation

1981

Flathead Joint
Board of
Control
created,
combining
interests of
Mission,
Jocko and
Flathead
Districts

1980's -1990's

Using a series of strategic lawsuits, the CSKT are awarded interim instream flows on the project

FERC issues Kerr Dam license as a joint license with CSKT

1985

2015

Anticipated
CSKT
purchase of
Kerr Dam

2007

CSKT attempt to take over project management through 638 contract denied

FLATHEAD WATER COMPACT TIMELINE

1970's-1980's

Namen I and II lawsuits determine tribes own the banks and bed of the south 1/2 of Flathead Lake

1972

Montana
Constitution
ratified affirming all
existing uses of
water. Article IX
—state owns all the
water for the
beneficial use of its
citizens.

1973

Montana Water
Use Act passed in
legislature,
establishing a
permitting and
tracking process

1979

Montana
legislature creates
Reserved Water
Rights Compact
Commission to
provide for
equitable division
of waters between
state and federal
reserved water
rights including
tribes

1980

Negotiations begin and stop

1982

Compact commission extended to 1985

1985

Montana Supreme Court held that the state constitution does not preclude jurisdiction for the adjudication of Indian reserved water rights. Montana Water Use Act is facially adequate for the adjudication of Indian and federal reserved water rights.

Tribes sue Flathead Irrigation and Power Project and win time immemorial instream flows.

Tribes pass ALCO for waterway protection regulations

1987

Compact commission extended to 1993

1988

Tribal Ordinance 44D—state allows tribal hunting and fishing jurisdiction over non-Indians on the reservation

1990's

Negotiations start and end

1993

Compact commission extended to 1999

1996

Ciotti decision— Montana Supreme Court decided that the state could not issue water permits within reservation boundaries until the CSKT's federal reserved water rights are quantified.

1999

Compact commission extended to 2005

CSKT v. Clinch—
Montana Supreme
Court reiterated that it
is impossible for the
State to decide
whether water is
legally available on the
reservation until the
Tribes' reserved water
rights are quantified.

2000

Compact negotiations resume

2001

CSKT proposal: 1) all water on and under Reservation is "owned by US in trust for CSKT 2) Establishment of a single water administration system. 3) Negotiations include Tribal offreservation aboriginal water rights.

2002

Negotiations stop to work on interim agreement

CSKT say they will quantify their own water rights

CSKT v. Stults—MT Supreme Court again ruled DNRC is prohibited from issuing water permits until the Tribes' water rights are quantified.

2005

Compact commission extended to 2009

Interim agreement abandoned and parties agree to work on complete settlement

2006

Protocol for sharing technical information developed

2007

CSKT submits another proposal: 1) Unitary management of all water rights on Reservation 2) Water in the Federal Irrigation Project is Tribes' water right 3) Compact will include Off reservation aboriginal water rights

2009

Compact commission extended to 2013

2010

Tribe Submits third proposal

2011

State submits off reservation instream flow proposal to the tribes

2012

Irrigator Water Use Agreement introduced May

Public review documents posted 10/2012

Revised Compact submitted 11/2012

Series of public meetings held Nov-Dec

2013

Compact and water use agreement revised 02/2013

Water use agreement held to be an unconstitutional taking without compensation. Compact commission is forced to submit the compact to legislature without it.

Compact bill fails in House Judiciary committee and an attempt to blast to the floor fails.

Salomon bill to give compact a fast track to 2015 Legislature fails in House appropriations committee

Governor Bullock vetoes SB265 to extend the compact commission, requiring CSKT to submit their claims to the water court by July 2015

2014

CSKT files federal suit to circumvent the state of Montana water court and 20th district court to ask for declaration of ownership of irrigation water rights by the CSKT. Suit also claims CSKT own all water on the reservation and that all land remains in aboriginal title.