

Compact

No Compact

<p>Priority Date of tribal water rights that are held in conjunction with MT Fish, Wildlife and Parks (FWP) will be the priority date of the existing FWP right.</p>	<p>Priority Date</p>	<p>Tribal water rights on and off the reservation will have a priority date of 1855 or time immemorial. Those with existing rights would have to prove in the Montana Water Court that their rights predate those of the Tribe.</p>
<p>100% protection for stock, municipal, domestic, commercial, and other non-irrigation water uses on and off the reservation. The Compact prevents those with existing rights from having to go to Court. The Compact does not prevent those who want to go to Court over their water rights from doing so.</p>	<p>Litigation</p>	<p>MT Law requires the tribe to file their water right claims. Litigation will be undertaken in the Water Court that will include basins across Montana. Water users in basins where the tribes have filed a claim must object to the tribal claim if they do not agree with the terms of the claim – including the priority date. Individual water users will be burdened by the cost of litigation.</p>
<p>Completion of the statewide adjudication into decrees is estimated to be completed by 2020. Estimated cost to get to 2020 is an additional \$14.5 Million.</p>	<p>Adjudication</p>	<p>All tribal claims will need to be examined and then heard in the Water Court, including claims in areas already decreed. DNRC and the Water Court acknowledge that this will take decades to complete and cost millions of dollars in taxpayer funds.</p>
<p>The claims of the federal government with regard to any off reservation water requirements will be settled. No existing or new rights will be given to the federal government.</p>	<p>Federal Involvement</p>	<p>The federal government has a fiduciary obligation to the tribes and will have continued involvement, including USFWS conducting Biological Opinions regarding Endangered Species Act on off reservation in-stream water requirements.</p>
<p>The Clark Fork Basin and the Lower Swan will have mitigation water available to offset adverse effects due to new water development through the water being made available in Hungry Horse Reservoir.</p>	<p>Closed Basins</p>	<p>Legal availability of water in the Clark Fork and the Lower Swan will be more limited due to the increase in legal water use imposed by the tribal claims to water.</p>
<p>The water allocated through the compact will keep Hungry Horse water in the state and increases the amount available for use by 90,000 acre feet (11,000 of which will be for new off reservation use). Water delivery system improvements will be made to decrease amount of water seepage and increase efficiency.</p>	<p>Additional Water Resources</p>	<p>No new water will be available from the Hungry Horse Reservoir for on or off reservation use. No funds will be available to increase water delivery efficiency.</p>

<p>The Tribe cannot issue a call on ANY non-irrigation rights, and even then may only issue calls on limited irrigation for more than 100 gpm during drought conditions only. The Tribes will not litigate any off-reservation in stream flow.</p>	<p>Tribal Call</p>	<p>In those basins where the tribe files a claim the priority date of tribal rights will be at least 1855 if not earlier. There will be no limitation on what types of rights can be called. The Tribe could issue a call on water rights both East and West of the Continental Divide. These calls would impact water users both on and off the reservation.</p>
<p>Localized moratorium on new water rights will be lifted. Compact would make valid all post 1996 domestic wells that don't currently possess a valid permit. The Compact provides irrigators on the FIIP a delivery entitlement that runs with the land, ensuring no property devaluation related to irrigation water availability.</p>	<p>Property Rights</p>	<p>Localized moratorium on new permitting and changes of use will continue until the Tribe's claims are resolved through the adjudication process. Post 1996 wells not necessarily protected. Litigation of Tribal claims will cause water right uncertainty, decreasing property values and the real estate market.</p>
<p>Cost due to litigation would be minimal to non-existent for water users.</p>	<p>Cost to Taxpayers</p>	<p>MT Taxpayers would bear burden of increased litigation in MT Water Court. Individual water users would have to spend significant money to protect their water rights.</p>