

The Confederated Salish and Kootenai Tribes – Montana Compact is a water rights agreement between the State of Montana, the Confederated Salish and Kootenai Tribes (CSKT) and the United States. After more than a decade of negotiations, 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 story map on the right side of this page provides an overview of the CSKT Compact.

1. For folks with existing water rights nothing has changed. For those who wish to apply for new water rights who also live on the reservation, the governing body has changed. The Flathead Reservation Water Management Board is now the governing authority for water rights on the reservation, not the Montana Department of Natural Resources and Conservation. The DNRC, however, will continue to handle water right ownership updates for water rights associated with non-tribal, fee land on the reservation.
2. The above comment is mostly true for both on Reservation and off Reservation. For folks with existing water rights on the reservation, nothing changes in terms of their water right existing and being valid. If they wanted to change the purpose of the right, however, or to add more volume to the right, they would need to apply to the Flathead Reservation Water Management Board for a change rather than the DNRC. So there are changes for folks on the reservation, but they have more to do with process.
3. Domestic wells are not affected.
4. Wells are covered under the protection of State base rights; see reference to Compact in note 5.

5. Article III.G.1 of the CSKT Water Compact Article III.G.1. of the Compact which is about the protection from call of non-irrigation water rights **(including domestic wells)**, both those on and off the reservation:

- a. *"G. Call Protection.*

1. *Non-Irrigators. The Tribes, on behalf of themselves and the users of any portion of the Tribal Water Right set forth in this Compact, and the United States agree to relinquish their right to exercise the Tribal Water Right to make a Call against any Water Right Arising Under State Law whose purpose(s) do(es) not include irrigation."*

III.G.2-6 describe other categories of rights protected from call.

6. There are irrigation rights applicable to large water volume in Flathead Basin upstream of the Reservation which can be called by the CSKT Compact specifically surface water irrigation rights from either the main stem or one of the three forks of the Flathead River and groundwater wells if they have a flow rate greater than 100 gallons per minute. The ability for the tribes to make call on surface irrigation rights from the main stem and the three forks of the Flathead is not limited to those greater than 100 gallons per minute (as it is with groundwater), but there are only 3 irrigation water rights up there that can be called, so it is a very small number.
7. Link here to a [FAQ document](#) about the CSKT Compact. The information in this FAQ is slightly out of date since the registration period for existing state-based rights has passed. It also says that there is no way to get a water right on the reservation until the water engineer is hired, which is also out of date. There is currently an interim process for getting rights for domestic wells approved on the reservation.

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8. If you need to apply for new water rights go to the Kalispell DNRC office if you are located off the reservation. For those who live on the reservation, the Flathead Reservation Water Management Board is now the governing body for the administration and approval of water rights.
9. There is a new Water Board (Flathead Reservation Water Management Board) set up to have authority over water use on the Reservation. Their professional staff in the Office of the Water Engineer (which now has only one employee—several other positions have been advertised) will have the authority to do the day-to-day water rights work similar to a DNRC Regional Water Office. The Board will supervise this work and make the broad policy decisions guiding the Engineer's Office, which includes being the body that an appeal made on a decision by the Engineer would go to. The board members are jointly appointed by the State (2 members) and the CSKT Tribes (2 members). A fifth member is chosen by the original four.
10. The CSKT quantifies tribal rights.
11. The State of Montana has never come to agreement pre compact.
12. Some tribes started in 1970's to ask and litigate regarding their water rights e.g. quantity of water and in stream flow rights. Ultimately, the Montana Legislature created the Reserved Water Rights Compact Commission to negotiate with the Tribes (and Federal entities like the U.S. Forest Service) to proactively agree on what the federal reserved water right associated with the reservation would be. This agreement is the compact. There are 17 other water right compacts in the state.

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13. If you have currently had a water right there is no need to register as it automatically follows with your land title. You may need to fill out an ownership update form to get your name added to the right in DNRC records (form number 608) but sometimes realtors arrange for this to be done as part of the closing.
14. Otherwise, by Montana law you must file your water right with [Form No. 602](#) for your water use and send it to the Kalispell Regional Office, address is at the bottom of the form. The filing cost is \$125. The process is easier for off Reservation than on Reservation.
15. Water use purposes commonly filed for with the 602 form include domestic for house and lawn and garden use.
16. When your water use is equal to or greater than 10 acre feet/year or has a flow rate greater than 35 gallons per minute, you must apply for a permit.
17. The Water Management Board does NOT have jurisdiction over water rights located off the Reservation.
18. [Link here to the Montana DNRC Story Map of the Water Right Compacts.](#)

References

That is mostly true for both. For folks with existing water rights on the reservation, nothing changes in terms of their water right existing and being valid. If they wanted to change the purpose of the right, however, or to add more volume to the right, they would need to apply to the Flathead Reservation Water Management Board for a change rather than the DNRC. So there are changes for folks on the reservation, but they have more to do with process.

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From: Jack Venrick <jacksranch@freedomforallseasons.org>

Sent: Wednesday, July 27, 2022 3:03 PM

To: Harris, Joel <HarrisJ@mt.gov>

Subject: [EXTERNAL] RE: Compact Info Question

Joel –

When you said “Folks with existing water rights nothing has changed.” Did you mean on reservation, only or off or both?

Thanks.

Jack

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From: Harris, Joel [<mailto:HarrisJ@mt.gov>]
Sent: Wednesday, July 27, 2022 2:19 PM
To: jacksranch@freedomforallseasons.org
Subject: Compact Info

Jack,

This [FAQ document](#) about the CSKT Compact should have some helpful information. Since you are located off-reservation, I don't think you need to worry about the numerous questions related to state-based registrations in here. As I mentioned, you can simply file a [form no. 602](#) for your water use and send it to the Kalispell Regional Office (address is at the bottom of the form). More directly relevant to you would be question 14 ("Does the Water Management Board have jurisdiction over water rights located off the Reservation?") to which the answer is no.

In our call, I alluded to Article III.G.1. of the Compact which is about the protection from call of non-irrigation water rights (including domestic wells), both those on and off the reservation:

"G. Call Protection.

1. Non-Irrigators. The Tribes, on behalf of themselves and the users of any portion of the Tribal Water Right set forth in this Compact, and the United States agree to relinquish their right to exercise the Tribal Water Right to make a Call against any Water Right Arising Under State Law whose purpose(s) do(es) not include irrigation."

III.G.2-6 describe other categories of rights protected from call.

Joel Harris

Water Resource Specialist

[Montana Department of Natural Resources and Conservation](#)

Compact Implementation Program

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