

## Introduction to Analysis of Montana's Proposed CSKT Water Compact (S. 262) and Senator Jon Tester's Expansion of the Compact in S. 3013

**NOTE TO THE MONTANA PUBLIC:** The link below will lead you to a 68 page analysis of the Proposed CSKT Water Compact, and Senator Jon Tester's S. 3013, an expansion of the Proposed CSKT Water Compact. **This POWERFUL STUDY TOOL is well worth printing out and studying closely to educate yourselves, your family, friends and elected officials!** Pages 1 through 55 are a precise analytical comparison between Montana Legislature's S. 262 (Compact) and Tester's S. 3013 (Compact). From pages 55-68, however, is an amazing and fully documented discussion of law that affirms the proposed CSKT Water Compact is an unconstitutional, and unlawful "political agreement" (not legal) that removes State authorities and protections over its waters, natural resources and citizens. As noted below, no State official may trample upon the Tenth Amendment:

'Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front. [...] **Where Congress exceeds its authority relative to the States, therefore, the departure from the constitutional plan cannot be ratified by the 'consent' of state officials.[...] State officials thus cannot consent to the enlargement of the powers of Congress beyond those enumerated in the Constitution.**'

Consequently, in the event the Congress ratifies the CSKT Water Compact, and it can be shown that such Compact effectively sanctions the Interior Department's taking of Montanans' private property rights for a public use without payment of just compensation, the effective consent of the Montana legislature and Governor's Office to the CSKT Water Compact via enactment and implementation of it at the state level, **would seem to expose such State officials to potential federal constitutional liability under the 10th Amendment.**



[Excerpt from Lawrence Kogan, Esq., Legal Analysis of S.3013 – *The Salish and Kootenai Water Rights Settlement Act of 2016* and Related Congressional Tribal Forest Management Legislation; p. 59]

Here is the link to the Legal Analysis of Montana S. 262 and Tester S. 3013

[http://www.koganlawgroup.com/uploads/FINAL4\\_Memo -  
KLG Legal analysis of S.3013 The Salish and Kootenai Water Rights Settlement Act of 2016 8-29-1.pdf](http://www.koganlawgroup.com/uploads/FINAL4_Memo_-_KLG_Legal_analysis_of_S.3013_The_Salish_and_Kootenai_Water_Rights_Settlement_Act_of_2016_8-29-1.pdf)