

OUR WATER. OUR VOTE.



BLACKFEET NATION





WHAT WE'LL COVER

History of the Compact

Understanding the Water Compact

Understanding the April 20 Vote

Questions We've Heard from Tribal Members

Open Discussion



HISTORY OF THE COMPACT

Since the 1970s, the Blackfeet Nation has been working with the U.S. Government and the State of Montana to confirm its water rights on the Reservation. The Tribe was given water rights (or Winters Rights) under the Winters Doctrine. **However, the amount of that water was never determined.**

In 2009, the State of Montana confirmed the Blackfeet Water Compact.

The compact then went on for approval by U.S. Congress through the Blackfeet Water Rights Settlement Act.





THEN IN 2016...

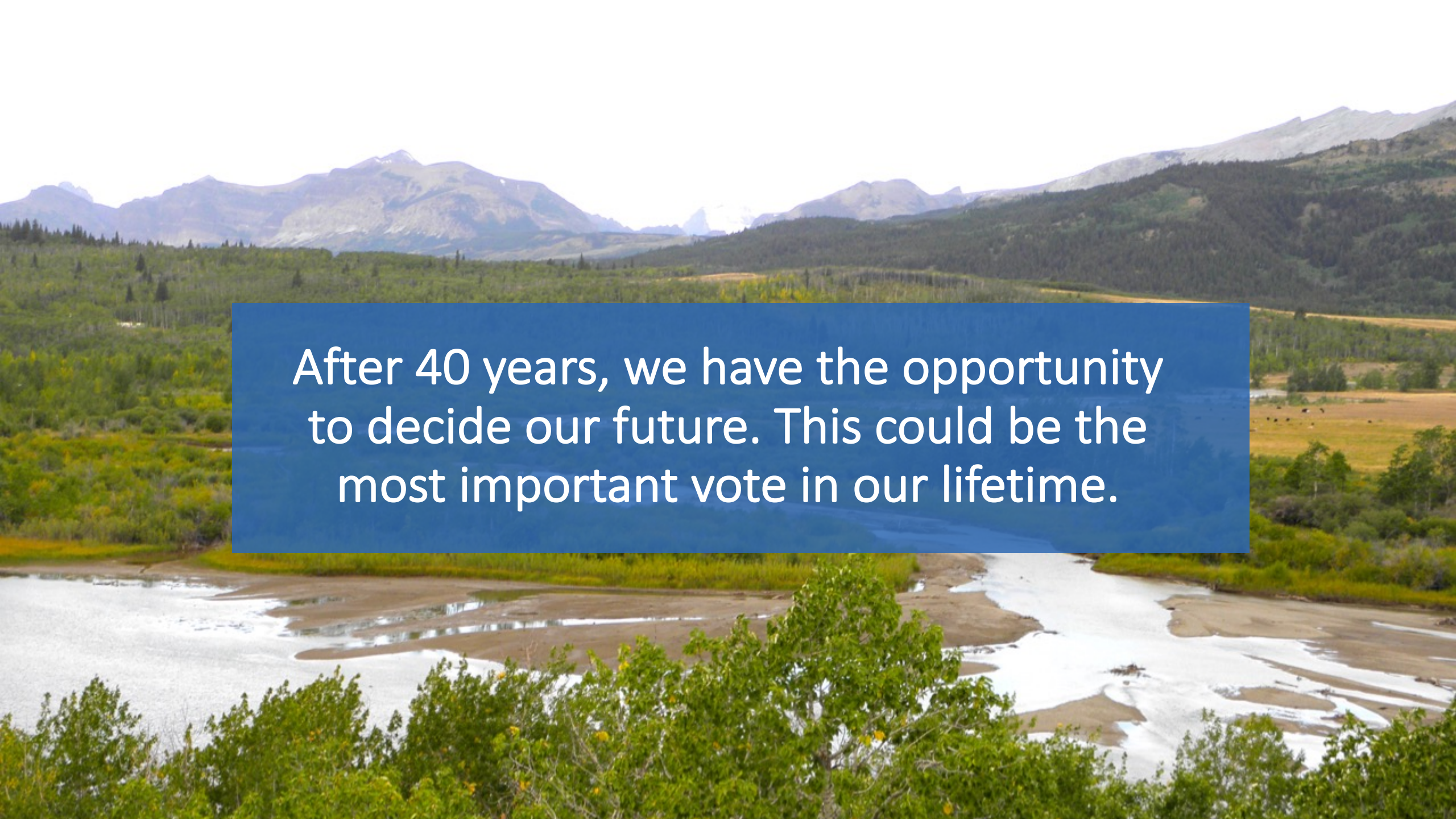
- The United States Congress approved the Blackfoot Water Rights Settlement Act
- President Obama signed the Blackfoot Water Rights Settlement Act into law



NOW IT IS UP TO US

The final step is for the Blackfeet Nation to approve or deny the water compact.

The **upcoming vote on April 20** is the culmination of the efforts of our elders to reclaim control over the waters sacred to our Nation.



After 40 years, we have the opportunity to decide our future. This could be the most important vote in our lifetime.



UNDERSTANDING THE APRIL 20 VOTE



There are two elements to the Water Compact vote:

1

**THE BLACKFEET
WATER COMPACT**

2

**THE BLACKFEET
SETTLEMENT ACT**

1

THE BLACKFEET WATER COMPACT

- A government-to-government agreement among the Blackfeet Nation, the state of Montana and the United States that confirms and quantifies the Tribal water rights (or Winters rights) for the Tribe, tribal members and allottees.
- It also confirms the Tribe's jurisdiction and authority to manage and administer Tribal water rights.




2

THE BLACKFEET SETTLEMENT ACT

- An act of congress that provides federal approval of the compact
- Grants the Tribe \$422 million (in addition to the state contribution of \$49 million) to assist in putting its water to use





YOUR VOTE WILL APPROVE OR DENY BOTH THE WATER COMPACT AND THE SETTLEMENT ACT

- All Tribal members, 18 years and older, are eligible to vote
- Voting must occur **in person** at one of the designated polling locations: Head Start in Browning, Heart Butte, Seville and Old Agency, and the Blackfeet Community College
- Detailed polling location information is available at blackfeetnation.com and in materials available today

What will you be asked on your ballot?

Do you approve the Blackfeet Water Rights Compact negotiated among the Tribe, the United States and the State of Montana, which establishes the federal reserved water rights of the Blackfeet Tribe (also known as Winters rights), and the Blackfeet Water Rights Settlement Act enacted by Congress as Pub. L. 114-322, title III, subtitle G which provides for federal approval of the Compact and authorizes funding for the Compact?

☐

YES

☐

NO

WHAT WILL HAPPEN IF THE WATER COMPACT AND SETTLEMENT ACT IS APPROVED?



- Water rights will be confirmed and quantified
- Jurisdiction and authority over water rights will be confirmed
- \$471 million in state and federal funding will be given to the Tribe for water related projects (\$422 million from the federal government and \$49 million from the State)

WHAT WILL HAPPEN IF THE WATER COMPACT AND SETTLEMENT ACT IS REJECTED?



- The water compact between the Tribe, Montana, and United States will cease to exist.
- The Tribe will not receive any funding from the State or the United States.
- The Tribe's water rights will be litigated in the Montana Water Court where a judge will decide Blackfeet's water rights and will only determine the quantity of water.



THIS IS A VOTE TO TAKE
CONTROL OF OUR WATER.



UNDERSTANDING THE WATER COMPACT



The Settlement consists of:

1

**THE BLACKFEET
WATER COMPACT**

2

**THE BLACKFEET
SETTLEMENT ACT**

THE COMPACT AND THE SETTLEMENT ACT TOGETHER
REPRESENT THE OVERALL SETTLEMENT
THAT WILL BE VOTED ON BY THE MEMBERSHIP

WHAT IS THE WATER COMPACT?

The water compact will reserve and determine the quantity of water needed to fulfill the purposes of the Reservation, for both the present and future.



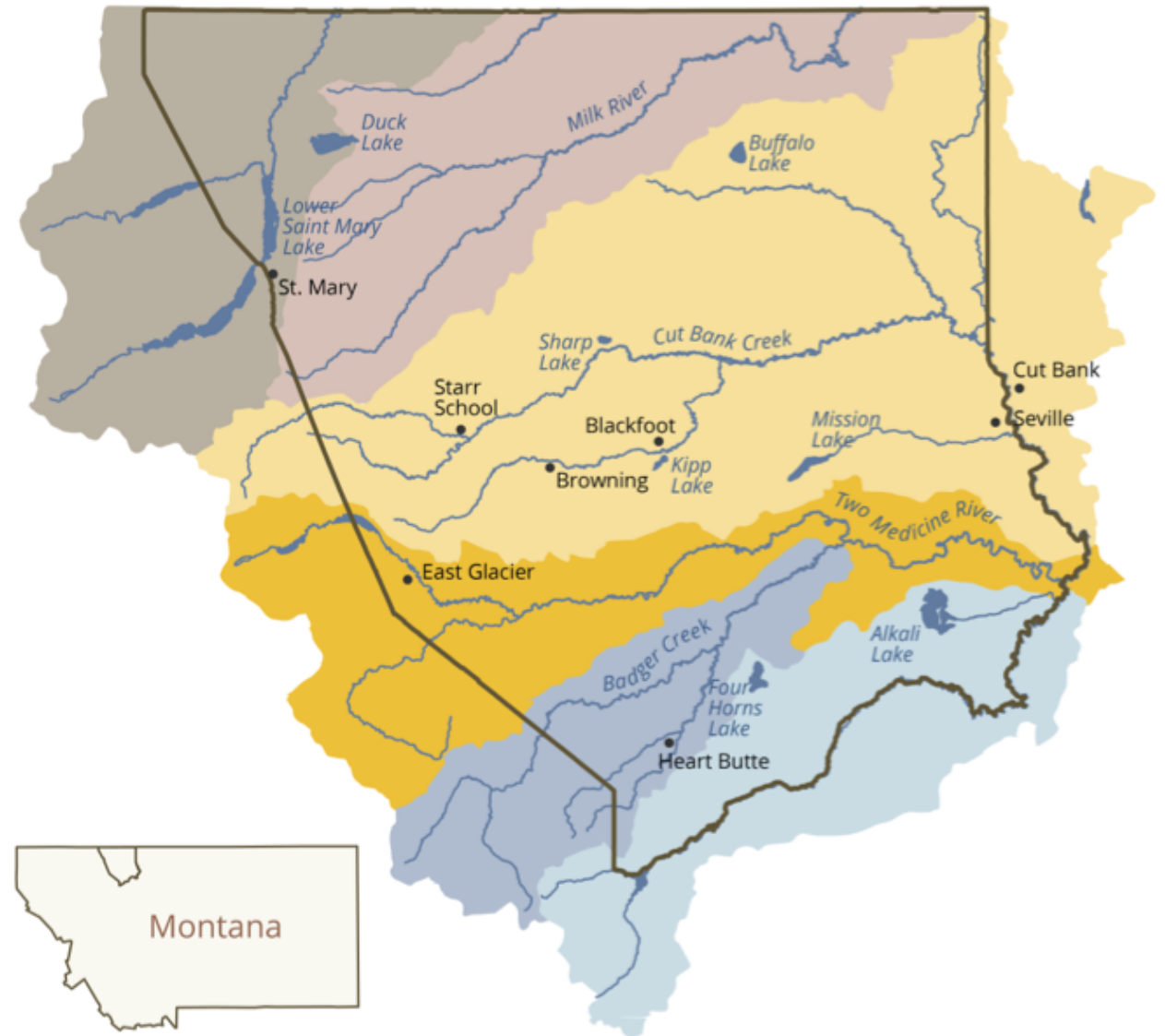
HOW IS THE WATER QUANTIFIED?

All surface and groundwater on the Reservation (minus the amount of State water rights) from the following drainage basins:

- Milk River
- Badger Creek
- Cut Bank Creek
- Two Medicine

50,000 acre-feet annually from the Saint Mary River Basin, plus all of Lee Creek and Willow Creek (minus the amount of State water rights), and all the remaining U.S. share after diversions for the Milk River Project.

125 cfs (approximately 62,000 acre-feet)



Under the proposed compact, the Blackfeet Nation is entitled to nearly

800,000 acre- feet of water annually,

or enough to fill:

260,000,000,000
gallon jugs



OR

800,000
acre-feet
of water
is enough to cover the
entire Reservation 6
inches deep

WHAT ADDITIONAL WATER RIGHTS ARE THERE?

- All water in lakes, ponds, wetlands and other water bodies
- Any water rights associated with acquired lands
- 45,000 acre-feet annually from Lake Elwell (Tiber Dam)
- An instream flow right of the entire natural flow of all streams within the 1895 ceded area





TRIBAL JURISDICTION AND AUTHORITY

- The Tribe will have the exclusive jurisdiction to administer Tribal water under an amended Tribal Water Code
- The State will no longer issue state permits on the Reservation
- Disputes between state water right holders and Tribal water right holders will go to a Compact Board made up of Tribal, Federal and State representatives



HOW DOES THE COMPACT WATER RIGHT COMPARE TO WHAT WE WOULD GET IN LITIGATION?

- How much water would the Tribe potentially get in litigation?
- How much water in the Compact?
- Tiber water would not be available in litigation.
- St. Mary Canal water would not be available in litigation.
- Litigation does not resolve jurisdiction and administration issues.
- Claims against the United States cannot be litigated in the Montana Water Court. Therefore no money would be available in the water rights case.



WHAT IS IN THE SETTLEMENT ACT?

Federal ratification of Compact
Funding for the Compact



The Compact will result in funding for:



Community Water Systems

Provide improved municipal water for all communities on the Reservation to satisfy demands up to the year 2050.



Irrigation Upgrades

Construct new and upgrade existing irrigation systems on the Reservation to increase productivity.

The Compact will result in funding for:



Land Purchase

Acquisition of Reservation fee lands with a focus on those with state water rights.



Support for Water Related Energy Issues

Funds can be used for water related energy issues.

The Compact will result in funding for:



Recreation

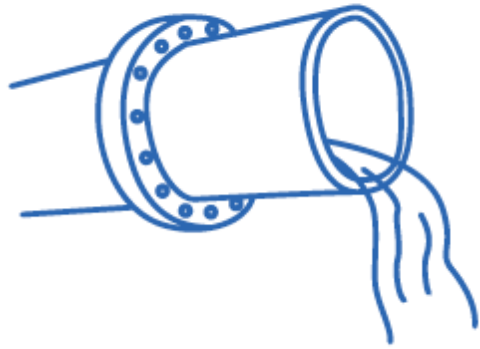
Improvements will be made to recreational lakes throughout the Reservation to improve access and to provide facilities and other improvements.



Fishery Development and Management

Improvements and implementation of fisheries throughout the Reservation.

The Compact will result in funding for:



Four Horns Pipeline, Dam Safety and Other Improvements

A pipeline will be built to provide water to Birch Creek water users under the Birch Creek agreement and then provide water to the Tribe for its own use or to market to others.




Swiftcurrent Project Improvements

Changes and improvements will be made to address environmental concerns relating to use of Swiftcurrent Creek and St. Mary Lake by the Bureau of Reclamation Milk River Project.



QUESTIONS WE'VE HEARD FROM TRIBAL MEMBERS



DOESN'T THE BLACKFEET NATION ALREADY HAVE WATER RIGHTS?

In short, yes. The Tribe has water rights (or Winters rights) that were reserved by treaty in 1855.

But we have never determined quantities.

The compact determines the amount of the Tribe's Winters rights and confirms the Tribe's jurisdiction over those rights.

The negotiated compact, will mean **more water for the Tribe overall and greater control** than if we litigated in court.




DON'T WE OWN ALL THE WATER ALREADY?

- Neither the Treaty nor the Winters Doctrine quantified the amount of water.
- The Treaty does not mention water, but under the Winters Doctrine, the Tribe has reserved water rights sufficient to fulfill the purposes of the Reservation.
- If litigated, the Tribe would have to prove the purposes of the Reservation and the amount of water needed to fulfill each purpose under restrictive court tests.
- The Compact avoids the restrictive court tests and quantifies the Tribe's rights in specific amounts in the Compact. These amounts

WHY IS THE WATER RIGHTS CASE IN STATE COURT?

- McCarran Amendment allows federal water rights to be determined in State Court, including Indian reserved rights
- Court cases challenging state court jurisdiction were unsuccessful
 - Arizona v. San Carlos Apache Tribe, US Supreme Court, 1983
 - Blackfeet v. Hodel, Federal District Court, 1986



HOW WILL THE COMPACT BENEFIT THE TRIBE?

The Tribe will have a reliable, long-term water supply that can be used for:

- Domestic and commercial purposes
- Industrial and municipal purposes
- Farming and stock purposes
- Wildlife habitat and cultural purposes
- And other purposes authorized by the Tribe

The Tribe will have authority to lease or market water on and off the Reservation.



HOW WILL THE WATER COMPACT BENEFIT TRIBAL MEMBERS?

EXAMPLES:

- Upgrades to community water systems will provide cleaner drinking water
- New community projects will create jobs.
- New water projects and water marketing opportunities will create revenue to go back into the Tribal community
- Land purchase will add land to the Tribal land base and generate income
- Blackfeet will have instream flow rights in Glacier National Park and Lewis and Clark National Forest, that will support fish, wildlife, timber and cultural uses.

WHAT WILL THE FUNDING GO TOWARDS? WILL THE FUNDING BE AVAILABLE RIGHT AWAY?

The funds will be appropriated over a period of years and will support:

- Community water systems
- New irrigation projects and improvements to existing irrigations projects
- Four Horns pipeline, dam safety and other improvements
- Recreational lake improvements
- Swiftcurrent environmental improvements and protection project
- Land and water acquisition
- Fishery development and management
- Water related energy development issues



DOES THE TRIBAL WATER RIGHT IN THE COMPACT INCLUDE WATER FOR TRIBAL MEMBERS AND ALLOTTEES?

- Yes. Water for all trust allotments and tribal member fee lands are part of the water right outlined in the Water Compact.
- All existing uses of water by tribal members and allottees are recognized in the Water Compact, including irrigation water, stock water, domestic and other individual uses.
- Most of these existing uses are known, but the Tribe will go through a process of confirming the existing uses once the Water Compact is final.
- For new water uses, a tribal permit will need to be obtained from the Water Resources Department.



WILL TRIBAL MEMBERS AND ALLOTTEES NEED TO PAY FOR THEIR WATER?

- **No. Tribal members do not need to pay for their individual water use such as domestic use, stock water and irrigation on individual lands.**
- Tribal members who receive domestic water through municipal water systems will continue to pay a fee to cover administrative and infrastructure costs to treat and deliver the water.
- Water users within the BIA Blackfeet Irrigation Project will continue to pay operation and maintenance assessments (O&M) to the BIA to cover administrative and infrastructure costs of the irrigation project.

WHAT CLAIMS WILL BE WAIVED (RESOLVED) IN THE SETTLEMENT?

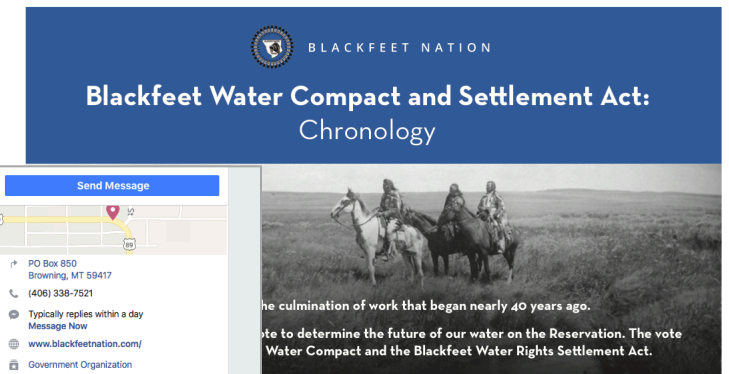
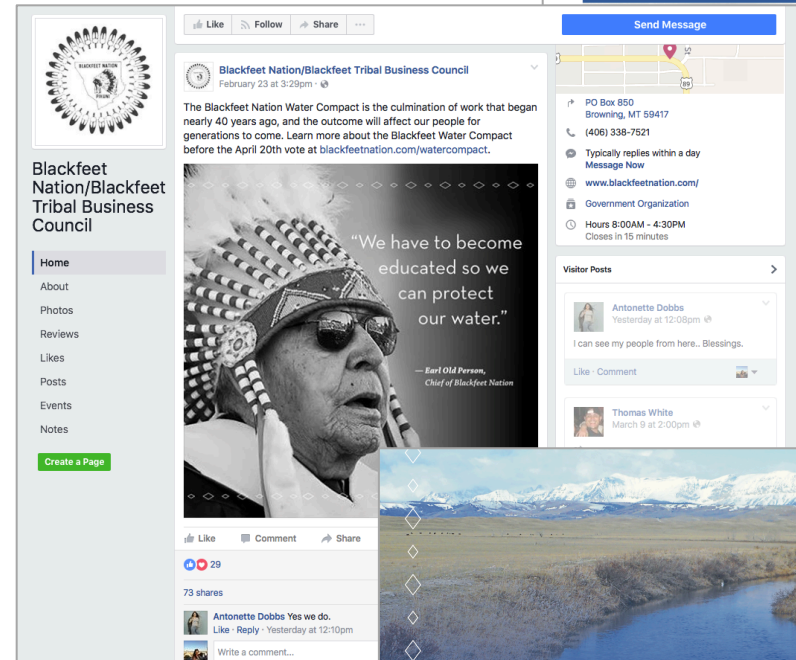
- The Tribe and the United States will waive any claims to water over and above what is contained in the settlement. The water right is intended to be final and will be entered as a court decree.
- The Tribe also waives Tribal, but not individual, water related damages claims against the Federal Government
- No future claims are waived.
- No claims relating to land or title to land are waived. No forced fee patent claims are waived.



WHAT HAPPENS NEXT?

Blackfeet Awareness Campaign

We are currently in the process of educating tribal members of the details of the compact and vote through mailers, postcards, media, radio spots, and Facebook.



ederal court water rights cases for all Montana tribes
ntana files a competing water rights adjudication in
es challenge Montana's jurisdiction over Indian water rights
he Court decides in 1984 that the state of Montana
t to determine Indian water rights in state court
ontinues to challenge state court jurisdiction



d Water Right

ackfeet

ay of litigation





WHAT CAN YOU DO TO HELP?

- Take materials provided tonight and share information with friends and family
- Encourage others to vote – and be sure to vote, too! – on April 20th
- Ask questions.
- Visit the Blackfeet website or call the Water Resources Department at 406-338-7522



OPEN DISCUSSION

