



BLACKFEET NATION

Frequently Asked Questions

About the Blackfeet Water Compact and Settlement Act

What is the Blackfeet Water Compact and Blackfeet Water Rights Settlement Act?

The Blackfeet Water Compact is 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, and confirms the Tribe's jurisdiction and authority to manage and administer Tribal water rights.

The Blackfeet Water Rights Settlement Act is an act of congress that provides federal approval of the compact as well as \$422 million (in addition to the state contribution of \$49 million) to assist the Tribe in putting its water to use.

Blackfeet tribal members will vote on April 20, 2017 to approve or reject the Blackfeet Water Compact and Settlement Act.

What happens if tribal members approve the Blackfeet Water Compact and Blackfeet Water Rights Settlement Act?

If a majority of voting tribal members vote "yes" on their ballots, the water agreement between the Blackfeet Nation, the state of Montana, and the United States will be implemented. This means:

- Blackfeet's reserved water rights (or Winters rights) will be confirmed
- Blackfeet's water rights will be quantified in the state of Montana
- Blackfeet's jurisdiction and regulatory authority over its water rights will be confirmed and established
- Blackfeet will receive \$471 million dollars from state and federal funding for water related projects

What happens if tribal members reject the Compact and Settlement Act?

If tribal members vote "no" on their ballots, the water agreement between the Tribe, Montana, and United States will not be implemented and the Tribe will not receive any funding from the State or United States. The Tribe's water rights will then be litigated in the Montana Water Court where only the quantity and priority date of the Tribe's water will be determined, but claims for money damages cannot be brought.

Does the Settlement Act resolve water related claims against the Federal Government?

With some exceptions, the federal settlement legislation resolves historical water related claims against the federal government, including water related claims for, among other things: (1) the diversion of St. Mary water off the Blackfeet Reservation to the Bureau of Reclamation Milk River Project; (2) the environmental and resource damages caused by the Bureau of Reclamation St. Mary diversion facilities;

(3) claims relating to failure to protect Blackfeet water rights in the 1909 Boundary Waters Treaty; (4) claims relating to the Blackfeet Irrigation Project; and (5) the failure of the United States to protect the tribe's water rights from development by others, particularly on Birch Creek, Cut Bank Creek and the Milk River. Since this is a water settlement, only water related claims are waived. No claims relating to land title or other claims to land are waived.

QUESTIONS ABOUT WATER RIGHTS AND JURISDICTION

What is a treaty reserved water right (Winters Right)?

Indian tribes have unique rights to water that are reserved by the tribe when a reservation is established by treaty or other means. The amount of water reserved is the amount that is needed to fulfill the purposes of the reservation for both the present and the future. The water is reserved as of the date of the treaty and cannot be lost even if it is not used.

Does the Blackfeet Nation have water rights?

The Tribe has reserved water rights (or Winters rights) that were reserved by treaty in 1855. Water was reserved by the Tribe to fulfill the homeland purpose of the Blackfeet Reservation, including irrigation, stock water, domestic, commercial, industrial and municipal uses, fish and wildlife, cultural uses and other uses necessary to provide a homeland for the Blackfeet People.

If the Tribe already has water rights, why would the Tribe negotiate a water compact?

While the Tribe has water rights, the amount (and control) of that water has never been determined. Blackfeet recognized it could obtain more water and significantly greater benefits through a water compact.

Do Blackfeet's water rights include water for tribal members?

The Tribe's water rights include water rights for individual Indian lands held in trust and for individual Indian fee lands.

Who will administer water rights on the Reservation, if the Compact is implemented?

The Tribe will have all authority to administer tribal water rights on the Reservation. The State will administer state water rights. Disputes between tribal water rights and state water rights will be brought before a special compact board made up of tribal, state and federal representatives.

QUESTIONS ABOUT PROJECTS AND BENEFITS

How will Blackfeet benefit from the Water Compact?

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

- Domestic and commercial
- Industrial and municipal
- Farming and stock
- Wildlife habitat and cultural
- Other uses of water may be determined by the Tribe, as appropriate

Water that is not used by the Tribe can also be leased or marketed to others on and off the Reservation.

What other benefits will the tribe receive from the Water Compact?

The Blackfeet Water Compact and Settlement Act will provide \$471 million in state and federal funding for water related projects, which will create job opportunities on the Reservation. Water related projects will include:

- Community water systems
- New irrigation projects
- 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
- Tribal water planning, management and administration

The Tribe will also have the exclusive right to develop hydropower at certain federal facilities.

What is the Birch Creek Agreement?

The Birch Creek Agreement is a separate agreement that addresses impacts to non-Indian Birch Creek water users as a result of the compact. On Birch Creek, the Tribe's water right is increased from the 1908 Conrad Investment Decree of 33 1/3 cfs to 125 cfs, nearly a four-fold increase. This increase has the potential for impacting existing non-Indian use on Birch Creek. Under the Birch Creek Agreement, the tribe will not develop any new Birch Creek water uses for 15 years. The Four Horns Reservoir will be improved and a pipeline built to provide 15,000 acre-feet of water to Birch Creek water users for a total period not to exceed 25 years. As compensation, the State will pay the Tribe \$14.5 million, and will contribute \$20 million for the pipeline project. The Tribe will own and operate the pipeline, and can use it after the 25 years for its own use or to continue to market water to Birch Creek water users or other water users.

QUESTIONS ABOUT INDIVIDUALS' RIGHTS

Does the Tribe's water right in the Water 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.

How do I establish my right to use water?

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 I need to pay for my water?

No. Certain types of commercial or industrial use may require a fee. 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 also continue to pay operation and maintenance assessments (O&M) to the BIA to cover administrative and infrastructure costs of the irrigation project.

Can I sell my water?

No. Individual tribal members will not be able to sell water for the use by others unless it is part of an approved business or commercial use.

For more information:



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