

HB 540
Bonding for Higher Education
And Other State Projects

STATE COST SHARE – FORT BELKNAP WATER COMPACT

- In 2001 the Montana Legislature ratified the Fort Belknap Montana Water Compact. (85-20-1001 MCA)
- This agreement was reached after years of negotiations between the Montana Reserved Water Rights Compact Commission and the Gros Ventre and Assiniboine Tribes of the Fort Belknap Reservation with the participation of the United States and extensive public involvement in the Milk River Basin.
- The Compact allocates water from the Milk River for use by the Tribes while providing a framework for protecting upstream and downstream irrigators in the eight irrigation districts of the Milk River Project as well as water users on the Milk River tributaries.
- The Compact calls for the parties to seek State and Federal funding (“cost-share”) after a process of evaluating the most cost effective mitigation measures – infrastructure improvements with the greatest benefit to the water users. (Ft. Belknap Compact Article VI.B.)
- Authorization of the State’s contribution to settlement (\$11 million proposed) is a critical step in the process.
- The Federal contribution to settlement will be authorized by Congress.
- The proposed \$11 million State contribution (\$9.5 million which is included in HB 540) was developed by the State’s cost-share team which included members of the Compact Commission and staff, DNRC, the (former) Governor’s Budget Director and others.
- Authorization of the funding for Montana’s share of this settlement is critical for a number of reasons:
 - Settlement of litigation of the Tribes’ claims for reserved water rights:
 - Avoids costly and time-consuming litigation
 - Provides practical benefits for all basin water users
 - Major piece of the water adjudication in the Milk River Basin
 - Provides better basin water management as a necessary link to the ultimate repair of the St. Mary’s Canal. The Fort Belknap Compact depends (in turn) on the viability of the St. Mary’s facilities. (Ft. Belknap Compact Article VI.A.)

TESTIMONY OF
CHRIS D. TWEETEN, CHAIRMAN
MONTANA RESERVED WATER RIGHTS COMPACT COMMISSION
BEFORE THE
LONG-RANGE PLANNING APPROPRIATIONS SUBCOMMITTEE
ON HB 540

The Montana Legislature ratified the Fort Belknap-Montana Water Rights Compact in 2001. § 85-20-1001, Mont. Code Ann. The Compact provided that the Compact Commission would return to the Legislature for funding to meet the State's legal obligations under the Compact.

To identify appropriate funding responsibilities, the State convened a Fort Belknap cost-share team, which included members of the Compact Commission, DNRC, the (former) Governor's Budget Director and others. After careful consideration, the team has proposed \$11 million for the State to contribute to satisfy its legal obligations under the Compact.

Under the Compact, the State is legally obligated to contribute three categories of funds to the settlement: 1) for mitigation of impacts from Tribal development on the Milk River Irrigation Project; 2) toward construction of a dam and reservoir on Upper Peoples Creek; and 3) deposits into a Watershed Improvement Trust.

To offset the impact of Tribal development from the Milk River and to allow for more effective administration of water, the Compact obligates the State to provide funding for mitigation measures that supply 35,000 acre-feet of water to the Milk River Project. The Milk River Project is a Bureau of Reclamation project on the Milk and St. Mary Rivers that provides irrigation water to eight Irrigation Districts along the Milk River. Under the Compact, mitigation measures are to be incrementally developed to assure that these measures are in place in advance of development of the Tribal water right.

As part of quantifying the State's responsibilities for mitigation, the Compact Commission authorized a preliminary study to evaluate and cost out projects that provide mitigation water to the Milk River Project. Final selection, design, and construction of mitigation measures will proceed incrementally as the Tribes move to develop water projects from the Milk River.

To protect existing non-Indian upstream water users on People's Creek, and to provide a more reliable water supply for the Tribes, the Compact calls for the construction of a dam and reservoir on Upper Peoples Creek within the Reservation. The reservoir must be designed to hold at least 3,000 acre-feet. The Compact provides that the State will share in the cost of this facility.

The third category of legal obligation is a state contribution to the Watershed Improvement Trust. This trust is set up to improve water management on the Milk River. The Compact calls for the creation of a Milk River Coordinating Committee, which is to have several functions for improved management of the Milk River water supply. One of these functions is the administration of the Watershed Improvement Trust, the interest from which the Coordinating Committee may use to fund grant and loan applications for improved water management in the basin. The Coordinating Committee may authorize loans for projects improving water use efficiency or watershed enhancement, and may issue grants to pay for temporary water curtailment in critical water short periods. The Compact also calls for Federal funding as part of the Watershed Improvement Trust.

Past experience has shown that Congress will not consider a Compact until State funding is in place. Therefore, funding the State Contribution to Settlement at this time is a crucial step in finalizing the Fort Belknap Compact and advancing the adjudication of the Milk River Basin.

LORENTS GROSFIELD

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February 15, 2005

Joint Appropriations Subcommittee on Long Range Planning

RE: HB 540

Dear Honorable Committee Members,

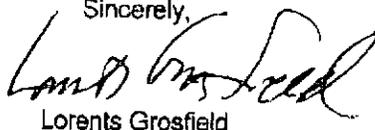
I am a member of the Montana Reserved Water Rights Compact Commission. I actually was a member in the early 1990s for several years while serving in the Montana Senate, and was reappointed a couple years ago as a citizen member.

I am writing in support of HB 540, in particular the portion dealing with funding of the state cost share for the Fort Belnap Water Compact. This compact was 14 years in the making, but will not be fully consummated until approved by Congress. However, as part of the agreement, a state cost share for the benefit of non-Indian users is essential, and must be in place before Congress will consider approving this Compact. And time is of the essence as the Compact can fall apart if funding is not provided within 5 years of the approval of the Compact (which occurred in 2001). If the Compact falls apart it could be very detrimental not only to the Fort Belnap tribes, but the non-Indian water users in the entire Milk River Basin as well.

Good faith shown by the state in following through with this funding will have the additional benefit of being a very positive sign to other tribes the Compact Commission is currently negotiating with. This includes both the Blackfeet and the Confederated Salish and Kootenai.

I am also in support of the portion of HB 540 involving the St. Mary Water Project. This too will be important for the Milk River and Fort Belnap, as well as for compacting with the Blackfeet, which resumed with a very positive start just a month ago.

Sincerely,



Lorents Grosfield

HB 540

**Bonding for Higher Education and other State Projects
House Appropriations Committee**

Gene Etchart Testimony, Proponent

Madam Chair, and members of the Committee,

For the record, my name is Gene Etchart. I am a member of the Montana Reserved Water Rights Compact Commission and have been a rancher/irrigator in the Glasgow Irrigation District for 50 years or more.

I support the part of HB 540 for the Fort Belknap water rights Compact cost-share. I am speaking both as a farmer/rancher in the Milk River basin, and as a member of the Commission.

The state, the Fort Belknap Tribes and the United States have worked for over 15 years to reach a settlement of the Tribal water rights in this basin. The funding of the state's cost share is a very important component of getting the Fort Belknap Compact to Congress.

Moving forward with this funding is particularly timely because of the connection between the Fort Belknap Compact and the rehabilitation of the St. Mary Project. The Milk River irrigators require water from St. Mary's and during dry years about 90% of water in the Milk River comes from the St. Mary Project.

I ask you today to support HB 540 and take us one more step along the path to completing the State of Montana's water adjudication process.

Thank you.

Milk River Irrigation Project Joint Board of Control

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February 9, 2005

Dear Mr. Chairman:

On behalf of the Milk River Joint Board of Control, I write in support of the funding in House Bill 540 for the Fort Belknap water rights Compact cost-share. It is very important that the state's cost-share is funded so that the Fort Belknap Compact can be ready to move to Congress.

Moving forward with this funding now is particularly important because of the connection between the Fort Belknap Compact and the rehabilitation of the St. Mary's project. The Milk River Irrigation Project depends on St. Mary's water. It is also in everyone's best interest to get the Compact finalized as soon as possible so the water court can adjudicate the water rights in the Milk River basin. The funding in HB 540 is an essential part of these efforts.

Sincerely,

Kay Blatter
Chairman
Milk River Joint Board of Control