

EXHIBIT 20  
DATE 3/27/2013  
SB 629

House Judiciary Committee  
Hon. Krayton Kerns, Chairman  
63<sup>rd</sup> Montana State Legislature  
Capitol Building  
Helena, Montana

March 27, 2013

**RE: House Bill No. 629 "Implement negotiated compacts with Montana Tribal governments"**

Chairman Kerns and Committee Members:

The Montana Indian Caucus ("Caucus") supports the passage of House Bill 629, a bill that would ratify the water compact entered into by the Confederated Salish and Kootenai Tribes ("CSKT"), the State of Montana, and the United States of America.

The compact agreement entered into with the CSKT ends the DNRC Reserved Water Rights Compact Commission's ("Compact Commission") long-awaited negotiation process. Montanans should be celebrating this accomplishment, as it brings closure to the unadjudicated status of all water rights on the Flathead Reservation. Although the Montana Supreme Court has expressly stated that Montana Tribes' reserved water rights "are superior to state appropriative water rights," they have not been quantified as to amount or priority on the Flathead Reservation. *Confederated Salish & Kootenai Tribes of the Flathead Reservation v. Stults*, 2002 MT 280, ¶ 61, 312 Mont. 420, 49 P.3d 1093 (Nelson, J., concurring). The Compact Commission has negotiated seventeen compacts to quantify and prioritize water rights, including eleven compacts with the federal government and six with Montana Tribes.

The consequences of not ratifying the CSKT compact at this juncture cannot be understated. If the current legislature does not ratify the compact, there will be no protection for any water user from decades of expensive litigation in water court. For example, when water rights negotiations went stale with the Wind River Reservation, litigation ensued for nearly 30 years with total estimated costs in the range of \$30 to \$60 million.

The State of Montana also stands to reap additional benefits from ratifying the CSKT compact. In return for the Tribes' acquiescence in negotiating a compact, the federal government grants a contribution to the state. For example, under the Crow compact, Montana received \$430 million in federal contributions to improve water management and infrastructure. Similarly, Montana could receive federal funds to improve the irrigation project on the Flathead Reservation. In other words, by ratifying the CSKT compact, Montana could receive substantial sums of money instead of paying out substantial sums of money in decades of litigation.

The Caucus believes that House Bill 629 should be passed, as all the other compacts have been passed. The Compact Commission grounded the CSKT compact in sound science and competent legal counsel. It is our understanding that concessions have been made on both sides to make this agreement work. Montanans have trusted this process before, and they should trust it now. It is time to finish out this agreement and honor the parties' hard work over the past ten years. Accordingly, the Caucus strongly encourages this Committee to pass House Bill 629.

Sincerely,

Montana American Indian Caucus