

STATUS OF FORT BELKNAP WATER RIGHTS COMPACT

SETTLEMENT PROCESS

A 1952 Congressional action—the McCarren Amendment—provided for the settlement of federal reserved water rights claims in state courts. A federal reserved water right is a right to use water authorized by an act of Congress, a treaty, or an executive order establishing a tribal or federal reservation.

The Reserved Water Rights Compact Commission (RWRCC) was authorized to negotiate settlements with federal agencies and Indian tribes claiming federal reserved water rights within the state of Montana. The amount of water the reservation is entitled to depends on the purpose for which the land was reserved. Settlements must be ratified by the Montana Legislature and the tribal councils. Congress must approve federal appropriations to implement provisions of the settlement, as is the case for the Fort Belknap Indian Community. As a final step, the Montana Water Court must also approve all settlements.

2001 COMPACT

After years of negotiation with the RWRCC, the Montana Legislature approved a water rights compact with the Fort Belknap Indian Community of the Fort Belknap Reservation in 2001.

The compact allocates 645 cubic feet per second from the Milk River to the tribes, limited by the U.S. share of the natural flow of the Milk River and the tribal capacity to develop the water. When uses upstream of the reservation interfere with the tribal water right, the tribes will obtain water from the federal Milk River Project.

Also under terms of the compact, the tribe may withdraw from the compact after 5 years under certain conditions, such as inaction by Congress. The state may also withdraw under similar conditions.

Neither Congress nor the Fort Belknap Indian Community have approved the compact. The Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community Water Rights Settlement Act was introduced into the U.S. Senate in 2019 and to the U.S. House of Representatives in 2020.