



Water Policy Interim Committee

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65th Montana Legislature

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June 28, 2018

The Hon. Ryan Zinke
Secretary of the Interior
Department of the Interior
1849 C St., N.W.
Washington, D.C. 20240

Secretary Zinke,

The Water Policy Interim Committee of the Montana Legislature respectfully requests that our Congressional delegation and the Department of the Interior communicate and collaborate with the state of Montana to ensure that our state's progress in resolving historical water rights and finalizing tribal water rights remains on track. Doing so would ensure legal certainty for thousands of Montana farmers, ranchers, homeowners, citizens, cities, and towns.

Montana's Constitution states that all waters "are the property of the state for the use of its people." Two entities—the Montana Water Court and the Department of Natural Resources and Conservation—process historic uses (pre-1973 claims) and modern uses (post-1973 permits) of water. These two processes are establishing more than 360,000 water rights. Each water right is a valuable property right.

The committee requests cooperation in two areas: with the filings of historic "claims exempt from filing" and with certain tribal water settlements.

Recently, the Montana Legislature allowed some domestic and stock water users to file their historic claims, which are commonly referred to as "claims exempt from filing." The committee hopes the Department of the Interior uses its discretion and strategically limits its filings, which will keep costs in check and help the Montana Water Court complete its work.

Federal agencies and eight tribes hold water rights in Montana. The state of Montana has negotiated settlements with all federal agencies and tribes, most recently with the Department of the Interior's Fish and Wildlife Service and with the Blackfeet, the Crow, and the Confederated Salish and Kootenai tribes. While the Montana Legislature has approved all of these settlements, some await ratification by the U.S. Congress. Until this ratification is received, the Montana Water Court cannot finalize the thousands of affected rights. This delay keeps water rights near a reservation in uncertain status. The committee asks our

Congressional delegation to immediately act on settlements for the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Reservation and the Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation.

The department has aided tribes in these settlements. Two tribes, the Blackfeet and the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Reservation, are allowed to resolve the allocation and relative priority of water rights between the two on the Milk River. We ask the department to help expedite these discussions for the same reasons expressed above—cost containment and efficiency.

When the Montana Water Court decrees, or finalizes, all historic (pre-1973) water rights, the state will have possibly the most complete water rights framework in the West. The committee appreciates the department's honesty and integrity, while participating in our state's water right system, and hopes for future cooperation on these issues.

Sincerely,
Sen. Pat Connell
Chairman, Water Policy Interim Committee, Montana Legislature

Cc: Sen. Steve Daines
Sen. Jon Tester
Rep. Greg Gianforte