

## S.3019: Montana's Water Grab – Why the CSKT Compact Sinks Farmers and Families

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In the shadow of the Swan Range, where the Flathead River carves life into Montana's rugged paradise, a quiet catastrophe brews. Five years after Congress rammed through S.3019 – the so-called Montana Water Rights Protection Act ratifying the Confederated Salish and Kootenai Tribes (CSKT) Water Compact – Western Montanans are still reeling. What was sold as a "fair settlement" for tribal water rights has instead become a floodgate of overreach, stripping sovereignty from states and counties, gutting water access for farmers and families, and igniting community rifts that could scar the Big Sky for generations. This isn't protection; it's plunder. For the 350,000 souls in the Flathead Basin alone, S.3019 isn't just bad policy – it's a betrayal of the Montana way of life.

The compact's roots trace back to a 2015 deal shrouded in secrecy and suspicion, one that "exposes tensions in communities" like few issues before it. Non-tribal irrigators, who outnumber Native irrigators five-to-one on the reservation, watched in horror as the agreement slashed their historical water usage by up to half, handing unprecedented control to the tribal government. "It's not against the Indian people," insisted Tim Orr, a tribal member and vocal opponent turned reluctant exile from tribal leases. "It's against this compact and the tribal government." Yet for critics like Orr, the fallout was personal: lost leases, halved crop yields on "gravel ground that will dry up," and friendships shattered. Neighbor Jerry Johnson, a lifelong Flathead resident, sold his land and fled the valley, hounded by social backlash for daring to question the deal. These aren't abstract debates – they're families fractured, livelihoods liquidated.

Fast-forward to 2020, when Sen. Steve Daines

slipped S.3019 into a must-pass spending bill, bypassing real scrutiny. Opponents like state Sen. Al "Doc" Olszewski cried foul from the start, warning that the legislation "expands CSKT sovereignty by rewriting federal laws from the early 20th century." The bill redefines the "Reservation" to grant the tribes civil and criminal jurisdiction over non-Native Montanans – including those just passing through on public roads. Lake County, already locked in federal court defending its right to maintain county highways, faces existential threats. "I am completely opposed to Daines' legislation because of its devastating impact upon the sovereignty of the State of Montana and its western counties," Olszewski thundered. Joined by a bipartisan chorus of Republican lawmakers and county commissioners, he urged Daines to yank the bill: "Western Montana and our counties... have been on the table for the negotiations."

The water itself tells the starker tale of inequity. S.3019 quantifies vast tribal rights – including off-reservation claims stretching into 51 of Montana's 85 adjudication basins – while sidelining non-tribal users. Critics decry it as a "bait and switch fraud," where Montana capitulated to federal and tribal demands, conflating reserved rights with expansive fishing claims under the 1855 Hellgate Treaty. The result? A compact that dismisses 10,000 claims covering two-thirds of the state without prejudice, leaving non-tribal water holders in perpetual limbo. Even the Montana Water Court's ongoing review – with a preliminary decree in 2022 and objections still echoing into 2025 – underscores the mess: users must prove "material injury" to fight back, a burden that favors the deep-pocketed parties.

For everyday Montanans, the ramifications are visceral. Ranchers stare down curtailed irrigation, watching hayfields wither and cattle herds thin – a direct hit to an ag economy that

pumps \$1.2 billion annually into the region. Lake County Commissioner Gale Decker warns of ripple effects: influxes of construction jobs from the compact's \$1.9 billion federal payout could swell populations, spiking crime from drug and human trafficking, and overwhelming understaffed sheriffs. "We're worried about our law enforcement," Decker said bluntly. And the land grab? S.3019 mandates swapping 36,808 acres of state school trust lands – public assets generating revenue for Montana kids' education – without a whisper of consent from the Board of Land Commissioners. Toss in the uncompensated handover of the National Bison Range, and taxpayers foot a bill that's less settlement, more shakedown.

Even if the compact "fails" in Water Court – a slim hope, as the court can only approve or reject, not amend – the danger lingers. Parties could resurrect those 10,000 claims, plunging the basin into costlier litigation. "Our constitutional water rights are worth fighting for, even if it means going to court," Olszewski declared. Yet fear tactics from compact backers – claims that rejection means every rancher hires a lawyer – have cowed too many. Meanwhile, alternatives like the "People's Compact" gather dust: a fairer quantification under the Winters Doctrine (529,000 acre-feet, no off-reservation sprawl) with per capita tribal payouts, ensuring equity without erasure.

Montana's waters aren't infinite, and neither is our patience. S.3019 didn't resolve a dispute; it weaponized one, pitting neighbor against neighbor in a zero-sum scramble. Legislators in Helena must act – revisit the compact, amplify local voices, and champion solutions that honor all users, tribal and non-tribal alike. Otherwise, the Flathead's troubled waters will swallow the very communities that made Montana legendary. It's time to drain the swamp – before it drowns us all. 

The time is coming when everything that is covered up will be revealed, and all that is secret will be made known to all. *Luke 12:2*

# Montana Lawfare?

## S.3019 Water Compact

## S.1967 The Protect Act

# Recall Senator Daines?