



Date: March __, 2025
Subject: Custody of “Suspended Registrations” on the Flathead Reservation

This document describes DNRC’s limited role accepting and completing initial data entry for certain water right registration applications, prior to transmitting the applications to the Flathead Reservation Water Management Board for processing.

Background

The Montana Supreme Court rulings in the *Ciotti* “trilogy”¹ held that DNRC lacked authority under state law to grant new water use permits on the Reservation until quantification of the Tribal Water Right was complete. As a result, DNRC could not process or grant applications for new water rights within the Reservation. This included water uses that are an exception from water right permitting criteria, pursuant to § 85-2-306, MCA. DNRC accepted – but did not process – 1,374 registrations for certain water uses (using Form Types 602 and 605) between August 31, 1999, and September 16, 2021. DNRC completed initial data entry on these registrations and designated them in “Suspended” status in the Water Rights Information System. DNRC refers to these 1,374 registrations as “Suspended Registrations.”

The CSKT-MT Compact went into effect on September 17, 2021. The CSKT-MT Compact designated a joint state-tribal governing entity called the Flathead Reservation Water Management Board (FRWMB) to administer water uses on the Flathead Reservation, pursuant to the Unitary Administration and Management Ordinance, § 85-20-1902, MCA. Section 2-1-106(2) of the Ordinance allows for the registration of suspended existing uses that were developed on or after July 1, 1973, at a volume and flow rate that would qualify as an exception to the permit requirements of § 85-2-306, MCA, and for which a Notice of Completion of Groundwater Development (DNRC Form 602) or an Application for Provisional Permit for Completed Stock Water pit or Reservoir (DNRC Form 605) was filed with the DNRC but not processed by the DNRC.

¹ See *Confederated Salish & Kootenai Tribes v. Clinch*, 2007 MT 63, ¶ 34, 336 Mont. 302, 317, 158 P.3d 377, 387 (overruled by *In re Est. of Big Spring* on other grounds) (citing *Matter of Beneficial Water Use Permits*, 278 Mont. 50, 923 P.2d 1073 (1996) (*Ciotti*); *Salish and Kootenai Tribes v. Clinch*, 1999 MT 342, 297 Mont. 448, 992 P.2d 244 (*Clinch*); *Salish and Kootenai Tribes v. Stults*, 2002 MT 280, 312 Mont. 420, 59 P.3d 1093 (*Stults*)).

FRWMB will process all Suspended Registrations. DNRC held these registrations until the FRWMB completed setting up its initial operations.

Next Steps

DNRC will transfer Suspended Registrations to the FRWMB in March 2025. In the scanned documents associated with each registration, the DNRC included a Water Right Abstract showing the information that DNRC entered. This initial Abstract showing a DNRC header is for historical documentation only. FRWMB is responsible for determining whether each application is correct and complete and authorizing water rights, as applicable.

The FRWMB will contact registration owners if they need additional information and will notify owners when they complete processing. If you have immediate questions, please contact FRWMB by emailing contact@frwmb.gov, calling (406) 201- 2532, or visiting the office at 400 Main St. SW, Ronan, MT 59864.

