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**STATEMENT OF LIEUTENANT GOVERNOR KRISTEN JURAS
ON BEHALF OF THE STATE OF MONTANA
BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS
S. 1987, A BILL TO PROVIDE FOR THE SETTLEMENT OF THE WATER RIGHTS
CLAIMS OF THE FORT BELKNAP INDIAN COMMUNITY, AND FOR OTHER
PURPOSES**

JULY 12, 2023

Chair Schatz, Vice Chair Murkowski, and distinguished members of the Senate Committee on Indian Affairs, I thank you for the opportunity to provide written testimony today. My name is Kristen Juras, and I am the Lieutenant Governor of the State of Montana. I am here to testify on behalf of the State of Montana and Governor Greg Gianforte in support of Senate Bill 1987, a bill to provide for the settlement of the water rights of the Fort Belknap Indian Community, and to urge your approval of this legislation.

The Fort Belknap Indian Community-State of Montana water rights compact was approved by the Montana Legislature and signed by then-Governor Judy Martz in 2001. Mont. Code Ann. § 85-20-1001, *et seq.* It is now the last reserved water rights compact in Montana requiring congressional ratification, and it is a particularly historic settlement given that the Fort Belknap Reservation was the site of the dispute that gave rise to the U.S. Supreme Court’s seminal Indian water rights ruling, *Winters v. U.S.*, 207 U.S. 564 (1908). Montana is very pleased to provide its support for S. 1987 and greatly appreciates the leadership and commitment demonstrated by the Fort Belknap Indian Community, Community Council President Jeffrey Stiffarm, and all tribal officials, staff, and members who have worked on this settlement over the years. The State is also appreciative of support for the settlement from essential stakeholders, such as Phillips County, Hill County, Valley County, Blaine County Conservation District, St. Mary Rehabilitation Working Group, Milk River Joint Board of Control, and the Montana Stockgrowers Association, among others.

Montana has been remarkably successful in resolving both Indian and federal reserved water rights claims through settlement negotiation. In 1979, the State created the Montana Reserved Water Rights Compact Commission (“Commission”) specifically to negotiate, on behalf of the Governor, compacts with Indian tribes and federal agencies claiming reserved water rights in the state of Montana. The Commission was established as an alternative to litigation, as part of Montana’s statewide water rights adjudication, and was charged with negotiating compacts “for the equitable division and apportionment of waters between the state and its people and the several Indian tribes” and the federal government. Mont. Code Ann. § 85-2-701 (2021).

Since the Commission's inception, Montana has successfully concluded compacts with each tribe and federal enclave claiming reserved water rights within state borders, for a total of 18 different compacts that have been enacted into law. *See*, Mont. Code Ann. §§ 85-20 Parts 2-19. Between 1992 and 2020, Congress enacted legislation ratifying water rights settlements between the State and the Northern Cheyenne Tribe, the Chippewa Cree Tribe, the Crow Tribe, the Blackfeet Tribe, and the Confederated Salish and Kootenai Tribes ("CSKT"). With the exception of the CSKT compact, which is presently undergoing the Montana Water Court decree process,¹ each of those compacts, along with the State's water rights compacts with the Fort Peck Tribes and the various federal enclaves in Montana administered by the Bureau of Land Management, the National Park Service, the U.S. Fish and Wildlife Service, and the U.S. Forest Service, have been finally decreed by the Montana Water Court and are being implemented.

Further, the Montana Legislature, in working alongside political leadership and our tribal and federal negotiating partners, has repeatedly appropriated millions of dollars in state support for Indian water rights compacts. The State has already fully funded the State's contributions contemplated by S. 1987, which are intended to support the construction of a dam and reservoir on Peoples Creek. Construction of this infrastructure effectuates one of the compromises struck in the compact, recognizing the Fort Belknap Tribes' legal entitlement to water while protecting existing off-reservation water uses that are junior in priority. Montana's commitment to such contributions has created immeasurable benefits to tribes as well as state water right holders, including irrigators, municipalities, and others. Montana's compacts frequently involve complicated and contested natural resource allocation, and by investing in mutually negotiated outcomes, Montana has resolved these disputes in a pragmatic fashion that reduces conflict and expense and creates economic drivers for reservation and regional economies.

The Fort Belknap compact is a paradigmatic example of these mutual and diverse benefits, and S. 1987 is a critical component in securing those benefits. The Tribes speak eloquently about the importance of this compact to their ability to provide clean drinking water to their members and to use the Fort Belknap Reservation's water resources for their benefit. The Milk River is the largest of the four drainages addressed in the compact. From its source on the Blackfeet Indian Reservation, and as it runs several hundred miles along Montana's Hi-Line, finally reaching its confluence with the Missouri River, the Milk River is the lifeblood of one of the earliest irrigation projects developed by the Bureau of Reclamation. The Milk River Project ("Project") irrigates over 120,000 acres and provides water to four municipalities, two rural water systems, and two tribal communities. It relies on aging infrastructure, particularly the components of the trans-basin diversion from the St. Mary River to the Milk River system located on the Blackfeet Indian Reservation. S. 1987 provides critical funding to ensure the rehabilitation of that diversion and other critical Project infrastructure, which is essential to the economic vitality of northcentral Montana, including the Fort Belknap and Blackfeet Indian Reservations.

Section 6 of S. 1987 also provides for the transfer of certain federal lands to be held in trust for the benefit of the Fort Belknap Indian Community and authorizes a federal-state land

¹ After passage by the Montana Legislature, ratification by Congress, and ratification by the tribe or tribes associated with the reservation, compacts proceed through the Montana Water Court adjudication process as the same is established by the Montana Water Use Act, Title 85, Chapter 1, Part 2.

trade process to further augment consolidation of the Tribes' on-reservation land base and reduce jurisdictional conflicts between the Tribes and the State. The State supports this effort while remaining mindful of its constitutional mandate to maximize the value received from State trust lands for the benefit of Montana's schools and other public institutions. To fulfill its fiduciary obligations as trustee, it is essential that Montana have the ability to work with both the U.S. Bureau of Land Management and the U.S. Forest Service to identify suitable federal lands to trade for State trust lands identified in Section 6. S. 1987 provides that authority, which is an important component of our full support for this legislation.

In closing, I want to reiterate my appreciation for the opportunity to provide this testimony. Montana is unique in how it has approached reserved water rights within its borders, choosing to negotiate and collaborate with its tribal and federal partners, rather than pursue protracted, divisive, and expensive litigation. It is through this process that all parties can stand before you today, in support of this truly historic settlement quantifying the reserved water rights of the original *Winters*-case Tribes. This settlement implements the final reserved water rights compact in Montana and reflects the culmination of nearly a half-century of dedicated work. It provides essential support for the needs of the Fort Belknap Indian Community and its members. It ensures the continued vitality of the agricultural economy of northcentral Montana. Montana is proud to stand with its partners in advocating the passage of this meaningful water right settlement which brings a chapter of Montana history to a close.

On behalf of the State of Montana, I am proud to support the passage of S. 1987 and encourage you to do so.