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Historic Fort Belknap Indian Community Water Settlement Introduced Dec. 19 in the U.S. Senate

Dec. 20, 2019 — On Thursday, Dec. 19, Sen. Jon Tester (D-MT) introduced the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community Water Rights Settlement Act of 2019 in the U.S. Senate. The Act will ratify the FBIC Water Compact with the State of Montana, settle claims against the United States for mismanagement of tribal water resources with funding for critical water infrastructure development, and return sacred FBIC lands to federal trust.

With the support of a broad array of stakeholders, the Water Rights Settlement Act also will provide certainty for both tribal and non-tribal water users, help boost the economy on and off the Fort Belknap Indian Reservation, and protect the rights of irrigators in north-central Montana. It has been a long road to get to this historic moment, according to attorneys with Fredericks Peebles and Patterson LLP, which has been involved in this effort for three decades.

Attorney Thomas W. Fredericks began working with FBIC in the late 1980s. The first major achievement came with the approval of the Water Compact of 2001, after which Fredericks and attorney Jeremy Patterson began preparing a water rights settlement bill for Congressional approval. Working at both the local level and in Washington, D.C., attorneys Joanne Curry and Rollie Wilson shepherded the bill to Sen. Tester's formal introduction in the U.S. Senate yesterday.

"With the vital leadership of the FBIC Council, supported by its water team, we worked nonstop this past year, determined to introduce a strong bill in Congress that fully satisfies FBIC's claims," Wilson said. "The bill is supported by the Rocky Mountain Tribes, the State of Montana, local County Commissioners, irrigators, and conservation groups and we will be working hard to move the bill through Congress."

Wilson observed that the introduction in Congress brings FBIC one step closer to resolving long-standing issues regarding its water rights. Andy Werk Jr., president of the FBIC Council, governing body of the Gros Ventre and Assiniboine Tribes in north-central Montana, agreed.

"During treaty negotiations in the 1800s, our tribes agreed to settle and reside on a small portion of our ancestral lands in what would become the Montana Territory," he said. "Congress wanted us to become farmers and to irrigate our lands, but to do that, we needed water. The U.S. Supreme Court ruled in 1908 that we have Indian water rights for our reservation.

"The Water Rights Settlement Act will confirm our water rights and provide critical funding for the rehabilitation and expansion of our Indian irrigation project and the development of our water," Werk continued. "This will allow us to improve the economic conditions of our tribal members. It will also provide certainty to water users on and off our reservation."

President Werk referred to the important 1908 *Winters v. United States* case that affirmed that negotiations and agreements between tribes and the U.S. government to establish Indian reservations included the water rights necessary to develop sustainable homelands. As a result, tribes across the country have entered into water rights settlements with the federal government as a means to secure legal recognition of their water rights, funding for water development projects, and certainty for other water users.

According to Fredericks Peebles & Patterson, the legislation has broad support from on- and off-reservation irrigators who will benefit from the agreements, which will allow them to continue to use waters shared with FBIC, as originally negotiated in the Water Compact of 2001, which was overwhelmingly approved by the Montana State Legislature with bipartisan support.

“We expect the Water Rights Settlement Act introduced by Sen. Tester to be scheduled for a hearing in the Senate in the near future,” Wilson said. “We and the Fort Belknap Indian Community look forward to its passage.”

“Our tribes, who have called this land home since time began, are in the best position to protect and manage our water resources,” Werk said. “Water is a precious resource and sacred to our people. This Water Rights Settlement Act helps us manage our waters in a way that will provide better infrastructure, jobs, and positive economic development that benefits our current and future generations.”

Werk observed that the U.S. government mismanaged and neglected the Gros Ventre and Assiniboine Tribes’ water for more than a century. The Water Rights Settlement Act provides funding and non-monetary compensation to settle the tribes’ claims against the federal government. It also includes funding to improve irrigated lands, establish a tribal water authority to administer water resources, construct domestic water supply and wastewater treatment infrastructure, and promote economic development on the Fort Belknap Indian Reservation to provide opportunities for—and improve the health and well-being of—tribal members.

The Water Rights Settlement Act also provides protections and funding for other water users in the region to help ensure that existing water uses can continue as the tribe develops and uses its water resources. Non-monetary compensation consists of the return of certain lands, such as the return of former reservation lands, including critical headwaters, that were taken under the Grinnell Agreement of 1895.

One of the country’s only majority native-owned law firms, Fredericks Peebles & Patterson has offices in Sacramento, California; Louisville, Colorado; Rapid City, South Dakota; and Washington, DC. To learn more, visit www.ndnlaw.com.

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