

OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR



KRISTEN JURAS
LT. GOVERNOR

March 28, 2022

Secretary Deb Haaland
U.S. Department of the Interior
1849 C Street N.W.
Washington, DC 20240

Secretary Tom Vilsack
U.S. Department of Agriculture
1400 Independence Avenue S.W.
Washington, DC 20250

Dear Secretaries Haaland and Vilsack:

On December 27, 2020, the President signed Public Law 116-260, which included the Montana Water Rights Protection Act (MWRPA). The MWRPA authorized and confirmed the water rights settlement entered into by the United States, the State of Montana, and the Confederated Salish and Kootenai Tribes of the Flathead Reservation of Montana (CSKT Compact). Section 13(j) of the MWRPA provides for the exchange of certain State trust lands located within the Flathead Indian Reservation for federal public lands located in Montana. 134 Stat. 3035-3037.

More specifically, Sec. 13(j)(2)(A) provides:

The Secretary concerned shall offer to negotiate with the State for the purpose of exchanging public land within the State for State trust land located within the Reservation with a total value substantially equal to the value of the surface estate of the approximately 36,808 acres of State trust land...

Section 13(j)(3)(A) provides:

In carrying out paragraph (2), the Secretary concerned shall, during the 5-year period beginning on the date of enactment of this Act, give priority to an exchange of public land within the State for State trust land owned by the State.

The State of Montana formally requests to meet with representatives of the Secretaries of Interior and Agriculture to commence these discussions, with the participation of representatives of CSKT. This effort will require cooperation and coordination among your Departments, the State, and CSKT to ensure the exchange of State trust land for federal public land occurs in accordance with Pub. Law No. 116-260 and is in alignment with the State's unique constitutional obligation

March 28, 2022

Page 2

to manage State trust lands for the benefit of the common schools and the other endowed institutions of Montana.

There are a number of critical items that will require further discussion among the Departments, the State, and CSKT, including the identification and availability of those State trust lands that could ultimately be included in the land exchange proposal. Not all State trust lands within the Flathead Reservation will be eligible for exchange. For example, MWRPA Section 13(j)(4) provides "State trust land that is not adjacent to Tribal land shall not be eligible to be exchanged under this subsection."

Similarly, Montana state law establishes criteria to be considered by the Montana State Board of Land Commissioners (Land Board) in determining which State trust lands may or may not be in the trust's best interest to exchange. The Land Board considers a number of factors before approving any proposed land exchanges, including value, revenue generation, long-term appreciation, and proximity to navigable waters. Lands acquired in an exchange must also provide public access and, where feasible, consolidate State trust land holdings.

The State would also appreciate an opportunity to discuss how the Departments intend to comply with Section 13(j)(2)(D) to minimize financial impacts on local governments. Further, the State is interested to hear about the timing and allocation of federal funding to accomplish the land exchange as outlined in Section 13(j)(2)(E).

The State of Montana looks forward to an initial meeting with officials from your Departments and representatives of CSKT to further discuss the land exchange process. Please contact Lieutenant Governor Kristen Juras at 406-444-5550 or kristen.juras@mt.gov in order to schedule this meeting.

Sincerely,



Governor Greg Gianforte
State of Montana

cc: Senator Jon Tester
Senator Steve Daines
Representative Matt Rosendale
Director Kaster, Montana Department of Natural Resources & Conservation
Chairman McDonald, Confederated Salish & Kootenai Tribes
Commissioners of Flathead, Lake, Missoula and Sanders Counties