

# Treason? Montana Congressional Delegation Playing with Fire

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Subject	Treason? Montana Congressional Delegation Playing with Fire
From	<a href="#">Lauralee22</a>
To	Undisclosed-Recipient;;
Sent	Monday, August 29, 2016 11:04 AM
Attachments	 Vulture

Is Steve Daines' [S.3014](#) — “Tribal Forestry Participation and Protection Act of 2016” a Trojan Horse to give away management of Western Lands to the Indian Tribes instead of to the States as proposed by the American Lands Council?

Is Jon Tester's [S.3013](#) A Fast Track and expansion of the CSKT Compact to facilitate the Federal Water confiscation of State Waters using the Tribes?

**Please contact the MT delegation to CONgress and tell them that they are showing themselves to be willing tools for the Feds to facilitate the control and takeover of our lands and waters to the Feds (via the Tribes) at the expense of Montana and Montanans. They are acting lawlessly, in violation of our Constitutions, and in violation of their oaths of office.**

**Please rescind S. 3013 (Tester), S. 3014 (Daines) and HB 2647 (Zinke).**

## MT Delegation to CONgress:

**Senator Steve Daines: (202) 224-2651, 406-245-6822**

**Senator Jon Tester: (202) 224-2644, 406-586-4450**

**Congressman Ryan Zinke: (202) 225-3211, 406-969-1736**

# Montana Congressional Delegation Playing with Fire

Posted by [drkate](#)

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[The rule of law, in its simplest form, is that nobody is above the law.](#)

Citizens who have opposed the CSKT Compact have always known that the compact was about some larger agenda which was buried in the details of a 1,500-page monstrosity.

The Compact was so important to certain state elected officials, the federal government, proponents, and the CSKT that they stopped at nothing to get the compact “passed” by hook or by crook. We believe it was mostly by “crook” as the Compact only passed through outright lying to the public, rule changes in the House, deliberate, knowing defiance of the Montana and U.S. Constitutions, and the expenditure of millions of dollars of taxpayer monies.

**In defiance of the law, common sense, and common decency, [Senator Tester](#) introduced a**

**rewritten, new CSKT compact to the Senate in June of this year which ironically exposed this larger agenda, demonstrating the true expanse of the attack on private property rights in Montana.**

In brief review, the CSKT compact sets precedent across the west by:

- Rewriting the Treaty of Hellgate
- Ignoring history, private property rights, and state law
- Rewriting the definition of “reservation”
- Expanding the ‘federal reserved rights’ beyond that which can legally be claimed by Tribes, resulting in the unlawful condemnation of existing water rights on and off reservation
- [Ceding](#) state constitutionally-derived authority for water ownership, administration and protection of citizens to the CSKT/United States

**Simply stated, the CSKT Compact had nothing to do with water rights or Indians or culture. It was instead about expanding federal control over states, citizens, our economies, livelihood, freedom, and liberty.** Aided and abetted by the state of Montana, it is a completely lawless, dangerous and immoral attempt to destroy Montana.

Senator Daines, Senator Tester and Congressman Zinke turned a blind eye to these issues and concerns of Montanans. But now they have decided to take advantage of CSKT Compact precedent and expand it’s concept across the west to federal lands, particularly National Forests and Bureau of Land Management (BLM) rangelands. The effort is a blatant attempt to circumvent [western state priorities](#).

### **Playing with Fire: Giving Management of National Forests and Public Lands to the Tribes: H.B. 2647 and S. 3014**

S. 3014 began as [House Bill 2647, or the 2015 Resilient Federal Forests Act](#), which started out as a bill to reduce the threat of wildfire in national forests and public lands caused in part by environmental lawsuits, unnessesary federal regulations capturing the budget, and requirements of the National Environmental Policy Act. All of these “constraints” mean that effective reduction of fuel load and thus fire danger in forests and on public lands cannot occur. The same concerns have been espoused and documented by the American Lands Council in the effort to turn these lands over to the States for their more effective control and management.

The intent of H.B. 2647 was also to include and assist forest or range lands on [Tribal lands or reservations](#). Importantly, “Indian forests or rangelands” were defined as in the [Tribal Forest Protection Act of 2004](#) and meant:

The term “[Indian forest land or rangeland](#)” means land that—(A) is held in trust by, or with a restriction against alienation by, the United States for an Indian tribe or a member of an Indian tribe; and (B)(i)(I) is Indian forest land (as defined in section 304 of the [National Indian Forest Resources Management Act](#)); or (II) has a cover of grasses, brush, or any similar vegetation; or (ii) formerly had a forest cover or vegetative cover that is capable of restoration.

**The house bill was amended and proposed that federal forest and rangeland could be treated as [Tribal Forest land or Rangeland](#) with the following new and expanded definition:**

The Department concerned, at the request of an Indian Tribe, may treat federal forest land as Indian forest land... if the federal forest land is located within, or mostly within, a geographic area presenting a feature or involving circumstances principally relevant to that Indian tribe.

The bill passed the House in July 2015, with full Zinke support.

### **S. 3014: Daines Adds Fuel and Strikes the Match**

Senator Daines’ “version” of H.B. 2647, [S. 3014](#), renamed and retooled the [Resilient Federal Forests Act](#) to:

#### **[A Bill to Improve the Management of Indian Forest Land, and for Other Purposes](#)**

The bill has the same goal as the House bill—ostensibly to reduce fire hazard and to create better management of the federal forests. However, **Senator Daines blatantly redefines federal forest lands to be “Indian Forest Land” or “Tribal forests”**. From a discussion with Senator Daines’ staff provided to us by a colleague:

First, the intent of the bill is to have “more effective forestland management” because it will “bypass and streamline NEPA requirements,” including bonding requirements because the tribes

are exempt from lawsuits and many, if not most of the requirements. They are accepting and using the status of the tribes in a “pragmatic way” (their words) to do an “end run around the environmental groups and their lawsuits” (my words).

As Congress has made it easy for the Tribes to not have to follow the laws as other citizens do, and has insulated them from litigation, Senator Daines further expands the definition of Tribal Forest or Rangelands to include lands:

1. Ceded to the United States by Treaty or other agreement with that Indian Tribe;
2. Within the boundaries of a current or former reservation of that Indian Tribe; or
3. Adjudicated by the Indian Claims Commission or a federal court to be the tribal homeland of that Indian Tribe

**With this expansive definition, it means that every National Forest and BLM rangeland in Montana is included and now under the management of the Tribes**, as in [this map](#) showing the “homelands” of the seven Montana Tribes that were ceded to the United States.

Just a minor question, didn't the Treaty of Hellgate—and other treaties—provide that the CSKT ceded all rights, title and interests to their aboriginal lands? **Now this federal forest land is described and treated as “Indian forest land”?**

The west-wide implication of Senator Daines' bill and the redefinition of “Tribal Forest or Rangeland” is shown below:

**So under the guise of “effective forest management”, and for the purpose of cynically avoiding environmental lawsuits and regulations, the turnover of federally-managed public lands to the states as per the American Lands Council, and spending more taxpayer money, Senator Daines gives away the management of lands not only all of Montana, but all of the western states to the Tribes.**

From our colleague's conversation with Daines' staff:

The staffer says they are “taking a lot of heat from the left”, and that they “have put ‘sideboards’ on the bill to prevent over-expansion”. These sideboards are “making sure the land remains in federal ownership, public access is protected, timber is subject to competitive bid,” etc. I asked why give the tribes this “favored” status when they have ceded all this land via treaty. The answer pertained mostly to the “end run around environmental lawsuits” notion. Without any proof or examples, the staffer claimed that “Tribes are better at managing forest lands than the Forest Service.”

**In defiance of history, the American Lands Council, private property rights, and the rule of law, Senator Daines has created a firestorm which will engulf the western United States.**

### **Tribes to Contract Management of National Forests and Rangelands Under “638” Contracts**

To add insult to injury, Senator Daines contemplates that the Tribes can contract from federal agencies for the management of all forest or rangeland activities previously conducted by the federal agency under the Indian Self Determination Act, P.L.93- 638 (25 USC 450 et seq) However, under the law—the Indian Self Determination Act, or “638 contracts”—a *Tribes may only contract federal functions if those federal functions were designed specifically for Indians because of their status as Indians.* National forests, public rangelands were not set aside solely for Indians—they were established for the public.

### **Back to the CSKT Compact**

The root of this “forest land” malfeasance by our federal officials starts with their use of Indian Tribes as a wedge against citizens. Of course it is labeled “racist” to oppose this federal overreach and intrusion. Remember that the CSKT Compact, and Tester's rewrite:

- Rewrote history—the title, rights and interest were never ceded, and the chain of title never broken
- Redefined the reservation—to include aboriginal and subsistence lands as “homelands” for the purpose of the treaty and to ignore fee patented lands and rights of way
- Expanded rights and privileges to water beyond what Tribes are legally entitled to, specifically off reservation and into Eastern Montana
- Granted Tribes the management authority over resources that do not belong to them and jurisdiction over non-Indians

- Took over a federal irrigation project and the project water rights of non-Indian citizens
- Eliminated state jurisdiction over state citizens and water resources within the exterior boundaries of the reservation

**Senators Daines and Tester, along with Congressman Zinke are playing with matches and created a firestorm that is outside the law, outside of any legal authority they have, and outside the Constitution.**

Their oath of office? Heh, “what difference does it make”?

### **Call to Action**

[Let them know how you feel about S. 3014 and its companion CSKT Compact bill S. 3013 and Congressman Zinke’s blind support of the definition of Indian forest lands in H. 2647 and S. 3014!](#)

Senator Steve Daines: (202) 224-2651

Senator Jon Tester: (202) 224-2644

Congressman Ryan Zinke: (202) 225-3211