

Scope of Consensually-Based Tribal Jurisdiction

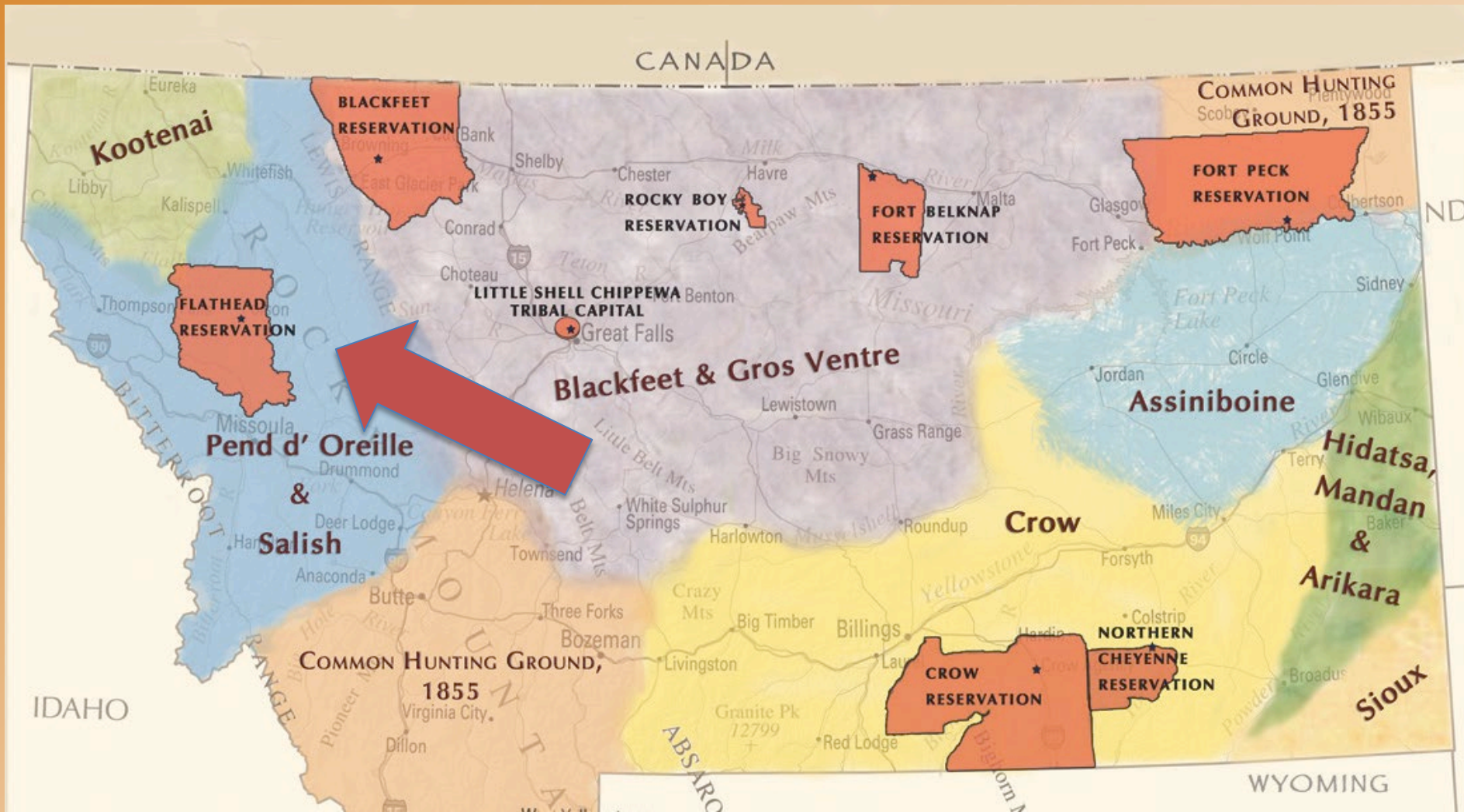
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Confederated Salish & Kootenai Tribes of the Flathead Nation



The Salish, Qlispe, and Kootenai Tribes

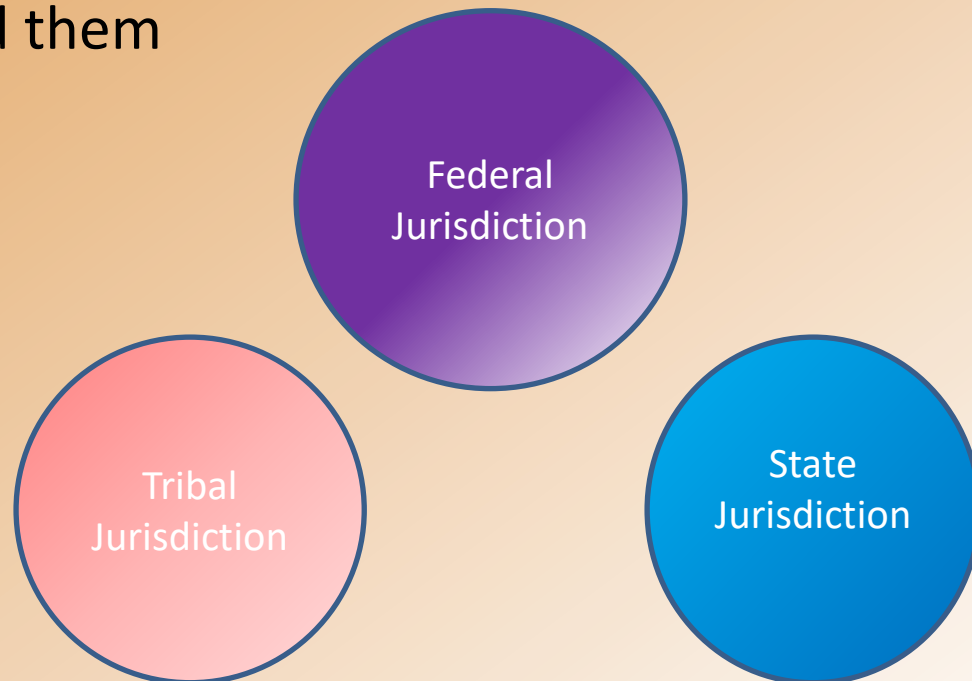


Hellgate Treaty

- The Treaty of Hellgate was signed on July 16, 1855.
- “All of which shall be set apart ... for the exclusive use and benefit of said confederated tribes as an Indian reservation.” *Treaty of Hellgate, Art. II.*
- The treaty secured for the Tribes off-reservation hunting and fishing rights.
- A treaty made under the authority of the United States "shall be the supreme law of the land."
U.S. Constitution, Article 6, Section 2.

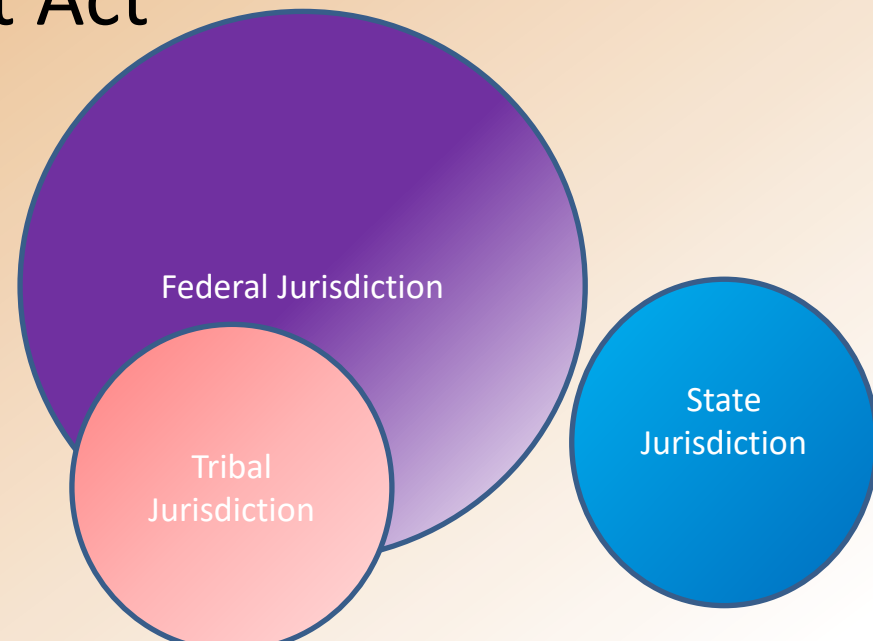
A Federal Jurisdictional Framework

- Marshall Trilogy creates Indian law jurisdictional scheme
 - Congress has plenary power over Indian affairs
 - There is a trust relationship between the U.S. and tribes
 - Whatever hasn't been taken away remains (inherent tribal sovereignty)
 - Treaties should be read as the tribes would have understood them



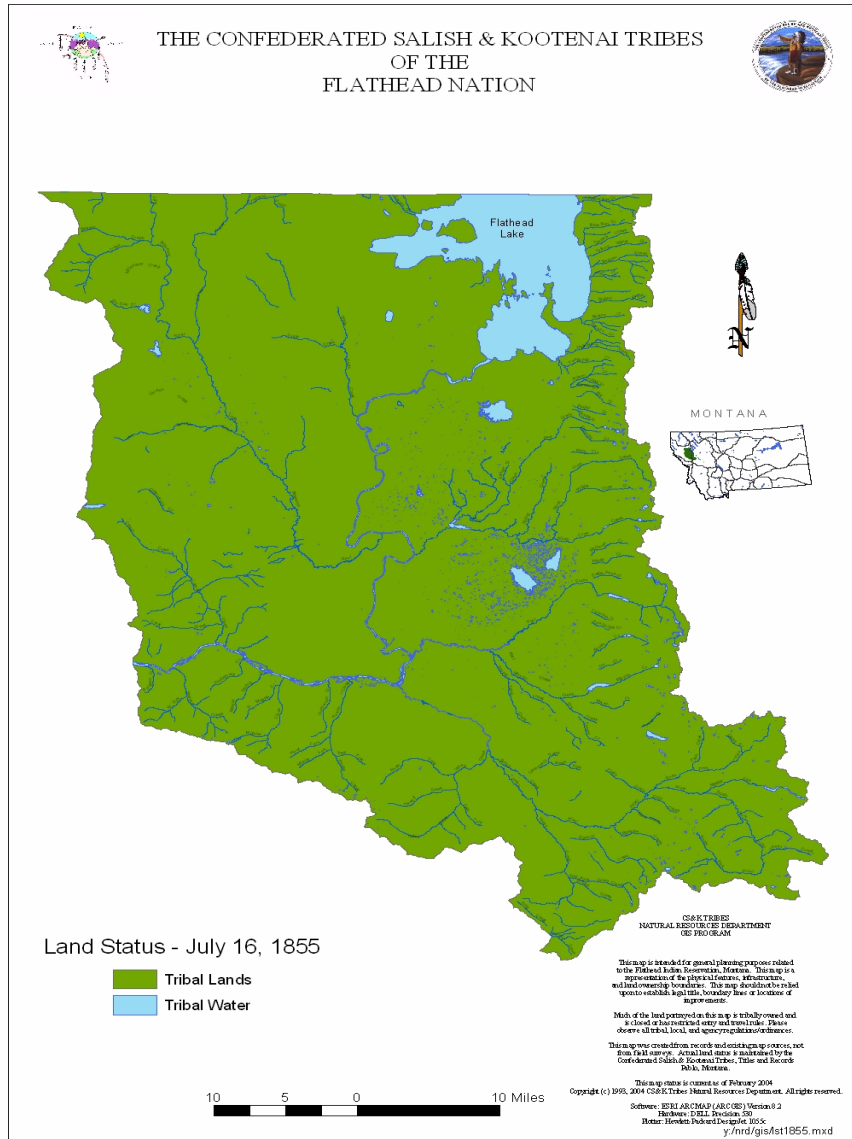
Federal Jurisdiction Dominance

- Two reservations until Removal in 1891
- By 1890s Federal law, largely enforced through Court of Indian Offenses and BIA agents, controls life on Flathead Reservation
- 1904 Flathead Allotment Act

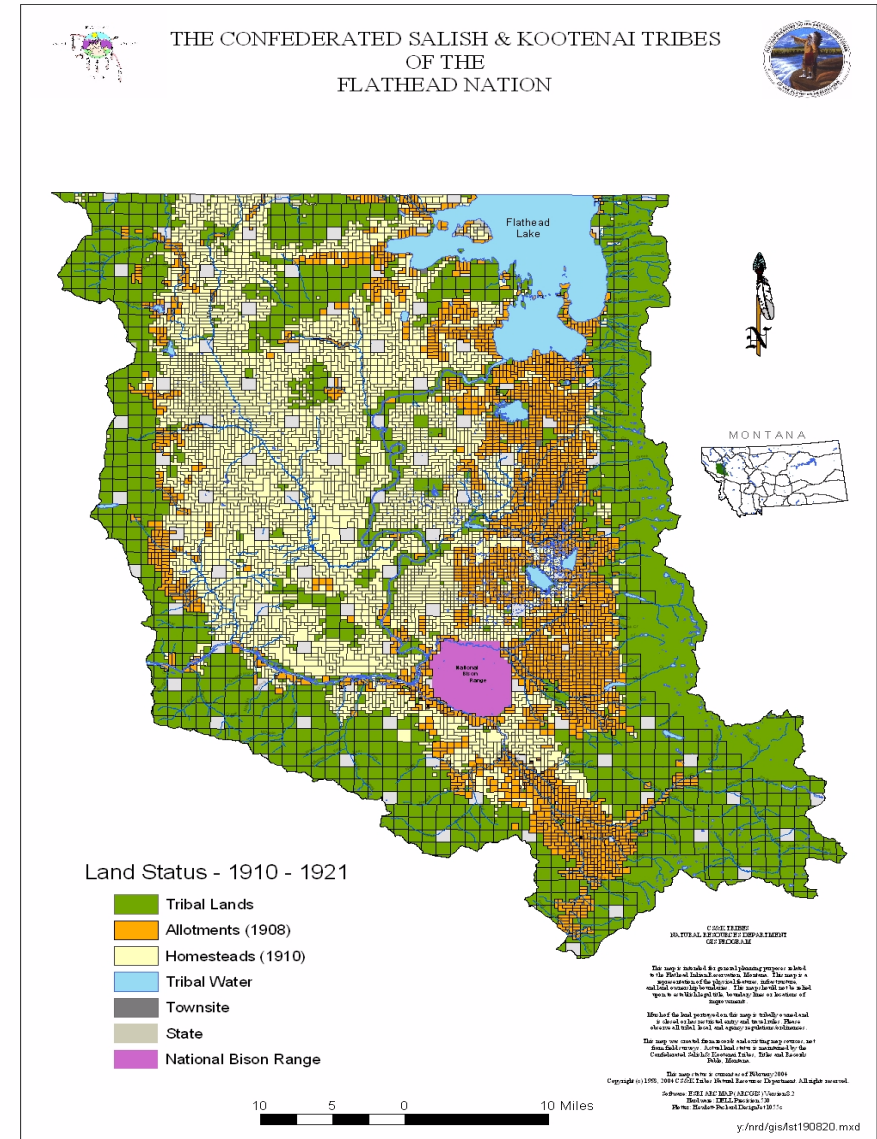


Broken Treaty -- Allotment

1855



1921



For jurisdiction analysis, start by looking at:

- 1) Activity
- 2) Land status (Tribal trust, Individual trust, fee simple)
- 3) Individual's status (tribal member, non-member Indian, non-Indian)

Federal Jurisdiction
Plenary (if Congress
Acts or Supreme
Court interprets
Congressional Action)

Tribal Jurisdiction

Criminal

Civil

State Jurisdiction

Criminal

Civil

"Checkerboarded" Reservation

Tribal Trust Land

Individual Trust Land

Fee Land

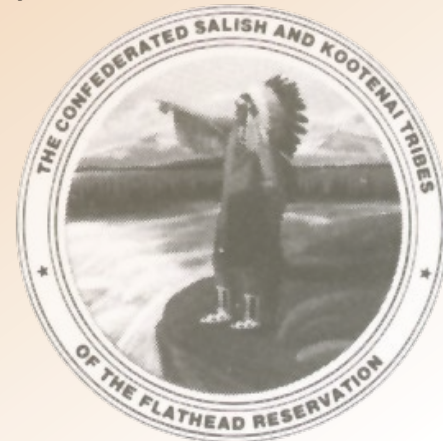


Indian Reorganization Act

- Indian Reorganization Act (“IRA”) passed in 1934 -- CSKT first tribe to organize under
- Tribal government structure now one that is easier for the U.S. to understand
- BIA largely still runs reservation
- Allowed Tribes to purchase back lands on Reservation

Indian Self-Determination Act Law

- 1970s Tribes began wielding sovereign powers
- The Indian Self-Determination Act gave the CSKT Government the power to perform BIA functions.
- Today CSKT operates over 30 agencies and multiple corporations, including the Shoreline Protection Office, Energy Keepers, Inc., and the Natural Resources Department.



Examples of Jurisdiction on the Flathead Indian Reservation

- Public Law 280
- Shoreline Protection
- Cross-Deputization



CSKT Land Base

