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Interior Secretary Cecil D. Andrus said today that he had reluctantly requested Attorney General Griffin Bell to take legal action to protect the water rights of Indian tribes on five reservations in northern Montana. The suits were filed by the U.S. Department of Justice April 5 in the Federal District Court for Montana.

Andrus said that he asked the Justice Department to file stream adjudication suits in the Federal courts because the Montana legislature was proposing to pass legislation which would give state courts jurisdiction over Indian water rights issues.

"I recommended the action very reluctantly," Andrus said, "since it has been and continues to be my hope that the matter could be settled by negotiation. I want to stress that negotiation is not precluded by the suits and is still possible. While President Carter's water policy supports negotiated agreements for settlement of water disputes, it also supports the position that any litigation of Indian claims should take place in Federal courts."

Andrus said that it was part of his fiduciary responsibility as trustee for the Indians to keep Indian water rights issues in Federal courts ''when and if they had to be settled in court." He said that the United States Constitution initiated the tradition that Indian affairs be handled by the Federal Government rather than state or local governments.

Andrus said the Department's Assistant Secretary for Indian Affairs Forrest Gerard and Interior Solicitor Leo Krulitz discussed the proposed legislation with Montana Lt. Governor Ted Schwinden, Attorney General Mike Greeley and other Montana officials in January following a meeting with tribal leaders of the state

Gerard, who is himself a Blackfeet Indian from Montana, said that members of his staff have worked closely with the tribal leaders and with state representatives, beginning last fall, to explore possibilities for handling conflicting water claims through negotiation. Re said he had been hopeful that such a process would be developed and Indian water rights issues would not be included in the state legislation.

He also noted that tribal leaders generally accept the Federal court-s as neutral forums for issues that involve a large proportion of a local community but are concerned that "state judges who are elected by a local community are sometimes subjected to political pressures."

Gerard said that his office had suggested amendment of the state bill to provide, in lieu of including tribes within the Montana State jurisdiction process, a resolution of Indian/non-Indian water questions through a state/ tribal compact. He said, "I am disappointed that this was not done. I still think it is very important for all of us to try to build on points of agreement toward negotiated settlements, rather than adopt attitudes of confrontation and dissension."

Defendants in the suits are the State of Montana and ·various persons and entities claiming rights in the

water systems.

The four suits filed by the Department of Justice ask for a declaration of the Indian water rights on the Marias, Milk, Poplar and Flathead River systems. The five reservations involved are Flathead, Blackfeet, Rocky Boys, Fort Peck and Fort Belknap.

The other two Montana reservations, Crow and Northern Cheyenne, already are in litigation, in Federal court about water rights on the Tongue and Bighorn River systems.

The Montana bill, SB76, would establish a system to adjudicate all water rights issues in the state.