

Notice: These minutes are paraphrased and reflect the proceedings of the Board of Commissioners. MCA 7-4-2611(2) (b).

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## MONDAY, JANUARY 5, 2015

### Audiofile

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairperson Holmquist, Commissioner Krueger and Mitchell, and Clerk Pierson were present.

Chairperson Holmquist led the Pledge of Allegiance.

**Chairperson Holmquist opened public comment on matters within the Commissions' Jurisdiction, no one present to speak, Chairperson Holmquist closed the public comment period.**

### RE-ORGANIZATION OF BOARD OF COMMISSIONERS/ CHAIRMAN & VICE-CHAIRMAN

#### 10:00:00 AM

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Clerk Kile

Commissioner Krueger made a **motion** to nominate Phil Mitchell to be the chairman.

Commissioner Krueger pointed out that Phil Mitchell has been on numerous boards and absolutely has the ability to run meetings. He has talked about being open and honest with the public and that would be very good for this board.

Chairperson Holmquist said she felt it would be hard for a commissioner first coming into office to take that position.

Commissioner Krueger asked for a second.

Chairperson Holmquist said no.

Commissioner Mitchell said he would not second it either and that he would be allowed to.

Commissioner Mitchell made a motion that Pam Holmquist be the board chairman for this year.

Commissioner Mitchell said he spent the weekend talking with two attorneys regarding Roberts Rule of Order, and either one of them could second the motion. He stated he feels Holmquist has done a good job and has tried to stay neutral on a number of issues that have been hard.

Commissioner Krueger **seconded** the motion. **Aye** - Holmquist and Mitchell. **Opposed** – Krueger.

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Commissioner Krueger pointed out a vice-chairperson needs to be appointed.

Commissioner Mitchell said he is not willing to make a motion for a vice-chairperson until he clarifies what Roberts Rule of Order states.

General discussion was held relative to appointment of a vice-chairperson.

Commissioner Mitchell asked if the person appointed vice-chairperson becomes the chairperson the following year by law.

Deputy County Attorney Tara Fugina replied no that the reorganization happens the first scripted meeting each year.

Commissioner Mitchell made a **motion** to appoint Commissioner Krueger as vice-chairperson. Chairperson Holmquist **seconded** the motion.

Commissioner Krueger pointed out he did not vote as he doesn't believe you vote for yourself.

Chairperson Holmquist stated she was given information on Roberts Rule of Order that you could vote for yourself since the commission is a small committee.

Commissioner Krueger said Flathead County doesn't run on Roberts Rule of Order.

Motion carried by quorum.

### APPOINT COMMISSIONERS TO VARIOUS BOARDS

#### 10:02:00 AM

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Clerk Kile

Chairperson Pamela Holmquist: 911 Board, Audit Committee, Flathead City-County Health Board, Flathead River Commission, Montana Coalition of Forest Counties, MWED (Montana West Economic Development)

Commissioner Gary Krueger: Local Emergency Planning Committee, RAC (Resource Advisory Committee), RSVP (Retired Senior Volunteer Program), Solid Waste, Transportation Advisory Board

Commissioner Philip Mitchell: AOA, Child Development Center Board, DUI Task Force/Safe Kids Safe Community Coalition, Flathead County Chemical Dependency Clinic, Technical Advisory Committee, Western Montana Regional Mental Health Board, Flathead Basin Commission, Port Authority

**MONDAY, JANUARY 5, 2015**  
**(Continued)**

Commissioner Krueger made a **motion** to approve the board appointments as listed. Commissioner Mitchell **seconded** the motion. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: LETTER APPOINTING APPLICANT'S AGENT FOR 2014-2015 EMPG MANAGEMENT PERFORMANCE GRANT/ OES**

**10:07:00 AM**

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Sheriff Chuck Curry, Emergency Planner Nikki Stephan, Clerk Kile

Commissioner Krueger made a **motion** to approve the letter to appoint. Commissioner Mitchell **seconded** the motion. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: EMPG GRANT APPLICATION AMENDMENT REQUEST/ OES**

**10:08:00 AM**

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Sheriff Chuck Curry, Emergency Planner Nikki Stephan, Clerk Kile

Commissioner Krueger made a **motion** to approve the document for signature. Commissioner Mitchell **seconded** the motion. Motion carried unanimously.

**OPEN BIDS: REPLACEMENT OF EXISTING FIBER OPTIC INFRASTRUCTURE/ I.T.**

**10:30:00 AM & 10:35:00 AM**

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Deputy County Attorney Tara Fugina, I.T. Director Vicki Saxby, Clerk Kile

Chairperson Holmquist noted for the record a bid for \$46,817.33 was received from Digital Communications Systems with a bid bond enclosed.

Commissioner Mitchell made a **motion** to take the bid under consideration. Commissioner Krueger **seconded** the motion. Motion carried unanimously.

Chairperson Holmquist stated an additional bid was delivered to the Clerk & Recorder downstairs before the deadline.

Chairperson Holmquist noted for the record the additional bid for \$103,803.52 was received from Integrated Security Solutions with a bid bond enclosed.

Commissioner Mitchell made a **motion** to take the additional bid under consideration. Commissioner Krueger **seconded** the motion. Motion carried unanimously.

**CONSIDERATION OF RELEASE OF COLLATERAL: HASKILL MOUNTAIN RANCH SIA**

**10:32:00 AM**

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Planner Alex Hogle, Planner Rachel Ezell, Clerk Kile

Hogle summarized history of the SIA for Haskill Mountain Ranch, and noted the release of collateral of \$259,451 appears to be in order.

Commissioner Krueger made a **motion** to approve the document for signature. Commissioner Mitchell **seconded** the motion. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: REQUEST FOR DECLARATION OF SURPLUS PROPERTY/ SHERIFF'S OFFICE**

**10:39:00 AM**

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Adult Detention Commander William Smith, Clerk Kile

Smith reported the surplus property is obsolete equipment that would still be of use to Sanders County where Flathead County inmates are held on occasion.

Commissioner Krueger made a **motion** to approve the document for signature. Commissioner Mitchell **seconded** the motion. Motion carried unanimously.

**CONSIDERATION OF H.R. TRANSMITTAL: SUPERINTENDENT OF SCHOOLS SALARY SCHEDULE, MCA 7-4-2503**

**10:42:00 AM**

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Deputy County Attorney Tara Fugina, H.R. Director Tammy Skramovsky, Clerk Kile

Skramovsky summarized the outline for the salary schedule for the newly elected Superintendent of Schools, Jack Eggenperger who holds a Master's Degree.

Commissioner Krueger made a **motion** to approve the H.R. Transmittal. Commissioner Mitchell **seconded** the motion. Motion carried unanimously.

**MONDAY, JANUARY 5, 2015  
(Continued)**

**MONTHLY MEETING W/ DAVE PRUNTY, ROAD DEPT.**

**11:00:00 AM**

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Public Works Director Dave Prunty, Clerk Kile

Prunty met with the commission and summarized the following monthly report and gave an update on the current snow event in which he noted they will be working 10-12 hour days.

**Operations**

- Winter plowing and sanding operations have consumed a major amount of their work this month.
- Miscellaneous work tasks such as ROW clearing, culvert work and hand patching also occurred throughout the month.
- Significant storms occurred over the Christmas holiday. We didn't work anyone on Christmas Day, but overtime was used before and after the holiday to catch up.
- Significant snowfall on 12-26 and 12-27 that required most of the crew to work on Sunday 12-27. Most roads were opened up but some didn't receive service until the 12-28 when we were at full strength.
- One truck ended up on its side on Rhodes Draw on 12-28 but there was no damage to the truck and the employee was not hurt. A citizen ran in front of the truck to stop it. There was ice on the road where the truck stopped and it just slid off the road and laid on its side.

**Blacktail Road Improvements**

- Work continues on the paving project scheduled for this summer from the current end of the pavement to our end of maintenance point, approximately 1.9 miles. Funding for the project comes from the FLAP and totals \$1.1 million. Our match for this project is to provide the asphalt from our plant for the paving. Bidding will occur in the spring for the project.
- Staff has also been in discussion with Gary Danzyk with FNF regarding Phase II of this project which received funding from FLAP at \$5.2 million. This work is to improve a slump area above the hairpin corner on Stoner Creek and pave the road to the forest boundary, approximately 2 miles to the west.
- This section is not maintained by the county. Discussions have centered on how to trade other sections of road(s) under county maintenance for this section so we have NO NET GAIN in miles maintained by our forces.
- Staff is having Peccia and Associates work on a letter report discussing the average cost per mile to maintain both paved and gravel roads so there can be an equitable trade for this section of pavement on Blacktail Road that we will be required to maintain.
- For FLAP funding the road must be under county maintenance.

**Columbia Falls Stage Road Landslide**

- Gene Lard provided the appraisal on the 1.7 acres of farm land that will be provided by the land owner for the shift of the road ~ 20 feet to the east.
- Gene Lard valued the land at \$11,000
- A copy of the appraisal was forwarded to Steve Evans for his review in mid-December. Staff has not contacted Mr. Evans nor have we heard from him. We will contact him in January to see if he has any response regarding the appraisal.

**KM Ranch Road Rehabilitation Project**

- With the elimination of the RSID project to pave the road staff has planned for a gravel road rehabilitation project this spring.
- We have delayed this project for three years with the thought the RSID would be approved.
- Discussions with Finance have revealed a method to use operational dollars this current fiscal year to improve the gravel road.
- With commissioner approval we would reduce the amount of money transferred to our CIP account this year (~\$500k) for this RSID and use that money to purchase materials to improve the gravel and drainage.
- We would like to bid out the gravel supply and crushing so we have a close haul to the project instead of using our pit(s).
- To complete half of the project (~3 miles) we are looking at needing 11,000 tons of crushed aggregate and 5,000 tons of 3" minus select pit-run.
- Estimated cost for this material (supplied and crushed) is ~\$110,000.
- We would like to complete this work in the late spring as the road dries out from winter.

**8:30 a.m. Weed & Parks Board meeting @ Weed & Parks Office**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 6, 2015.

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**TUESDAY, JANUARY 6, 2015**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairperson Holmquist, Commissioner Krueger and Mitchell, and Clerk Pierson were present.

**NO MEETINGS SCHEDULED**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 7, 2015

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**WEDNESDAY, JANUARY 7, 2015**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairperson Holmquist, Commissioner Krueger and Mitchell, and Clerk Pierson were present.

**11:00 a.m. County Attorney meeting @ Co. Atty's Office**  
**3:30 p.m. Commissioner Mitchell: FCEDA Board meeting @ MWED Office**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 8, 2015

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**THURSDAY, JANUARY 8, 2015**

[Audiofile](#)

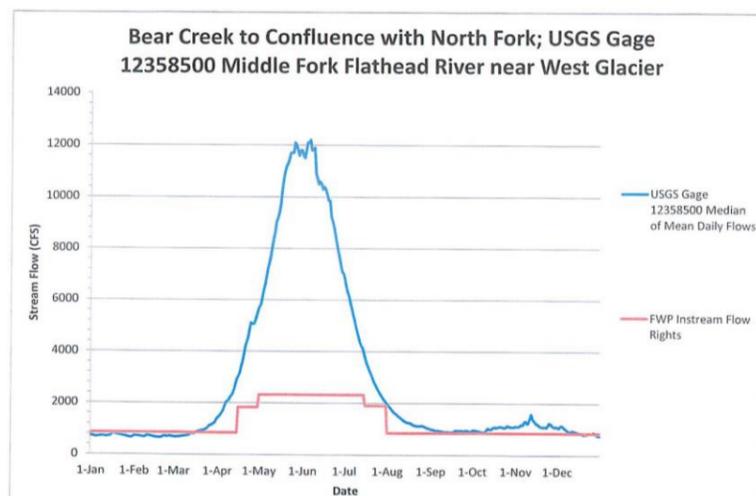
The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairperson Holmquist, Commissioner Krueger and Mitchell, and Clerk Pierson were present.

Chairperson Holmquist led the Pledge of Allegiance.

**Chairperson Holmquist opened public comment on matters within the Commissions' Jurisdiction.**

Present for Public Comment: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Jeff Larsen, Derek Skees, George Hudson, Clarice Ryan, Julia Fehrs, Rick Blake, Rick Breckenridge, Turner Askew, Dave Skinner, Verdell Jackson, Bill Myers, Gina Klempel, Clerk Kile

Jeff Larsen, 128 Tamarack Woods, Lakeside stated he is a property owner in Kalispell and on the reservation too. He presented the following Exhibit to the commission, and thanked them for drafting the letter on the agenda today that he said pretty much expresses a lot of the flaws that people have been trying to get across on the compact for a long period of time. Commissioner Mitchell has spent a lot of time and has attended a lot of different meetings, and I have too trying to study this compact and figure it out. I think that the letter proposed today has done a very good job of laying out the major concerns in the compact and it also provides a framework for what most of us would like to see done within the compact. The letter is excellent and I agree with it 100 percent. The question that comes up is should we delay it because they have a revised compact; I don't think we should because they limited revisions to that compact to their irrigation down on the reservation, and didn't address any of our off reservation flow concerns in Flathead County. That is a major issue and the biggest issue we have for Flathead County. There are other issues that are pertinent to the reservation. The instream flows up off the reservation are a huge issue. The reason they are such a huge issue is because they are giving the tribe the flows along with Fish, Wildlife and Parks. The flows at certain times of the year are more than the river produces. That's what brings me to the Exhibit I presented earlier of the Middle Fork of the Flathead River. As you look at the hydrograph you can see during December, January, February and March, Fish, Wildlife and Parks instream flow claims are greater than the amount of water flowing down the river, so water is not legally available during this time frame. Larsen further summarized the exhibit.



Bill Myers stated he agreed with a lot of what Jeff Larsen said and added that he feels this is an enormous issue for the two counties; Flathead and Lake County and commends the letter for recognizing that the Flathead Joint Board of Control is clearly opposed to the compact proposed. There has been a tremendous change in the compensation of that board as a result of this issue, and I think this commission has seen a change in board membership as well. The voters and taxpayers of the county have spoken with their opposition to the compact. I would urge you to consider one small change to the letter to strengthen it. As a result there are two major treaties of 1855 – this is a critical point. The tribe always wants you to recognize only one treaty; the Hell Gate Treaty. The key thing he pointed out is one is called the Hell Gate Treaty and the other Judith River which were both from 1855. One of the key facts that is ignored by the state repeatedly is that the Judith River Treaty was endorsed and ratified by the senate and signed into law by Franklin Pierce on the 25<sup>th</sup> day of April, 1856. That is six months after the initial signing took place between the tribes and Stevens. However, the Hell Gate Treaty which the tribe always likes to point to was actually not signed into law until James Buchanan came into office on the 15<sup>th</sup> day of April, 1859; three years after the Judith River Treaty was ratified. Both of these are valid and both of these are pertinent. The most germane section to this Judith River Treaty I would note is Article 7 and Article 8. The key thing in the Judith River Treaty that is different pertaining to this issue is in Article 8 that talks about the President of the United States to have the ability to: *“use materials of every description found in the Indian Country.* There is no limitation and that includes water; water was critical and was the way people navigated in the 1800's. Clearly water navigation was understood to be very important at that time. Article 8 further says: *the navigation of all lakes and streams shall be forever free to citizens of the United States.* That is our right as citizens of this country. I think you are aware of the impact on two counties here. Myers suggested a change of language in the proposed CSKT letter refer to the Judith River Treaty.

Rick Breckenridge, 1372 Airport Road said he has a business in Flathead County and resides in Lake County so has a vested interest in both sides of this. He spoke about a book he picked up at a used book store - GLO on how they were to dispose of land. Particularly, the law was passed by congress and so it was given into the GLO to write a rule on how they were to implement the law that congress passed; circular 178 opening the sale of Indian lands dated October 5, 1912. On page 4 it says the Flathead Indian Reservation is now opened surplus unreserved lands about 451,437 acres were subject to settlement. In the interment of these lands will be required to pay for water rights in addition to the price of the land. Not only did they have to buy the land according to the GLO, but they had to buy the water with it. The federal government sold them that water. Now we have the state stepping in here saying that sale is null and void and incomplete, because we were the ones who owned the water and not them. They enacted the law as the law was written and now we have the state stepping in here making a contract/ a treaty with the Indian tribe that they don't have the authority to do. Also on page 7 of the document you wonder how come they are not claiming the top nine feet of Flathead Lake. Well it is right here on page 7 – that an easement into and over all lands bordering on or above Flathead Lake, Montana which is below an elevation of 9 feet above the high water mark. That is why the tribe is not claiming it. The federal government by law passed it and said it is ours and no one can take it. The state right now is not following the rules. They decided to jump this whole thing and if you're interested I have a PDF of the entire document. Your job here is to make sure our bona fide rights are protected.

**THURSDAY, JANUARY 8, 2015**  
**(Continued)**

Verdell Jackson said he is currently writing a letter to the editor that lists all the constitutional violations of the compact as well as violations of federal and state law. I summarized the compact in one paragraph – since the state didn't do any type of economic impact I have some information on that. The impact of the CSKT Compact can be summarized as follows:

Off reservation water rights and the ongoing reservation by member unitary management board do not provide any water to the tribe. Instead these elements of the compact give control of water to an 11 member tribal council representing 5,000 tribal members on the reservation, and also to federal government who holds the water rights at trust for the tribe. The water control parts of the compact affect 330,000 people in 11 counties and 23,000 non-tribal members on the reservation. The additional water that is in the compact rescinds two rights: 90,000 acre feet out of Hungry Horse Dam and 229,000 acre feet out of Flathead Lake and the Flathead River. It is not stated in the compact how much if any of this water will be used to expand irrigation on the reservation, but does say that the tribes can lease water back to the irrigators and others who they have taken it from. The compact creates a water market by restricting present use of water both off and on the reservation and takes the remaining available surface water (all of the available surface water) and transfers it to the CSKT government. Whereas the Montana general stream adjudication process is not litigation as claimed by a lot of people; it has been underway since 1979 and has already confirmed the water rights of over 200,000 Montana citizens. It is legally and administratively capable of confirming water rights of federal and state based water users including the CSKT water rights. I put that in there because of biggest thing is the threat of litigation which is a total lie. It is called adjudication.

Derek Skees, 119 Sinopah Street, Kalispell thanked the commission for consideration of their draft letter regarding the CSKT.

Clarice Ryan said for the last 1 ½ years she has been attending meetings and watching very closely what has been happening on the reservation. The thing that probably concerns me more than anything else is the fact of the over reach of the compact that is supposed to be pure and simple; the provision of water for the reservation to meet their needs. Now, somehow it has been extended into 11 counties and has gradually increased control and management by a very small government on the reservation into all water and tributaries of Flathead Lake, Hungry Horse Dam, etc. As I was watching the performance of the tribal government in their restriction of water for irrigation on the reservation which was treating differently the native as opposed to the non-native. I realize that this is the same approach and mentality that could be eventually if this compact was passed applied to all 350,000 citizens in 11 counties. Passage of this compact would in essence be giving public endorsement through their state legislators to a small group of five individuals (non-elected) within the reservation over all the water. I feel this is truly not only breaking the constitution of the United States, but also the state. The state has relinquished their right, authority and responsibility for water distribution to all citizens fairly. This compact is not designed to be fair. I appreciate the fact you are writing another letter to provide more insight and information to even those in the eastern part of the state who may not realize that this compact if passed could eventually affect their property values and the economy of the entire state.

**No one else rising to speak, Chairperson Holmquist closed the public comment period.**

**MONTHLY MEETING W/ B. J. GRIEVE, PLANNING AND ZONING OFFICE**

**9:02:00 AM**

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Planning & Zoning Director B. J. Grieve, Clerk Kile

Grieve summarized staff's workload; spoke about CTEP projects; reviewed code compliance enforcement issues; summarized fee revenue and budget projections; spoke about active preliminary plats; reported Alana Myers is considering a CUP for a wedding facility.

General discussion was held relative to open record laws.

In other business, he stated they are continuing to work on the Whitefish transition and reported the risk map appeal period ended and they had no opposition submitted.

**MEETING W/ BRAD SALONEN, PAYNE WEST INSURANCE RE: MID-YEAR REVIEW**

**9:32:00 AM**

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Human Resource Director Tammy Skramovsky, Payne West Representative Brad Salonen, Clerk Kile

Salonen presented an update to the commissioner regarding MACO claims, and reported the total in claims over the past 4 ½ years have gone down. He ranked Flathead County claims, which show auto physical damage the largest followed by property damage, general liability, auto liability and errors and omissions.

**CONSIDERATION OF DOCUMENT FOR SIGNATURE: CSKT (CONFEDERATED SALISH & KOOTENAI TRIBES) RESERVED WATER RIGHTS COMPACT LETTER**

**9:45:00 AM**

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Dave Skinner, Verdell Jackson, George Hudson, Jeff Larsen, A. Larsen, Gerald Osborne, S. Krauss, R. Krauss, Julia Fehrs, Gina Klempel, Bill Myers, Clarice Ryan, Rick Blake, Turner Askew, Jerry O'Neil, Clerk Kile

Commissioner Mitchell said the letter has been proposed by me and has been brought to the commission today; two other letters were previously brought before the commission. The proposed letter before you today to the Governor of Montana and others in the legislator he noted was written, updated and looked over by a number of people including lawyers, water specialist, land people, several legislators and notes from a number of public meetings I have had and attended in Flathead Valley and in Helena this summer. I have been to a number of meetings during my election time. I am trying to listen to a majority of the people in Flathead Valley and what their thoughts were on this compact, and then accurately write this letter supporting them. This is my job and I take it seriously on what the people in the valley are saying. The last two meetings were with some farmers; approximately 25 of them that had him come to a meeting. The Glacier Forum last month had over 200 people at their meeting at Syke's. The typical meeting regarding the water compact has approximately 95 percent of the people being against the compact as written. With all the meetings I have had this is a typical percentage just like public comment today. I also attended a meeting last week with 8 people that asked him to come to a meeting; both realtors and business people to discuss the water compact. I have spent a lot of time on this and have been to Helena as well. I am presenting this letter, and then if you want I can also discuss why I did this. The following letter was read:

**THURSDAY, JANUARY 8, 2015**  
**(Continued)**

Governor Steve Bullock  
Office of the Governor  
State Capitol Box 200801  
Helena, MT 59620-0801

Attorney General Tim Fox  
Office of the Attorney General  
215 Sanders, Third Floor  
Helena, MT 59620-1401

Re: CSKT Reserved Water Rights Compact

Governor Bullock and General Fox:

We oppose the proposed CSKT Reserved Water Rights Compact ("CSKT Compact"). It will be harmful to Flathead County, as well to the rest of Montana and neighboring states.

This proposed CSKT Compact is the last one to be negotiated in Montana. The other six Montana reservations have entered water right compacts. Significantly, the other six compacts do not grant off-reservation water rights. The proposed CSKT Compact—for the first time—grants these off-reservation water rights to a Tribe, which is a new type of water right, and not supported by the Treaty of Hellgate.

A comparison with the six other compacts demonstrates the significance of adding off-reservation water rights. The average acre feet per tribal member for the other six compacts is 88 acre feet of water. Under the proposed CSKT Compact, the average acre feet per tribal member is 6,827 acre feet of water, which is *77 times* more water than the average for the other six reservations tribal members.

We strongly object to granting off-reservation water rights to the CSKT Tribe. It will have dire consequences to our citizens and businesses that own property and live in Flathead County. We consider it significant that on December 30, 2014, the Flathead Joint Board of Control of the Flathead, Mission and Jocko Valley Irrigation Districts passed a resolution "strongly oppos[ing]" the proposed CSKT Compact.

We also object to Montana taxpayers writing a check to the CSKT Tribe for \$55 million. For more than a century and a half, the federal government has had sole responsibility for supporting the Tribes. We have seen no justification for Montana taxpayers starting to assume this responsibility.

Finally, we have concerns that the proposed Compact may not comply with Article IX of the Montana Constitution.

We ask that the following changes be made to the proposed Compact:

1. Provide a specific amount of water "quantification" of the federal reserved water right for the reservation.
2. Eliminate the mutual defense clause in Article VIII of the Compact, so that Flathead County citizens will not have to fight the State of Montana when defending their water rights.
3. Bring the Compact in compliance with Article IX of the Montana Constitution.
4. Eliminate the requirement that Montana taxpayers write a check to the CSKT Tribe for \$55 million dollars (or any amount of money).

Our hope is that the proposed Compact can be revised to identify and protect the CSKT Tribe's reserved water rights on the reservation and to protect the rights of the citizens of Flathead County. If it cannot be so revised, we urge ~~you~~ **(the legislators)** to vote "no" on the proposed Compact and allow a resolution of these issues in the Montana General Stream Adjudication, which will lead to a fairer result.

Commissioner Mitchell noted the only change is to the last paragraph to change --- we urge you to vote – change to -- we urge the legislators to vote.

Commissioner Mitchell further read ARTICLE IX of the constitution of the state of Montana – WATER RIGHTS.

**Section 3. Water rights.** (1) *All existing rights to the use of any waters for any useful or beneficial purpose are hereby recognized and confirmed.*

(3) *All surface, underground, flood, and atmospheric waters within the boundaries of the state are the property of the state for the use of its people and are subject to appropriation for beneficial uses as provided by law.*

(4) *The legislature shall provide for the administration, control, and regulation of water rights and shall establish a system of centralized records, in addition to the present system of local records.*

Commissioner Mitchell stated he takes the constitution seriously and that is what his oath was taken for. He then read the following Oath.

I do solemnly swear that I will support, protect and defend the constitution of the United States and the constitution of the state of Montana, and that I will discharge the duties of my office with fidelity so help me God.

Commissioner Mitchell said that is why this letter was written. It doesn't solve all my problems as there are probably another 10, yet I tried to keep the letter brief with the most important ones.

Chairperson Holmquist said as all of you have been well aware, I have wanted a letter of non-support for the compact for several months now. I did e-mail my fellow commissioners with a couple of changes that I would add to the proposed letter to the CSKT.

The proposed changes are in red.

We oppose the proposed CSKT Reserved Water Rights Compact ("CSKT Compact") -- **(add) as currently written.** It will be harmful to Flathead County, as well to the rest of Montana and neighboring states.

1. **Provide a specific amount of water "quantification" of the federal reserved water right for the reservation -- (add) on the reservation.**
5. **(add) -- That all claims of off reservation water rights be removed from the proposed CSKT Compact.**

Chairperson Holmquist stated she would like to add the proposed changes, and said she fully supports the letter before them today. It is important that we act on it quickly as the legislature is in session.

Commissioner Krueger said first of all we are about to deliberate on a letter. He asked if the County Attorney office has reviewed the letter.

Deputy County Attorney, Tara Fugina noted it has not been reviewed.

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**(Continued)**

Commissioner Krueger said we have a letter that makes legal claims that has not been reviewed by our County Attorney's office. Those legal claims are to a number of attorneys are actually false claims. I question why this County Attorney's office would be making claims that have not been vetted legally by this commission. Since the author of the letter seems to be Commissioner Mitchell, I would ask if there was an attorney that vetted these.

Commissioner Mitchell replied that several did.

Commissioner Krueger said in response to that I would like to state that Montana Code Annotated 7-4-2711 says that the County Attorney is the legal advisor for this Board of Commissioners.

**7-4-2711. County attorney to be legal adviser of county and other subdivisions.** (1) The county attorney is the legal adviser of the board of county commissioners.

Commissioner Krueger then said now going back to other attorneys that are not actually our attorneys; Hertha Lund from their office says there is no legal taking of violation. The US --- there is no violation of legal protection clause. The CSKT Compact is congruent with Montana law related to adjudication of Indian reserve water rights; the CSKT Compact is congruent with the Montana Constitution; the CSKT Compact does not give administrative rights to the tribe; the CSKT Compact is in total alignment with ARTICLE IX of the constitution of the state of Montana. Melissa Hornbeins review of this was an attorney for the state of Montana working in that capacity; working in the capacity of an attorney for the state of Montana. Quantification of all water rights in the compact are quantified. There is no taking of individual land owner water rights. Both the compact commission and the legislature have conducted independent investigations of the modeling use of Flathead Indian irrigation and WUA; both studies found the modeling to be good. An independent legal review conducted by Montana legislature found that the Unitary Management Ordinance to be a valid constitutional means to administer water on the reservation. The newly negotiated provisions of the compact specifically address the points raised by the irrigators in that it recognizes entitlements and deliveries of FIIP water that runs through the land.

Commissioner Krueger further said if this letter was actually reviewed by an attorney, then I believe that this commission must pay for those services according to our Flathead Purchasing Policy; it is a work product produced by an attorney. I have never been able to get out of an attorney's office for under \$200. I believe that any payment that would be due to that attorney must be paid by Flathead County if the three of us are working on that; it is no longer anything that Commissioner Mitchell would own on his own. Having this letter that seems to be or maybe drafted by an attorney would need to be paid by this commission. We can do that; we have legal authority to do that if that was decided that we were going to do that outside of an official county meeting, I question why that was done. We can under the provisions of MCA 7-4-2708 contract with an attorney. When I pulled up the information on this and find that the document was last modified by Duncan, I believe there are some questions as to who is actually the owner of this letter. It is a work product I believe of (I'm going to say Duncan) as that is the information that I have. Our attorney general has also questioned the contents of this letter as they received it. The new revised water compact is out before us today. It was delivered last night, and I read through much of it last night and it addresses questions that were proposed to the negotiators. I ask the question of legality of whether or not we plan to follow the Flathead County Purchasing Policy, and whether we plan to follow MCA that says our attorney is our advisor unless we plan to hire someone else. I would ask that this letter not be brought to question by a motion.

Chairperson Holmquist asked Deputy County Attorney Tara Fugina if the first two letters were brought before her for an opinion.

Fugina said she believes she did see "draft" versions of the letters.

Chairperson Holmquist pointed out this was a draft also that she received in her e-mail, and asked if she had seen the draft or commented on the previous two letters sent.

Fugina said she believes she did comment on the first two letters. The other two drafts were sent to her and at least one commissioner called her and asked if they were okay, yet she was not provided a copy of the "draft" before them today.

Chairperson Holmquist said because this is a letter stating an opinion of the commission and not something we are going to be voting on, does that make a difference. Like a support letter for an organization or a support letter for a homeless shelter, and not something we would actually act on; we are not really acting on the compact.

Fugina said I think maybe my major concern would be if there are any legal conclusions that are put forth in that letter. If you feel you have the proper advice about whether or not they are correct conclusions then that is fine. As I said not having reviewed a copy of the letter.....

Chairperson Holmquist said I believe you have stated before.....I don't remember exactly what was said back then. Something to the effect of because something is a support letter and not something we act on that a lot of times you don't get involved in support letters. That's not exactly the same word. You don't get involved when we just write a letter of support to someone or an opinion.

Fugina said not always.

Commissioner Krueger said once again that I believe that this letter has numerous legal claims that will be attributed to this commission. I believe that anything we do to this letter as it has been presented is using someone else's work product and that person must be compensated for that.

Commissioner Mitchell said you and I disagree, Commissioner Krueger on almost everything you said. There has been no lawyer paid for any of this; there has been a group to help put this together. It is not just Duncan .... it was probably 5-6 people that I have respect for on the water compact. There has been no money exchanged. It is a group of people that care about Flathead citizens and what is going on with the water that drafted the letter; it was not drafted by Duncan. Duncan is just one person of probably 8 who oversaw this letter. There are no fees involved so I resent that comment. This letter is also a letter to the compact stating what a number of us feel is wrong with the water compact, and if these issues are resolved within the new compact, which I do have right here....I did read it last night....a lot of it, and I quit because it is not complete. It's like half of it....there are no addendums, and you can't go back to anything because it says you have to keep going back to something not in there. We have part of the new compact and this is a horrible document to send out when it is not complete. It is not complete. One thing I did find in here is it still says the state of Montana will pay the tribe \$55 million dollars. It still says the Federal government will be paying the tribe a negotiated rate; I have heard upwards of over one million.

**THURSDAY, JANUARY 8, 2015**  
**(Continued)**

Those are the two things I found this morning real quick. I don't have time to read over a document that we are supposed to talk about tomorrow in Ronan, Saturday in Kalispell.....and you give a document (you are part of this).... give a document 48 hours before a meeting; unbelievable bologna. They have had a year to do this; a year, I resent that this was sent out 48 hours before meetings. This letter, I am going to make a motion on. This is an opinion letter from the people of Flathead valley who I respect. It is also an opinion letter where most likely 90 percent of our Flathead citizens are against the water compact as written. So whether you want to pick and choose these items that I did, I have another 10 here. These were the most important, and I also thought it was extremely important that the irrigator's district did the same thing. They are the ones that it comprises 110,000 acres or 90 percent of the acreage contained within the Flathead irrigation project. I find this very serious that they passed this, and I agree with what they said. Mitchell further said I did talk to Tim Fox yesterday, and asked him why this hadn't been sent out yet since they had a year to work on it, and there was no good answer. He was told they are doing their best. Mitchell stated he told Mr. Fox that his job as the attorney general is to oversee the state Constitution and what our rights are; not the rights of the Salish Kootenai Tribe and their sovereign nation. You understand you need to support Flathead county citizens and the state of Montana people and our water rights.

Chairperson Holmquist asked that they clarify what she proposed earlier as to if that will be in the motion.

Commissioner Mitchell said he approved of her changes, and also wanted the last sentence in the last paragraph changed to: *if it cannot be revised we urge **the legislators** to vote no.*

Commissioner Krueger said I don't believe I have the authority to use someone else's document and to make changes to someone else's work product. It says it was last modified by Duncan, and I don't believe it is a product of Flathead County but Duncan instead. The attorney general I believe did contact all of us, and has said he would like them to review the revised water compact. The negotiations on the compact just ended in November and it seems the process has gotten longer because it seems that is how this has been fought; by making it take a long time. I don't feel I can make any changes to the letter, as I don't believe it is a product of Flathead counties.

Commissioner Mitchell made a motion to rescind the motion of the previous two letters dated January 3, 2014 and October 22, 2014, and replace them with this letter. The motion also includes the changes discussed earlier by Chairperson Holmquist and myself.

Commissioner Krueger said I don't believe it is on the agenda today to discuss rescinding of the two previous letters.

Chairperson Holmquist **seconded** the motion to discussion.

Commissioner Kruger said the motion is out of line as it is not on the agenda to discuss or consider rescinding the two previous letters; that is a separate action, separate from this letter.

Commissioner Mitchell read the following from Roberts Rules of Order:

*If a previous notice is not given of an intent to make one of the motions so that members are not alerted ahead of time to the fact that the motion will be made, adoption of the motion requires either a 2/3 vote or the vote of the majority of the entire membership of the voting body. So if this passes it follows Roberts Rules of Order with 2/3 of a vote.*

Commissioner Krueger said I thought this was supposed to be a public forum. I remember the statement about how the public needed to have their say; how the public should have a public meeting. I don't understand why we bring this up at the last minute without public review of rescinding the previous two letters; it has been kept off the agenda intentionally, and should not be a part of that motion. I believe you can make the motion for the letter that is on the agenda today.

Commissioner Mitchell stated his motion stands and has been **seconded**.

Chairperson Holmquist asked for a legal opinion.

Fugina said she would first like to address the issue of rescinding the letters and the validity of that decision. She pointed out in Roberts Rules of Order quoted by Commissioner Mitchell that Roberts Rules of Order don't take into regard the public notice required, so that anyone from the public wishing to speak regarding rescission of the previous letters wouldn't have had notice that was an issue at this time. While I understand what Commissioner Mitchell is trying to say, I don't feel it takes into account the public notice that is required. I don't believe that rescission of the previous letters is valid for the commissioners at this time. As for rescission of the previous letters, I don't believe that is possible to do as it wouldn't have any legal effect. The letters were approved by the previous commission, and while it certainly is okay to contemplate that this letter is now the current opinion of the Board of Commissioners of Flathead County by a majority vote, I don't believe the former letters ever go away.

Chairperson Holmquist said your opinion/ position is that we just add language to the letter that this letter supersedes the previous letters sent.

Fugina said I would think that anyone that receives those letters would understand that it supersedes it by current opinion of the Board of Commissioners.

Commissioner Mitchell read the following sentence from Roberts Rules of Order and asked for an opinion from the County Attorney.

*You may make either of these motions regardless of how you voted on the original motion and there is no time limit making either of them.*

Commissioner Mitchell said I am not going to make a big deal out of this; I just want to make sure the letter gets done today.

Chairperson Holmquist asked Deputy County Attorney Tara Fugina in her opinion if her motion was legal to second.

Fugina pointed out the motion itself wasn't valid since the issue wasn't publically noticed.

**THURSDAY, JANUARY 8, 2015**  
**(Continued)**

Chairperson Holmquist asked if she wanted to include in the letter that this letter supersedes the other letters if that would be the right way to go about this. She stated she wants the letter to get out and to ensure that the letter gives the opinion of the citizens of Flathead County and how they feel about this compact. If that is better said or better done without some sort of issue down the road by just adding language to the letter, I think I would be more comfortable with that from the standpoint of anything coming down the road. In the past the commission usually does publish what they are going to take action on and to move away from that is a change from what we have normally done. If we are going to change that it needs to be done in a different forum/meeting. I think we have to publish what we are going to be voting on in order for the citizens to speak to that.

Fugina said the point she is trying to make is that it is possible that some people who were in favor of the two prior letters; one or both knew that those letters would be rescinded at the commission today they may have wanted to speak to the commission.

Commissioner Mitchell clarified then we can vote this down and make a new motion that says we accept this letter, the proposed changes and somehow say this supersedes the previous two letters.

Chairperson Holmquist stated she would rescind her second to the motion and Commissioner Mitchell rescinded the motion.

Commissioner Mitchell made a **motion** to accept the letter with the changes Chairperson Holmquist and I made, and to add legislators in place of "you" in the proposed letter; that it includes.....

Chairperson Holmquist said I think we can word it later.....the just of it is all we need.

Commissioner Krueger stated we can't word it later.

Commissioner Mitchell stated he is working on the language right now. He included to the motion that this supersedes the previous two letters dated January 3, 2014 and October 22, 2014. Chairperson Holmquist **seconded** the motion.

Commissioner Krueger made a motion to amend the motion to state that the letter would be sent after we receive an invoice and the proper paperwork that we need for our purchasing policy from the person that prepared the letter. Commissioner Krueger asked Chairperson Holmquist if we are going to violate our Purchasing Policy.

Commissioner Mitchell asked what purchasing policy..... he stated he wrote a letter with seven people.

Chairperson Holmquist said she would not second the **motion**.

Commissioner Krueger said it was modified last by Duncan. You claim you had attorneys review and write the letter.

Commissioner Mitchell stated Jeff Larsen reviewed it and asked if he wanted a bill from Jeff Larsen. He explained he didn't ask for bills for anyone; he asked what they would like in a letter.

Motion died for lack of a second.

Commissioner Krueger said I believe that if Commissioner Mitchell is taking professional services from anyone that it is a code of ethics violation.

Chairperson Holmquist called for a vote of the motion on the floor. **Aye** – Holmquist and Mitchell. **Opposed** – Krueger.

The following letter was sent out on January 8, 2015.

*Flathead County*  
**Board of Commissioners**  
(406) 758-5503

Pamela J. Holmquist  
Gary D. Krueger  
Philip B. Mitchell

January 8, 2015

The Honorable Steve Bullock  
Office of the Governor  
State Capitol, Room 204  
P. O. Box 200801  
Helena, MT 59620-0801

Attorney General Tim Fox  
Office of the Attorney General  
215 Sanders, Third Floor  
P. O. Box 201401  
Helena, MT 59620-1401

RE: CSKT Reserved Water Rights Compact

Governor Bullock and Mr. Fox:

We oppose the proposed CSKT Reserved Water Rights Compact (CSKT Compact) as currently written. It will be harmful to Flathead County, as well to the rest of Montana and neighboring states.

This proposed CSKT Compact is the last one to be negotiated in Montana. The other six Montana reservations have entered water right compacts. Significantly, the other six compacts do not grant off-reservation water rights. The proposed CSKT Compact—for the first time—grants these off-reservation water rights to a tribe, which is a new type of water right, and not supported by the Treaty of Hellgate.

A comparison with the six other compacts demonstrates the significance of adding off-reservation water rights. The average acre feet per tribal member for the other six compacts is 88 acre feet of water. Under the proposed CSKT Compact, the average acre feet per tribal member is 6,827 acre feet of water, which is 77 *times* more water than the average for the other six reservations tribal members. [We enclose a chart comparing the seven compacts.]

We strongly object to granting off-reservation water rights to the CSKT. It will have dire consequences to our citizens and businesses that own property and live in Flathead County. We consider it significant that on December 30, 2014, the Flathead Joint Board of Control of the Flathead, Mission and Jocko Valley Irrigation Districts passed a resolution "strongly oppos[ing]" the proposed CSKT Compact [copy enclosed].

We also object to Montana taxpayers writing a check to the CSKT for \$55 million. For more than a century and a half, the federal government has had sole responsibility for supporting the tribes. We have seen no justification for Montana taxpayers starting to assume this responsibility.

Finally, we have concerns that the proposed Compact may not comply with Article IX of the Montana Constitution.



**THURSDAY, JANUARY 8, 2015  
(Continued)**

Gov. Bullock  
A.G. Fox  
RE: CSKT Compact  
01/08/15  
Page 2

We ask that the following changes be made to the proposed Compact:

1. Provide a specific amount of water "quantification" of the federal reserved water right for the reservation, on the reservation.
2. Eliminate the mutual defense clause in Article VIII of the Compact, so that Flathead County citizens will not have to fight the State of Montana when defending their water rights.
3. Bring the Compact in compliance with Article IX of the Montana Constitution.
4. Eliminate the requirement that Montana taxpayers write a check to the CSKT for \$55 million dollars (or any amount of money).
5. That all claims of off-reservation water rights be removed from the proposed CSKT Compact.

Our hope is that the proposed Compact can be revised to identify and protect the CSKT's reserved water rights on the reservation and to protect the rights of the citizens of Flathead County. If it cannot be so revised, we urge the legislature to vote "no" on the proposed Compact and allow a resolution of these issues in the Montana General Stream Adjudication, which will lead to a fairer result.

This letter supersedes the previous two letters dated January 3 and October 22, 2014.

Sincerely,  
FLATHEAD COUNTY  
BOARD OF COMMISSIONERS

*Pamela J. Holmquist*  
Pamela J. Holmquist, Chairman

OPPOSED

Gary D. Krueger, Member

*Philip B. Mitchell*  
Philip B. Mitchell, Member

cc: Legislators in the Montana House and Senate  
Montana County Commissioners  
Members of the Montana Reserved Water Rights Commission  
Members of the Water Policy Interim Committee  
John Tubbs, Director of the Montana Dept. of Natural Resources and Conservation

Enc: Comparison of Montana Indian Reservation Reserved Water Rights Compact  
Resolution 2014-4 of the Flathead Joint Board of Control of the Flathead, Mission and Jocko  
Valley Irrigation Districts



### COMPARISON OF MONTANA INDIAN RESERVATION RESERVED WATER RIGHTS COMPACTS

	Blackfeet	Crow	Flathead	Fort Belknap	Fort Peck	Northern Cheyenne	Rocky Boy
<b>Population within Reservation Boundaries</b>							
Tribal	8,944	5,322	7,042	2,704	6,714	4,406	3,221
Non-Tribal	1,461	1,541	21,317	147	3,294	383	102
<b>Total Population</b>	<b>10,405</b>	<b>6,863</b>	<b>28,359</b>	<b>2,851</b>	<b>10,008</b>	<b>4,789</b>	<b>3,323</b>
<b>Land w/in Reservation Boundaries (Acres)</b>							
Tribal Trust	311,175	404,172	653,214	210,954	413,020	326,547	122,259
Tribal Allotments	701,816	1,166,406	58,729	406,533	516,092	113,277	0
Other (State/Federal/Private)	512,721	894,336	531,057	28,089	1,164,012	4,951	0
<b>Total Land</b>	<b>1,525,712</b>	<b>2,464,914</b>	<b>1,243,000</b>	<b>645,576</b>	<b>2,093,124</b>	<b>444,775</b>	<b>122,259</b>
<b>Reserved Water Right Award (Acre Feet)</b>							
On Reservation	86,880	800,000	16,300,951	500,000	1,052,472	89,530	20,000
Off Reservation	0	0	31,774,647	0	0	0	0
<b>Total (Data Source: See Items 1 or 2 below)</b>	<b>(1) 86,880</b>	<b>(1) 800,000</b>	<b>(2) 48,075,598</b>	<b>(1) 500,000</b>	<b>(1) 1,052,472</b>	<b>(1) 89,530</b>	<b>(1) 20,000</b>
<b>Compact Details</b>							
On Reservation Water Rights Administration	U.S./MT/Tribe	U.S./MT/Tribe	Tribe/UMO	U.S./MT/Tribe	U.S./MT/Tribe	U.S./MT/Tribe	U.S./MT/Tribe
Off Reservation Aboriginal Treaty Rights	No	No	Yes	No	No	No	No
Relinquish Irrigation Water Rights to Tribe	No	No	Yes	No	No	No	No
Ratified Montana Legislature / U.S. Senate	2009 / No	1999 / 2010	No / No	2001 / No	1985 / 1994	1991 / 1992	1997 / 1999
<b>Statistics:</b>							
Acre Feet / Tribally Owned Acre	0.09	0.51	67.53	0.81	1.13	0.20	0.16
Acre Feet / Tribal Member	9.71	150.32	6,826.98	184.91	156.76	20.32	6.21

(1) Negotiating Tribal Water Rights: Fulfilling Promises in the Arid West, By Bonnie G. Colby, John E. Thomson, Sarah Britton  
(2) Flathead Reservation based upon Concerned Citizens of Western Montana analysis of the 02/13/13 compact documents on the DWR website. Note: the commission has not provided quantification numbers for this compact and recently revised the compact documents. In Appendix 12, increasing the volume of water in the compact to nearly 52 million acre feet.

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**RESOLUTION OF THE FLATHEAD JOINT BOARD OF CONTROL OF THE FLATHEAD,  
MISSION AND JOCKO VALLEY IRRIGATION DISTRICTS**

RESOLUTION NO. *2014-4*

The Flathead Joint Board of Control of the Flathead, Mission and Jocko Valley Irrigation Districts, at a meeting convened and held on December 30, 2014, at St. Ignatius, Montana, at which a quorum was present and voting throughout, hereby adopt the following:

WHEREAS, the Flathead Joint Board of Control ("FJBC"), comprised of the Flathead, Mission and Jocko Valley Irrigation Districts, represents the irrigated acreage owned in fee which comprises approximately 110,000 acres, or 90% of the acreage contained within the Flathead Irrigation Project ("FIP");

WHEREAS, the CSKT has failed to state the primary purpose of the reservation and to quantify their federally reserved water right;

WHEREAS, in September of 2013 the FJBC set forth its position regarding the Water Compact between the Confederated Salish and Kootenai Tribes, the United States, the State of Montana and the FJBC which had failed to pass the 2013 Montana Legislature, and requested the Montana Reserved Water Rights Compact Commission ("MRWRCC") resume negotiations of the Water Use Agreement ("WUA") contained in the 2013 Compact proposal, and requested the following concerns be addressed:

- The Water Compact may not be used as a vehicle to take Irrigation Project Water Rights or Individual Landowners' Water Rights and transfer them to the Confederated Salish and Kootenai Tribes ("CKST").
- The quantity of water allocated to the FIP in the WUA was significantly less than historical use and was based upon the Hydrologic River Operation Study System ("HYDROSS") model, a model generally used as a planning tool and which is scientifically unsound for making actual allocations of

**THURSDAY, JANUARY 8, 2015**  
**(Continued)**

project water and in-stream flows. Additional operational modeling was requested to address historic irrigation deliveries, extra duty water, stock water and the use of "non-quota" water. Historic data to verify historic use, requested from the BIA via FOIA, has been withheld from the FJBC.

- The Water Compact unlawfully created a Unitary Management Ordinance ("UMO") and Unitary Management Board ("UMB"), comprised of political appointees, to administer water right issues within the FIP and which eliminated judicial review, adjudication and oversight by the Montana Water Court. The UMO and UMB, as a governing body, treated citizens of the State of Montana located in the FIP differently from the rest of the citizens of the State of Montana and disproportionately vested review, adjudication and control over water and irrigation rights and use with Tribal appointed representatives. The Water Compact further directed any appeal from the UMB to an undefined "Court of Competent Jurisdiction".

WHEREAS, upon reopening of negotiations between the United States, the CKST and the State of Montana regarding the Water Compact, the FJBC was intentionally denied a presence in the negotiations;

WHEREAS, on October 8, 2014, the FJBC presented its Position Statement once again identifying the three (3) issues it previously asked the MRWRCC to address in negotiations in order to gain the FJBC's support for a renegotiated Water Compact;

WHEREAS, the FJBC received no substantive response to its concerns;

WHEREAS, on December 12, 2014 Governor Steve Bullock announced an agreement had been reached between the CKST, the State of Montana and the United States as to the Water Compact ("CKST Water Compact"), a final copy of which to date has not been distributed for review;

WHEREAS, contrary to statements made by the Governor and the Attorney General, all indications from the Compact Commission are that the "renegotiated" Compact does not provide a water right to FIP irrigators, does not provide "historic usage" as required by the Montana Constitution (Article IX.3.1), and further violates Article IX of the Montana State Constitution by imposing the UMO on fee land irrigators within the FIP, thus treating them differently than anywhere else within the State.

NOW THEREFORE, BE IT RESOLVED:

The FJBC, comprised of the Flathead, Mission and Jocko Valley Irrigation Districts, representing the irrigated acreage owned in fee and which comprises approximately 110,000 acres, or 90% of the acreage contained within the FIP, strongly opposes passage by the 2015 Montana Legislature of the proposed CKST Water Compact as drafted, and recommends that irrigator's water rights be adjudicated by the Montana Water Court in a general stream adjudication process because the allegedly "renegotiated" Water Compact:

- Requires individual landowners, irrigators and their representatives and/or agents to relinquish any and all claims to water rights in the FIP, without their agreement or consent.
- Inherently acknowledges the initial Water Use Agreement was flawed with respect to irrigation water allocation and now replaces it with "adaptive management", a learning-based management method which implements irrigation water allocation by trial and error, while disregarding historical use.
- The UMO and UMB violate the Montana Constitution and the Constitution of the United States by requiring both Tribal and non-Tribal property owners and citizens of the State of Montana who reside on fee land within the Flathead Indian Reservation's boundaries to be governed by a different law of water administration than the rest of Montana.
- Creates a "FIP delivery entitlement statement" of unknown origin, status and legal effect.
- Fails to sufficiently define a "Court of Competent Jurisdiction", thereby creating a judicial nightmare likely to result in different courts issuing conflicting decisions and opinions as to water and irrigation rights and use within the FIP.

DATED effective December 20th, 2014.

The undersigned certifies that the above stated resolution and was passed by a majority/unanimous of the Board Members of the Flathead Joint Board of Control.

Quinn Boone Cole

Wynn & Blevins

J. L. Eskola

**THURSDAY, JANUARY 8, 2015  
(Continued)**

**MONTHLY MEETING W/ SANDY CARLSON, FINANCE DEPT.**

**10:24:00 AM**

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Finance Director Sandy Carlson, Clerk Kile

Carlson met with the commission and summarized the following monthly report.

**December 31, 2014 REVIEW OF CASH BALANCE**

FUND	FUND NAME	APPROPRIATION	CASH RESERVES (\$ needed for 1st 4mos FY15)	TOTAL REQUIRED	RESOURCES AVAILABLE (FY15 beginning cash)	YTD CASH BALANCE AS OF December 31, 2014	PROJECTED CASH BALANCE AS OF JUNE 30, 2015	PROJECTED DIFFERENCE	CASH RESERVE %	YTD Expenditures	Expenditures as % of Budget
1000	GENERAL FUND	13,345,474	4,448,491	17,793,965	2,532,340	4,319,223	3,133,085	(1,186,138)	23.48%	5,852,332	43.9%
2120	POOR FUND	365,900	121,967	487,867	27,835	176,572	87,509	(89,063)	23.92%	101,682	27.8%
2130	BRIDGE FUND	949,474	316,491	1,265,965	446,129	355,918	230,769	(125,149)	24.30%	559,510	58.9%
2140	WEED	643,681	214,560	858,241	268,628	290,913	154,876	(136,037)	24.06%	330,384	51.3%
2160	COUNTY FAIR	1,372,322	457,441	1,829,763	59,912	(51,264)	419	51,683	0.03%	1,001,272	73.0%
2180	DISTRICT COURT	669,349	223,116	892,465	514,443	437,330	167,990	(269,340)	25.10%	287,563	43.0%
2190	COMP INS	995,856	331,952	1,327,808	661,619	293,711	248,615	(45,096)	24.96%	746,413	75.0%
2210	PARK	716,009	238,670	954,679	358,085	291,144	177,655	(113,489)	24.81%	349,780	48.9%
2220	LIBRARY	1,562,239	520,746	2,082,985	357,972	531,422	355,361	(176,061)	22.75%	758,207	48.5%
2280	AREA ON AGING	238,708	79,569	318,277	55,601	92,716	68,454	(24,262)	28.68%	115,344	48.3%
2290	4H/EXT	132,808	44,269	177,077	35,495	45,982	30,448	(15,534)	22.93%	64,675	48.7%
2300	SHERIFF	9,841,011	3,280,337	13,121,348	4,066,435	4,511,465	2,464,538	(2,046,927)	25.04%	4,459,987	45.3%
2370	RETIREMENT	3,014,270	1,004,757	4,019,027	1,167,139	1,379,770	747,095	(632,675)	24.79%	1,338,360	44.4%
2380	GROUP INS	2,960,481	986,827	3,947,308	995,959	900,370	739,254	(161,116)	24.97%	1,333,604	45.0%
2396	JUV DETENTION	725,255	241,752	967,007	347,328	330,535	178,313	(152,222)	24.59%	333,367	46.0%
<b>TOTAL COUNTYWIDE NON-VOTED</b>		<b>37,532,837</b>	<b>12,510,946</b>	<b>50,043,783</b>	<b>11,894,920</b>	<b>13,905,807</b>	<b>8,784,381</b>	<b>(5,121,426)</b>	<b>23.40%</b>	<b>17,632,480</b>	<b>47.0%</b>
2110	ROAD FUND	7,740,854	2,580,285	10,321,139	3,034,286	1,640,767	2,318,413	677,646	29.95%	4,658,685	60.18%
2251	PLANNING	456,757	152,252	609,009	201,195	195,295	133,309	(61,986)	29.19%	212,215	46.46%
<b>TOTAL OUTSIDE CITIES NON-VOTED</b>		<b>8,197,611</b>	<b>2,732,537</b>	<b>10,930,148</b>	<b>3,235,481</b>	<b>1,836,062</b>	<b>2,451,722</b>	<b>615,660</b>	<b>29.91%</b>	<b>4,870,900</b>	<b>59.42%</b>
2270	HEALTH FUND	2,300,173	766,724	3,066,897	681,835	862,229	670,549	(191,680)	29.15%	1,085,173	47.18%
<b>TOTAL LEVIED FUNDS</b>		<b>2,300,173</b>	<b>766,724</b>	<b>3,066,897</b>	<b>681,835</b>	<b>862,229</b>	<b>670,549</b>	<b>(191,680)</b>	<b>29.15%</b>	<b>1,085,173</b>	<b>47.18%</b>
2200	MOSQUITO	170,887	56,962	227,849	96,952	129,878	52,439	(77,439)	30.69%	47,371	27.72%
2272	EMS PROGRAM	254,873	84,958	339,831	78,636	121,713	77,001	(44,712)	30.21%	106,506	41.79%
2273	SPECIAL EMS PROGRAM	543,000	181,000	724,000	84,703	110,655	36,778	(73,877)	6.77%	270,250	49.77%
2372	PERMISSIVE MED LEVY	2,219,698	739,899	2,959,597	-	403,833	-	(403,833)	0.00%	855,345	38.53%
2382	SEARCH & RESCUE LEVY	287,791	95,930	383,721	108,609	106,629	88,982	(17,647)	30.92%	159,633	55.47%
2990	TRANSPORTATION	1,230,870	410,290	1,641,160	326,084	223,687	372,173	148,486	30.24%	560,164	45.51%
3001/3002	911 GO BOND DEBT SERVICE	488,017	162,672	650,689	127,695	302,771	141,446	(161,325)	28.98%	486,466	99.68%
<b>TOTAL COUNTYWIDE VOTED/EXEMPT</b>		<b>5,195,136</b>	<b>1,731,712</b>	<b>6,926,848</b>	<b>817,679</b>	<b>1,399,166</b>	<b>768,819</b>	<b>(630,347)</b>	<b>14.80%</b>	<b>2,485,735</b>	<b>47.85%</b>
2260	EMERGENCY/DISASTER	-	-	-	374,818	377,877	374,818	(3,059)	#DIV/0!	-	#DIV/0!
<b>TOTAL OUTSIDE CITIES VOTED</b>		<b>-</b>	<b>-</b>	<b>-</b>	<b>374,818</b>	<b>377,877</b>	<b>374,818</b>	<b>(3,059)</b>	<b>#DIV/0!</b>	<b>-</b>	<b>#DIV/0!</b>
2901	PILT	5,650,000	1,883,333	7,533,333	3,645,522	475,669	500,669	25,000	8.86%	5,650,000	100.00%
<b>Total Tax Levied Funds + PILT</b>		<b>58,875,757</b>	<b>19,625,252</b>	<b>78,501,009</b>	<b>20,650,255</b>	<b>18,856,810</b>	<b>13,550,958</b>	<b>(5,305,852)</b>	<b>23.02%</b>	<b>31,724,288</b>	<b>53.88%</b>

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General discussion was held relative to concerns pertaining to budgeting at the Fairground's.

**MEETING W/ GARY DANCZYK & CHIP WEBER, FLATHEAD FOREST SERVICE RE: BLACKTAIL ROAD AND FOREST SERVICE REVISION PLAN UPDATES**

**10:41:00 AM**

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Public Works Director Dave Prunty, Gary Danczyk, Chip Weber, Eric Muehlhof, Richard Kehr, Clerk Kile

Chip Weber, Forest Service Supervisor met with the commission and briefly spoke about additional Forest Service access, timber harvesting, forest plan revisions, and management of the forest and trail systems.

Gary Danczyk reviewed the Federal Land Access Program pertaining to Blacktail Road and summarized possible work on Bad Rock Canyon in the future. He spoke about the possibility of getting additional outside resources to the North Fork Road over the next several years.

Richard Kehr, District Ranger on the Swan Lake Ranger District briefly spoke about the Federal Lands Access Program pertaining to Blacktail Road and Foy's to Blacktail Trail.

Wade Muehlhof, Public Affairs Officers spoke about communications and the tools they use in getting information out to the public.

Rob Carlin, Staff Officer for Resource Planning & Operations spoke about suitable timber production, forest plan revisions and fire programs.

**DOCUMENT FOR SIGNATURE: DPHHS CONTRACT #15221030009/ AOA**

**11:34:00 AM**

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Clerk Kile

Commissioner Krueger made a **motion** to approve the document for signature. Commissioner Mitchell **seconded** the motion. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: DPHHS CONTRACT #15-07-4-51-007-0/ HEALTH DEPT.**

**11:35:00 AM**

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Clerk Kile

Commissioner Krueger made a **motion** to approve the document for signature. Commissioner Mitchell **seconded** the motion. Motion carried unanimously.

**THURSDAY, JANUARY 8, 2015  
(Continued)**

**CONSIDERATION OF ACCEPTANCE OF DONATIONS: ANIMAL SHELTER**

**11:36:00 AM**

Present: Chairperson Pamela Holmquist, Commissioner Gary Krueger, Commissioner Philip Mitchell, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Clerk Kile

Pence noted two \$1,000 donations for the Animal Shelter were received from Michelle Halsey and Charlie & Julie Helbach.

Commissioner Krueger made a **motion** to accept the donations to the Animal Shelter. Commissioner Mitchell **seconded** the motion. Motion carried unanimously.

**2:00 p.m. Commissioner Mitchell: AOA Board meeting @ The Summit**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 9, 2015

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**FRIDAY, JANUARY 9, 2015**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairperson Holmquist, Commissioner Krueger and Mitchell, and Clerk Pierson were present.

**NO MEETINGS SCHEDULED**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 12, 2015

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