

January 6, 2014

Governor Steve Bullock
P.O. Box 200801
Helena, MT 59620-0801

Attorney General Tim Fox
P.O. Box 201401
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Dear Governor Bullock and Attorney General Fox,

As Mission Irrigation District and Jocko Valley Irrigation District farmers and ranchers, we want to join with Flathead District farmers and ranchers who have already sent you a letter expressing support for the Flathead Reservation Compact and the Water Use Agreement. Like them, we have some grave concerns about the misinformation that is circulating about the proposed Water Use Agreement and the Compact.

Every legal water right has four attributes—a point of diversion—a place of use—a flow rate—and a priority date, or date of appropriation. Of these, the last—priority date, is most important, especially in times of drought. Under western water law, 100% of the senior water right must be satisfied before water can be released to a junior right. There is no sharing of water shortages between junior and senior rights. In times of drought, that means that junior rights may not receive any water at all, depending on the available supply.

In the Klamath River Basin in southern Oregon, a negotiated settlement was reached several years ago that provided for water and sharing in times of shortages between junior and senior water rights involving irrigation districts and the Klamath Tribes. Other irrigators refused to participate in the negotiated settlement, however. This year, the irrigators with the negotiated settlement are receiving water and the irrigators who refused to negotiate are having ‘calls’ placed on their water, which means they cannot irrigate because the water they are using needs to satisfy the senior Indian water right. According to news articles, this involves at least 58,000 acres of irrigated land.

We do not want that to happen here, on the Flathead Indian Irrigation Project or on the Flathead Indian Reservation. We believe the proposed Water Use Agreement and the Flathead Reservation Compact should be approved and implemented by the State of Montana, the U.S. and the CSKT.

The FJBC spent millions litigating instream flows in the late 1980’s and early 1990’s. The FJBC lost. We believe the FJBC will lose again and we do not want to pay for more litigation. We do not want to pay for increased pumping costs which may approach \$6.00-\$7.00 per acre after 2015. We do not want to lose the benefits of a secure supply of irrigation water guaranteed by the water use agreement. We do not want to lose the benefits of state and federal dollars fixing our irrigation project.

We would like to address and rebut some erroneous claims being promoted by Compact opponents:

First, the Compact does not allow CSKT control of all the water in western Montana, or even on the Flathead Indian Reservation. In fact, simply reading the proposed Water Use Agreement and Compact proves that to be a false claim. The Compact clearly states that Montana will administer all off reservation water, including water rights co-owned between the CSKT and Montana and water rights held by the CSKT. The Water use agreement clearly states that private and secretarial water rights are not included in the Agreement or Compact and that the Montana Water Court will adjudicate those claims. Finally, The CSKT also do not have unilateral jurisdiction on the Flathead Reservation, either. The Compact sets up a six member board, with five voting members to oversee administration of water rights and permits on the Reservation. Only two of these six members are appointed by the CSKT. Does this sound like the CSKT will have unilateral control of water in western Montana? No.

Second, the Water Use Agreement provides a good, secure water supply for irrigators, including a mechanism for irrigators to continue to receive extra duty water. This provides Flathead Project irrigators with a reliable supply of water, without any litigation costs and also provides large amounts of state and federal dollars to improve the irrigation project. These are dollars that irrigators will not have to raise themselves to affect much needed repairs.

Third, There is no provision in the Water Use Agreement or Compact that allows the CSKT to monitor or meter wells. The Unitary Management board may require meters on new large wells, as is done in other areas of the state, but that is for the protection of existing small wells, as is done in other areas of the state.

Fourth, the Compact specifically provides a mechanism not only for the protection of existing water uses, such as all the wells that have been drilled since 1996 without any permits, but also provides for the development of future uses, including new wells. These Compact provisions virtually mirror Montana law. The Compact and Water Use agreement provide certainty and security that is now lacking, without spending millions of dollars in litigation costs.

Governor Bullock, we respectfully request your support for the Flathead Reservation Compact to be addressed in a special session of the Montana legislature. We cannot afford the alternative.

Signed**:

Glen & Karen Raisland, St. Ignatius
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Mary Stranahan, Arlee
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Dale Doney, Arlee
Clark Matt, Arlee
Malone Trust, Arlee
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Walter Mahler, Arlee
Bonnie Burnett, Arlee
Maxine Doney, Arlee
Kerry Doney, Arlee
Ron Kernvelt, Arlee
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Rick Runkle, St. Ignatius
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Wilma Manore, St. Ignatius
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Theo & Marian Green, St. Ignatius
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Simon Miller, St. Ignatius
Hope Litzsinger, St. Ignatius
Thomas & Cynthia Mullins, St. Ignatius
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Dorothy Irvine, St. Ignatius
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Lila Faye Krantz, St Ignatius
Barbara A. Conley, St. Ignatius
Maria Henry, St. Ignatius
Ben Selby (Selby 2002 Revocable Trust), St. Ignatius
John & Elizabeth Lee, St. Ignatius
Karen Weeast, Missoula (Mission District)
Patricia Jean Sandvig, Missoula (Mission District)
Lois Sally Mitchell, St. Ignatius
Alvin & Christine Old Coyote, St. Ignatius
Jack & Vivian Sabers, Salem, South Dakota (Mission District)
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Gerri McGee, St. Ignatius
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Cynthia & Break Howard, Plain, MT (Mission District)
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Kevin Eichhorn, Arlee
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Jere & Henrietta Cockrell, Portash Chilmark, UK & Missoula MT (Mission District)
William & Roxanne Boettcher, Missoula (Mission District)
Wesley A Rogaiski, St. Ignatius

**These farmers, ranchers and district landowners operate more than 11,000 acres in the combined 22,000 acre Mission and Jocko Valley Irrigation Districts.