

EXHIBIT 16  
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SB 629

**HB 629 Written Testimony**

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Mr. Chairman, members of the committee. For the record, my name is Alan Mikkelsen . I am the fourth generation of my family to have farmed and ranched on the Flathead Indian Irrigation Project in the Jocko and Mission Valleys. Personal history aside, I am endorsing HB 629 on a professional basis. I have spent 28 years working in the water management and water rights arena. I have been qualified as an expert witness in federal district court testimony on water rights and water use. I have served as a court appointed mediator in Montana district court for water right disputes, including the filing of settlement documents. At the request of the state of Montana and the U.S., I formed the Milk River Joint Board of Control in north central Montana. I have represented irrigation districts and projects in formal testimony before the U.S. Congress on endangered species issues, irrigation project title transfer, the Clean Water Act reauthorization, and other issues. I have been recognized and received awards for my work on irrigation and water right issues by the Montana Water Resources Association, Upper Missouri Water Association, and the National Water Resources Association. I have completed seminars and study at the University of Colorado law school on water law and Indian water law.

I support HB 629 because it is the only way a positive future can be secured not only for the Flathead Indian Irrigation Project, but the entire Flathead Indian Reservation and all of western Montana.

Last week you heard the Compact was not ready for prime time. I beg to differ. No compact in the State of Montana has received more scrutiny. It is the result of over 12 years of negotiation. Every single public draft has been available online from the Compact Commissions website at DNRC and the CSKT website. The Compact Commission has had public meeting after public meeting. Nobody has hidden any balls here. While this Compact may not meet every person's expectations, it meets every persons needs.

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Last week you heard the Compact was too lengthy, too hard to understand. Not true. The bulk of the Compact has been available for years. The most recent edits are primarily technical appendices, and include hundreds of water right abstracts. I have read the Compact in its entirety. I have compared each and every Compact water right abstract with the abstracts filed by the FJBC and U.S. for the Flathead Indian Irrigation Project. The Compact lists a couple hundred abstract pages for the irrigation project. The Compact abstracts are more comprehensive and complete than the filings by the FJBC and the U.S. for the irrigation project. The Compact picks up dozens more abstracts or points of diversion missed by the other two claims. The Compact is more protective of the irrigation project water use than the FJBC and U.S. claims.

Nobody is losing their irrigation water, on or off the reservation. Wells are protected on and off the reservation. And proposed work on the irrigation project means it will continue to exist in a viable form for another century. The compact is supported by almost all professional water managers in western Montana, as well as by the statewide Montana Water Resources Association. They have read it, studied it, and have concluded this is a good deal and will not have any negative impact on existing uses.

Unfortunately, there is a lot of fear and hysteria out there. Whether through lack of knowledge, ignorance or malice, this Compact is being ripped to shreds without any basis in fact. Let me share this: I have been making a Power Point presentation in support of the Compact. I expect to be challenged by skeptics or opponents. In every presentation I have law school textbooks on Indian law and Indian water law with me, as well as a copy of the Compact and the associated water use agreement for the Flathead Indian Irrigation Project. In every presentation, I extend this invitation: "If you want to challenge my assertions or claims, come forward, and using the Compact or Water Use Agreement, or textbooks, show me where I am wrong." So far, in more than a half dozen presentations, nobody has accepted that challenge. Fear makes for better political theater than reality.

Fear says this: We are losing our water rights. We are losing our property rights. The Tribes will control us. Reality says this: Nobody is losing their water right or right to use water.

The Compact does not do anything at all to affect property rights. The Compact does not allow the CSKT to control or meter your well. The Compact creates a true partnership in administration between the state of Montana and the CSKT. The CSKT cannot make any unilateral decisions about water use after the passage of the Compact. The legislature of Montana—you—are the ones that have to agree to any potential post-Compact changes.

Reality also says this: Failure to approve this Compact means two things. First it means litigation. That litigation will have a chilling effect on all development in western Montana.

When the CKST file their claims with the Water Court, DNRC is likely to be proscribed from issuing any further permits for either surface or ground water development in western Montana, until the CSKT water rights are quantified. This could take decades. Second, failure of this Compact will consign the Flathead Indian Irrigation Project, the largest irrigation project in Montana, to a slide into oblivion. Failure means that pumping costs on the Flathead River Pumping Plant will increase 200-300%. O&M rates will also see a significant increase in order to meet the repairs needed to keep water running, or water deliveries will cease. Unless HB 629 is passed, a grim reality awaits us. Pass HB 629 and ensure a positive future for all of western Montana.

In closing Mr. Chairman, there have been many personal attacks against the Compact Commission, Commission staff, tribal officials, FJBC members and others, including myself. Let me offer one more observation:

Great minds talk about ideas.

Average minds talk about events.

Small minds talk about people.

Please focus on ideas for the future. Pass this bill out of committee; let it have a full and honest debate in the chambers of this legislature. Thank you.