

Committee Members,

My name is Rick Jore and I live in Ronan.

I am opposed to HB 629 and this compact for several reason's, but will focus my testimony on one of those reasons.

Much of what is contained in this compact is based on the definition of "Flathead Indian Reservation," which the compact defines as "ALL land within the exterior boundaries of the Indian Reservation established under the July 16, 1855 Treaty of Hellgate, notwithstanding the issuance of any patent, and including rights-of- way running through the Reservation."

The problem with this definition is that it neglects or disregards Congressional acts subsequent to, and based upon, the Hellgate Treaty and which have diminished the reservation. Indeed, it is only on the basis of these acts that the State of Montana or any of its political subdivisions exercises any authority, including the authority to tax non-Indian citizens and private fee land, within the boundaries of the Flathead Reservation.

If the Flathead Indian Reservation has not been diminished, as this compact definition assumes, then I would suggest that the State of Montana is...and has been for many years...violating its own Constitution. That Constitution clearly states that "...all lands owned or held by any Indian or Indian tribes shall remain under the absolute jurisdiction and control of the congress." In short, the State of Montana cannot have it both ways. Either the reservation was diminished or it was not.

On one hand, the State of Montana embraces a tax policy applicable to non-Indian state citizens and fee patented property within the boundaries of the reservation which assumes diminishment of the reservation. On the other hand, this compact enacts a water rights administration policy pertaining to those same citizens which assumes no diminishment. For example, DOR (Depart. of Revenue) classifies private fee property within the reservation boundaries as "fee simple status" for purposes of taxation. Under this compact, the DNRC (Depart. of Natural Resources) is classifying private fee property as "reservation status" for purposes of water rights administration.

If you vote in favor of this compact, you must be prepared to explain this double-minded and inconsistent policy and why non-Indian state citizens and private property owners within the boundaries of the reservation are subject to "equal taxation" by the State of Montana but are not afforded "equal protection" by the State of Montana.

Please consider the attached information sheet. Thank you for your time and attention.

# HISTORY AND BACKGROUND OF FLATHEAD INDIAN RESERVATION

## Pertaining to Non-Indian Ownership of Private Fee Patented Property Within the Reservation Boundaries

**Hellgate Treaty of 1855: Art. VI (in part)** "The President may... cause the whole, or said portion of such reservation, to be surveyed into lots, and assign the same as such individuals of families of the said confederated tribes as are willing to avail themselves of the privilege,... on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas..."

**Art. VI of the Omaha Treaty 1854 (in part)** "And the residue of the land hereby reserved, ..., after all of the Indian persons or families shall have had assigned to them permanent homes, may be sold for their benefit, under such laws, rules or regulations, as may hereafter be prescribed by the Congress or President of the United States.

**Dawes Act or "General Allotment Act" 1887** "An act to provide for the allotment of lands in severally to Indians on the various reservations,"...

**Flathead Indian Reservation Allotment Act of 1904** "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment."

**Indian Citizenship Act of 1924** Can the United States have an Art. VI Treaty with a group of its own citizens?

**Indian Reorganization Act of 1934** "BE IT ENACTED..., That hereafter no land of any Indian reservation... shall be allotted in severalty to any Indian."

Section 3. The Secretary of the Interior... is hereby authorized to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened ... Provided, however, *That valid rights or claims of any persons to any lands so withdrawn... shall not be affected by this Act:...*

**Definition of "Flathead Indian Reservation" embraced in the proposed CSKT Water Compact:** "*ALL land within the exterior boundaries of the Indian Reservation established under the July 16, 1855 Treaty of Hellgate (12 Stat. 975), notwithstanding the issuance of any patent, and including rights-of-way running through the Reservation.*"

**Art. I of Montana Constitution (in part)** "...all lands owned or held by any Indian or Indian tribes shall remain under the absolute jurisdiction and control of the congress..."

**Art. IX Sec. 3 Montana Constitution (in part)** "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..."

"The legislature shall provide for the administration, control and regulation of water rights..."

Prepared by Rick Jore, Ronan MT 406-644-2542, 544-2389, rickjore@gmail.com