

Exhibit No. 14
Date: 2/16/15
Bill No. SB 262

This Compact is vastly different from Compacts negotiated with the six other tribes.

It is precedent—setting in that it does extend outside reservation boundaries. In other compacts non-Indians dwelling on the reservations were treated the same as other citizens of Montana. Not so in this proposed agreement! Proponents claim that equal protection under the law concerns are not legitimate ones but the facts remain.

Not one of the other compacts sets up a Unitary Management Authority. Not one gives that kind of entity authority to control allocation of water involving generation produced at four hydro-electric dams.

We are told that “time immemorial” is mentioned 11 times in the documents where referencing tribal water rights, but we understand that term is based on folklore and has not been recognized in the court cases applicable to this situation. But it would cede headwaters rights to the tribes, which would put downstream water uses at their discretion.

Instead of saving litigation claimed by proponents, this would result in hundreds of water users rights placed at risk and in a position of having to file actions to defend those rights. We know that the U.S. Justice department would provide counsel to the tribes but what of the hapless Montanans who have complied with all Montana Water Laws and by provisions of this compact yet see their water rights literally sold down the river. Instead of eliminating litigation, this compact will necessitate more—it just depends on who pays and who can afford to pay.

Thank you, Aubyn

SB 262

For the record, my name is Aubyn Curtiss

I have served Lincoln County 24 years here, eight years in this chamber and sixteen years in the House. Though termed in 2010 I still speak not only for myself but many others who could not be here today

I speak in opposition to SB 262. The Compact flies in the face of Article IX of Montana's Constitution and its adoption would render our Montana Water Court a paper tiger. It exempts the CSKT from compliance with the same terms of Montana's adjudication process as other water users.

In all honesty it should have "TRUST US" stamped across page after page in the extensive document.

Trust us that this is good for Montana

Trust us that it will save litigation

Trust us that senior water rights will be protected

Trust us--Farmers & Ranchers believe this is good for them

Trust us that waiver of the quantification requirement under the adjudication system is acceptable in a water court

Trust us--grant immunity from liability to those engaged in the process

Trust us and vote either up or down, but no amendments

What a farce! Why then conduct a hearing such as this if legislators are unable after deliberation to determine any changes or clarifications. Can it be that the only place where Montana's constitution is cited in these hundreds of pages is where authorization for granting the 55 million of state dollars to the tribes is mentioned?

Aubyn Curtiss

From: "Aubyn Curtiss" <aubyna@interbel.net>
To: "Aubyn Curtiss" <aubyna@interbel.net>
Sent: Saturday, February 14, 2015 9:40 PM
Subject: Questions of Senator Vincent & the Judiciary Committee

----- Original Message -----

From: [Aubyn Curtiss](#)
To: [Aubyn Curtiss](#)
Sent: Saturday, February 14, 2015 9:15 PM
Subject: Fw: Chas Vincent CSKT Letter from aa

Questions of SB 262 Sponsor Chas Vincent

(1) Nowhere have you shared with Lincoln County citizens the reasons you rejected the CSKT documents presented before the 63rd Legislature. How were flaws you perceived corrected, and where are the corrections shown in the January 2015 revision document?

(2) Antennas are raised when entities request immunity from liability related to their actions or decisions they make. For what reason are our legislators asked to grant that kind of immunity to those involved in this compact?

(3) When our Legislature passed legislation to adjudicate Montana's waters, it was with the understanding that if we did not do this, the federal government would. The adjudication process mandated that all waters in the state would be quantified, location where water was being put to a beneficial use and by whom. The CSKT have never done that, and now this compact, if adopted, would put their expressed needs ahead of those who have jumped through the hoops and complied with Montana water laws. Furthermore these water users have made considerable investment in diversions, irrigation, and delivery systems. The adjudication system is incomplete without participation of all water users.

(4) The Kootenai/Salish Tribes' claim to special treatment under the Hell Gate Treaty, according to some more conversant with tribal laws than I, is apparently facing sharp dissent relating to their adoption of the status they did in October of 1935. Has anyone researched that issue thoroughly and where can be found documentation of their true status and eligibility to claim treaty rights? Fishing rights and water rights are two separate things!

(5) We had big concern about what Montana would receive for the \$ 55 million we appear to be committed to spend, and even more puzzled that the federal government was willing to spend \$1.2 billion upon adoption of the Compact. Millions of dollars are being spent to lobby this bill through the legislature. The Tribes have contracted with an entity to do that for them and it would seem that Farmers & Ranchers for Montana may have engaged the same firm to do the same thing. Are the two entities connected? How can we find out?

(6) What does Montana stand to gain? We have been told only that it will protect all water in the state and save much litigation. Litigation by whom? We also know that the U.S Justice Department will provide counsel for the CSKT, but who will provide counsel for hapless Montanans who have complied with all Montana Water Laws and yet by provisions of the compact may see their water rights literally sold down the river?

(7) We have come to perceive that Farmers & Ranchers for Montana is not an organization of family farmers and irrigators, but a front group which has been instrumental in hiring a world class public relations firm (Mercury) to initiate what appears to be a multi million campaign to "educate" Montanans about the compact. We have received very little education--only glowing reports of who is supporting and that it is good for Montana. The co-chairman who introduced the Montana friendly organization, FRforM said in his January 15th news piece that he wanted "the water quantified and defined for all of us," and urged all Montanans to support it. How ironic!

The result is that the tribes are exempted from the quantification to which everyone else has complied but still would be able to oversee allocation of water on the reservation and in eleven off reservation counties. Is that a "fair deal?" Just who is calling the shots?

Please help us to understand the fairness of that when making whatever deals have been made, and with whom. It is essential that the public know.

(8) Where in the document does it guarantee that existing Water Rights and volumes will continue to be honored?

(9) Where can be found the risk analysis Sen Vincent indicated to someone he was in the process of drafting the first week in January?

Sorry to be so persistent but so many thanks for taking time to respond.

Aubyn Curtiss, Lincoln County (One of the eleven off-reservation counties in the Clarks Fork Basin)

Senator Aubyn Curtiss, termed in 2010