

Exhibit No. 19, 17
 Date: 2/16/15
 Bill No. SB 262

Baker Land & Cattle

February 12, 2015

Dear Montana Legislators:

This letter is to address the proposed compact of the CSKT. I am a fourth generation irrigator on the Flathead Irrigation district in the Camas division. The irrigators here and across the project are not satisfied with the proposed compact agreement. Even with the very few changes that were made to the compact between the state attorneys and the tribe, which has completely left irrigators without any say in the negotiation process. This in of itself is unconstitutional and there will be recourse, if this debacle is passed. After many meetings and conversations, these reasons have come to the forefront.

- The Irrigation districts should maintain their water rights for the Flathead Irrigation Project these have been filed and in the adjudication process in the state.
- Individual water rights should be given the utmost importance and protection through our state. This is where they were adjudicated and this is where they should be determined, not in Federal court, If a dispute should arise.
- The irrigation project was paid for and maintained with our land patents through a mortgage system throughout the years and also net power revenues for improvements and maintenance. Why would the state of Montana have to give the CSKT Compact 55 Million dollars for something that our forefathers had the good sense to create and pay its own way?
- With the proposed compact we will receive less than 50% of the water in our historical use.
- A unitary management board will be an unbalanced entity that will have tribal jurisdiction over non-tribal members and make decisions that other boards already have been the deciding factor on. This will be an excessive governing entity that will have to be budgeted for, and could easily be misused by special interests.
- Many irrigators both tribal and non-tribal believe that the state should hold the decision-making on the water disputes not the federal government. There will be no accountability for a waiver of immunity.

Myself and many other irrigators are not against a compact, but need to have a direct and fair agreement, one that protects our water and property rights. The curreant compact does not protect our water rights and property rights. This compact needs to be transparent and definitive before we as irrigators can be in favor of it. Why should we be treated differently than the rest of the irrigators in the state of Montana? The FJBC, myself and other irrigators both tribal and non-tribal oppose the current proposed compact. PLEASE REJECT THIS CURRENT COMPACT!

Sincerely,

Jim L. Baker
 President
 Baker Land & Cattle Co, Inc.

Written Transcript of Meeting with E. Foust (FJBC Ex-Chairman) and Commissioner Tim Orr (Mission District Commissioner)

Attendance:

- ~ Ed Warheim - Irrigator
- ~ Everett Foust (Ex-Chairman for the FJBC)
- ~ Tim Orr (FJBC Commissioner)
- ~ Joan Krantz (Ex-Irrigation FIP Clerk)
- ~ David Passieri – Video Recording
- ~ Trudy Samualson – Written Notes

Time: 8:00 a.m.

Date: February 10, 2015

- **Tim Orr:** Joan, you worked for the project, is that correct? You were the administrative assistant?
- **Joan Krantz:** Yes, actually I was hired in 1975. They had frozen a lot of the government positions, jobs, and the irrigation clerk position had been vacant for one year. Alice Brooks had been there. The Board (FJBC) hired me as the Irrigation Clerk and a secretary for George and Bill Grismeister who was the Water Master in Ninepipe. It was the fall of 75. I worked there for 17 years till 1992 when I went to the Bison Range.
- **Tim Orr:** Now, Everett Foust, you were Chairman of the Flathead Joint Board of Control, is that correct?
- **Everett Foust:** Yes, I was Chairman at that time. The issue was that we were new and we met the requirements according to the law. When 48% of the project construction cost had been satisfied, the mandate of law was that the project shall be turned over to the project users. At that time George Moon was the engineer. We talked to our attorneys and they said we (irrigation districts) needed to turn ourselves into one board. We had quite a struggle; the smaller districts thought that the Flathead District would overrule them. I said No, I thought we were all on board for everybody. Although it was mandated, the BIA would never turn the project over to just three little boards, they had to form the Flathead Joint Board of Control. George Moon, a tribal member came up from the project, he saw that the board needed to be formulated to include an 11 member elected board. We felt that the tribe should have 2 tribal members. We formulated the board at that time and I was elected Chairman.
- **Tim Orr:** Ed, were you also a member of the board?
- **Ed Warheim:** I was not on the board. I was just a farmer, irrigator. We worked our butts off. I tried to stay involved. We used to have meetings once a year in the Moiese Valley and we would try to prepare to get water to the end of the valley and ask the project to treat the moss. We dealt with the same issues year after year with no moss treatment.
- **Tim Orr:** That is one of the reasons we need local control of the project, which is true. Joan, you mentioned earlier that the (irrigator) water rights were supposed to file April 30, 1982. (HB22) The BIA and the FJBC was going to file them? Do you remember?
- **Joan Krantz:** I think originally the BIA was supposed to file them because I, we worked on it for over two years. The Hydrologist was a BIA employee and the engineer was a BIA employee. I was in a BIA position, but I was paid by the districts. We worked over two years on it.
- **Tim Orr:** On the water rights, copying the abstracts and everything on the water rights?

- **Joan Krantz:** Well, yeah. We had the DNRC forms. We had a form for each. I believe they were like a water source, like Mission Creek, Tabor Dam. We would follow it down, the hydrologist and fill out...it was actually by the land not whomever owned it. It was by legal description and there was, if I remember right, at least a couple of boxes. A lot of volume, at least 80 or 90,000 acres and I were concerned when they were not getting filed. Everett and Ray came down. I made a copy in the office. Ray Jenson, who was on the board at that time, came down in the afternoon. Everett can probably tell it better now.
- **Everett Foust:** You're right in the sense because we knew there was a deadline we have to meet. Merle was the project operator at that time and I called Merle Axtell, asking if he had that filed and he said that the Billings had not given permission. I told him that it really had nothing to do with Billings. I said we are filing on behalf of the irrigation project.
- **Tim Orr:** That's important.
- **Everett Foust:** He was a BIA employee but under the understanding that we had, was that the FJBC was hiring him from the BIA to manage the project and that he was really our employee. They were really our employee; all of these people were really our employees. They were getting their money from us. At that time the county was collecting our assessments and I remember that I used to have to sign to turn it over to the BIA since they were providing services. We came down to the deadline, I called board members and Ray Jansen, our Executive Secretary at the time, there was other board members present, although I cannot remember who all was there. I said, Ray, why don't you go and entertain Merle for a little while. I went down into the basement with Joan and told her I was there to get the records and that we were going to take them to Helena to get them filed. She almost ran to the boxes and thrust them into my hands. I took them to my vehicle and then I went back inside to tell Merle what I had done. He was just beside himself because he said they would throw him in jail. I told him that he had nothing to do with it and if there was anyone to blame it would be me. I am not worried about that right now. He called his superior in Billings. They were irate and asked to talk to me. I was glad to talk to him and asked him to give me the phone. As I remember the conversation was very threatening. He said we are going to have you thrown in jail for destroying federal property. I said let me tell you a couple of things. Number 1, you are our employee, not the other way around. Secondly, it is our money, water user money that has collected these water use filings on the entire project. To develop the project, the project land owners placed their land as security to get the repayment done and with that of course they devised at that time they had plans, the irrigators knew we had an engineer and they were a smart group of engineers. They were going to tunnel through the Mission range to tap Glacier Lake and they were phenomenal. So, anyhow, the important part was, the fellow told me they would have me thrown in jail. I told the fellow throw me in jail; I would let the newspapers know how you guys tried to stop the water users from filing their water rights and if you had not filed on their behalf they would have lost them. There was almost dead silence on the other end of the line. I told him I mean it, I would love to have you throw me in jail, I am just about as willful as I can get. He did not call my bluff and he hung up on me. We just forgot it and took the records, at that time Jean Turnage was our attorney at that time and he continued to encourage us to get that filed. I took the records up to him that day and he said he would get them up to Helena that night.
- **Tim Orr:** So Jean Turnage took them over? He was the lawyer for the FJBC?
- **Everett Foust:** He (Jean Turnage) took them over; he was the lawyer for us (FJBC). That is how the filing took place. Otherwise, has we not filed it, I am sure they would not have been filed and we would have lost them. It the same as in this case, if we don't fight, they are going to give away our water rights and nobody is going to have a complaint. My concern is this, I don't like I

say, I hope that I am never accused of being prejudiced, none the less; I have no problem with other people wanting to get everything they can get, but I think that when meeting down at the office and they had the tribal lawyers and the BIA lawyers from D.C. and our lawyers and all the people there and I just said one question to the attorneys, did Uncle Sam commit fraud when he promised the same water to two parties. To me, we should not be fighting amongst ourselves, we should join together instead...do not let the people that caused the problem initially If I had to move I would move, but I am not going to give up my water rights. During the war, I went in to fight for my race, for anybody not just myself. I would fight anybody today that would want to take my rights away from me as a citizen. We need to look at it not tribe against non-tribe. It has nothing to do with it; most people want to do the right thing. The question that bothers me is that I am afraid that our legislatures will not do the research that need to take place to know that background. Our attorneys before Jean came on the scene; we (FJBC) had an attorney when I first came on board. I don't know when that was. I am sure with 17 years on the (FJBC) board.....

- **Joan Krantz:** I think you were on the board before 75, weren't you?
- **Everett Foust:** Yes.... There was a big debate if the tribe had the rights to power generation, the beginning of the project, the engineers said that in order to pump water to the reservoir in Pablo they would drill a pin stock, Rocky Mountain Power, later Montana Power, said let us take that site and we will develop a full scale dam and for your interest, we will give you a cheap low cost block of power. It would provide power for the people and the project.
- **Joan Krantz:** They (Irrigators) all had a debt-lien on their land for the repayment of the building of the Project.
- **Everett Foust:** The lawyer at the time said this subject was bigger than him and that the FJBC needed to get the best Water Rights Attorneys in the country. He recommended a firm in D.C. (Sutherland, Asbill & Grath) I said if we lose the battle because the water rights went the other way or the entitlement to that cheap block of power was lost. They not only wanted all future use, but all past use...we would be liable for all uses and somebody would have to pay for it. We decided to hire the firm from D.C. and they would be an excellent source of information for others. We, Ray Jensen and I went to the Dept. of Interior (Meltzer's Office etc.) during the Turn Over, at that time Bill Coldiron, Legal Counsel for Montana Power, was hired to Chief legal counsel for the Dept. of Interior. They had room full of 20 some people, BIA rep, Dept. of Int. rep. – all attorneys representing the various parties. I got up to address the issue of the FJBC operating the Irrigation Project; we met the legal criteria and the legal contract we had with the government to take over the project. We felt we could run the project more efficiently than what had been done in the past and that we were hamstrung because we could not get any appropriations at all. That's another story. There was a young attorney, he got up and rushed to Mr. Coldiron's desk stating that he could have all the paperwork finalized within two weeks. The room was silent. Those in the room were not intending to settle this issue, as proven by the history. We wanted to know our Lien status and we asked them to research it. They came back with a paper that was provided to my FJBC Chairman replacement. In that paper it said that the water users are the beneficial owners of the power and irrigation. Now I'm not a lawyer, I don't know what that entitles me to but it must be pretty important. So, with that said, if that is the case, we must fight to protect those rights for our water users because they are our customers. We when see a threat coming from the outside, that is our method. We represent the whole entire project. Mr. Coldiron invited us into his office after the meeting. He told us he knew Montana but that we would be old men before any of this was ever settled, they did not intend to ever settle it. That upset me. We met with the BIA lawyers about 4 p.m. to give us a date to settle the issue. There were two of them there and they said we know that you are right and you

should be able to get this done, privately, but you are being sabotaged. I told them, but you know it and if I had the power I would lock you all in this room and we would have this settled before the day was out. That is where we left it. There were many blockages after that and they painted the board as unable to operate the project. George Moon, power and irrigation, wanted to buy transformers could not get appropriations for the purchase. The FJBC funded some purchases for the Dublin Gulch Sub Station on George Moon's behalf until he was able to repay it. The FJBC bought transformers and power poles due to the inability to get appropriations. If we had not got the thing paid off, they could have added debt to the loan to perform maintenance to the project. From the power division, the surplus money equal 4 or 6 million dollars was held in a fund and we asked for that money.

Partial Transcript – Amendments forthcoming.