



A Confederation of the Salish,
Pend d' Oreilles
and Kootenai Tribes

**THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD NATION**

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A People of Vision

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TESTIMONY BEFORE THE

STATE - TRIBAL RELATIONS INTERIM COMMITTEE

on the Flathead Reservation, April 28, 2014

Chairman Windy Boy, Committee members, my name is Ronald Trahan (spelled R.o.n.a.l.d T.r.a.h.a.n) and I am the Chairman of the Tribal Council for the Confederated Salish and Kootenai Tribes. Welcome to our Tribal Headquarters on the Flathead Reservation.

It is my honor to present comments today before this State Tribal Relations Interim Committee on my own Reservation. We have many matters that are of mutual concern, but I would like to talk about the Tribes' Proposed Water Rights Compact. The Tribes are thankful for this Committee's interest in this matter. The Tribes commit to work with any and all Legislative Committees expressing interest in this subject.

State Tribal Relations Committee
April 28, 2014
EXHIBIT12

As you recall the proposed Compact was negotiated and then presented to the Montana Legislature during the 2013 session. Unfortunately, it was assigned to the Judiciary Committee, where it was quickly defeated. A blast vote attempting to get the Compact to the House floor also failed. In vetoing a Senate bill which would have extended the negotiation deadline, Governor Bullock directed the Reserved Water Rights Compact to prepare a report addressing questions raised during the 2013 session about the Compact. The Commission prepared and presented its Report in January 2014. Many criticized the Report. It is proving most difficult to explain and satisfy the public and many legislators' non-specific criticisms and blanket objections to the Proposed Compact.

The most frequent specific criticisms surrounding the Compact are 1) the irrigation supply does not meet historic levels, 2) off-reservation instream flows should be removed from the Compact, 3) the quantity of water that would be placed in the name of the United States in trust for the Tribes is too large, and 4) a cooperative Unitary Management Board to which individuals are appointed by the Governor and the Tribal Council is unacceptable. I would like to explain why these criticisms are invalid from the Tribes' viewpoint.

- 1) Irrigators who complain that the water use right contained in the Proposed Compact does not meet historic levels do not know what historic levels are because the on-farm delivery of water is not measured

by anyone. The Tribes believe what these individuals want is an unfettered water supply for irrigation. The Flathead Indian Irrigation Project is a deficit irrigation project. Additionally, they do not efficiently use the water they get. Return flows are excessive, often 200% of the ceiling set in the Biological Opinion for the Project Transfer. 35% of the water users irrigate by flood irrigation, which is not generally the most efficient method of irrigation today. Please note that 60% of the water users only raise irrigated pasture and 99% of tracts irrigated by the Project are less than 100 acres. Few irrigators rely on agriculture to support themselves and their families. As a final note, the negotiators for the Joint Board of Control (who negotiated the water use right) did not bargain for historical amounts. The Tribes provided a hydrologic array of information from which the **FJBC negotiators** picked 1.4 acre-feet per year as a farm turnout allowance. It is important to note that annual irrigation quotas have typically ranged between .7 and 1.0 acre-feet per year, which is less than the farm turnout allowance contained in the Proposed Compact.

- 2) Many individuals desire to eliminate off-reservation instream flows from the Proposed Compact. The Tribes have expressed a desire to remove them from the Proposed Compact and have off-Reservation claims

litigated by the Montana Water Court. The other signatories to the Proposed Compact, the State of Montana and the United States, opposed this offer. In an effort to quantify the Tribes Water Right through compact rather than litigation, the Tribes agreed to concede hundreds of off-Reservation claims to take what the State of Montana negotiators offered. The Tribes also made adjustments to satisfy local governments and Legislators, but now some of those for whom the Tribes made adjustments, “support compacts, just not this compact.”

- 3) Some individuals stated that the quantity of water that would be placed in the name of the United States in trust for the Tribes is excessive. Many of these individuals simply added abstract quantities without realizing that instream flows become available for other uses downstream of the point of measurement. These individuals may not have read the definition of instream flow contained in the Proposed Compact which reads “a stream flow retained in a watercourse is to benefit the aquatic environment . . .” The Tribes cannot withdraw instream flow from the natural watercourse for other uses. While some simply compared the quantities of the Proposed Compact with other Compacts, they fail to consider the size of the Flathead Reservation and the water naturally available in the watershed. The Proposed Compact is not like other

Compacts; it is tailored to meet the purpose of the Flathead Indian Reservation.

- 4) A cooperative Unitary Management Board, to which individuals are appointed by the Governor and the Tribal Council, is unacceptable to many people. The reasons for rejection of this concept are many and varied. However, the Confederated Salish and Kootenai Tribes, recognizing the demographics of the Flathead Reservation, have entered into many of these types of governing, regulatory and advisory bodies. The most prominent example is the Mission Valley Power Utility which serves over 22,000 customers, Indian and non-Indian. Both the Utility Board and the Consumer Council contain Indian and non-Indian members.

We could respond to each and every objection made, but as we mentioned earlier, it is proving very difficult to respond to individuals who do not voice questions, only objections.

We appreciate the time today to provide you with our point of view. Thank you.

A handwritten signature in cursive script, appearing to read "Ronald Eubank". The signature is written in black ink and is positioned in the lower-left quadrant of the page.