

December 18, 2013

Honorable Sarah Jewell, Secretary
U.S. Department of the Interior
1849 C Street NW
Washington DC 20240

Subject: Notice of Dissolution of the Flathead Joint Board of Control and Termination
of Flathead Indian Irrigation Project Transfer Agreement

Dear Secretary Jewell:

This letter notifies you of the dissolution of the Flathead Joint Board of Control (FJBC) as a result of the withdrawal of two of the three districts from the FJBC effective December 12, 2013. As the primary signatory of the agreement which transferred (Transfer Agreement) the operation and maintenance of the federal Flathead Irrigation Project to landowners within the project, the dissolution of the FJBC renders this Transfer Agreement, and the Cooperative Management Entity (CME) formed under it in 2010, null and void.

The purpose of the Transfer Agreement is to fulfill the requirements the 1908 Act¹ by enabling the owners of the lands irrigated by the Project, acting through the CME, to manage and operate the Project. The CME is an entity created by the Confederated Salish and Kootenai Tribes (CSKT) and FJBC also pursuant to the State-Tribal Cooperative Agreements Act, Title 18, Chapter 11, 101, et Seq., Mont. Code Ann. (2009), to manage and operate the Project. There is no mechanism in the Transfer Agreement or State law that allows for any other organizations except the FJBC and the CSKT to manage the irrigation project.

The Transfer Agreement requires that the Department of the Interior resume control over the project operations if the CME is “found to be operating the project or any part thereof in material violation of the Transfer Agreement.” The CME does not now exist and is devoid of any authority to manage the operations of the Flathead Irrigation Project. An emergency resumption of project operations may be directed by the Secretary if the CME has failed to fulfill the requirements of the Agreement and this failure poses (a) an immediate threat of imminent harm to the safety of any person; or (b) imminent substantial and irreparable harm to Project funds, trust lands or interests in such lands, real property assets and trust resources.

¹ “When the payments required by this Act have been made for the major part of the unallotted lands irrigable under any system and subject to charges for construction thereof, the management and operation of such irrigation works shall pass to the owners of the lands to be irrigated thereby.” 35 Stat. at 450

We request your immediate direction to the Bureau of Indian Affairs to temporarily resume project operations until such time as a suitable Transfer Agreement can be renegotiated with an entity that represents all three irrigation districts. Such a temporary resumption by Interior of project operations will safeguard the project and trust assets while these issues are resolved. We also request your immediate assistance in protecting the records of the Flathead Irrigation Project and the CME which are of important historic and current relevance to project operations and management.

Thank you for your assistance in this urgent matter.

Sincerely,

Boone Cole,
Commissioner, Jocko Irrigation District
Chairman, former Flathead Joint Board of Control

Ross Middlemist
Member, Former Cooperative Management Entity(CME)

Jerry Laskody,
Commissioner, Mission Irrigation District
Commissioner, former Flathead Joint Board of Control

Cc: Honorable Tim Fox, Attorney General, State of Montana
Joe Durglo, Chairman, Confederated Salish and Kootenai Tribes
Gordon Wind, Project Manager, Cooperative Management Entity
Jon Metropoulos, Attorney, Flathead Irrigation District and former Flathead Joint Board of Control
W. John Tietz, Attorney, Mission Valley and Jocko Irrigation Districts
Honorable Judge Jim Manning, 20th District Court
Mitch Young, Lake County Attorney