



Flathead Joint Board of Control  
Resolution 2013-7

Be it resolved by the Flathead Joint Board of Control, that:

Whereas, The FJBC adopted Resolution 2013-3 May 24, 2013 stating its desire to reach a negotiated resolution of conflicting and competing water rights claims related to the Flathead Project that secures irrigators' property rights in land and water and their rights of participation;

Whereas, The FJBC also stated in Resolution 2013-3 support for many aspects of the current Proposed Water Use Agreement dated January 17, 2013;

Whereas, Since adoption of Resolution 2013-3, the FJBC conducted a detailed internal and public review process consisting of approximately a dozen meetings, at most of which public comment was taken on this issue to determine which valid concerns it continues to wish to discuss on behalf of irrigators with the Flathead Tribes and the United States, the two other parties to the proposed WUA;

Whereas, That process resulted in the FJBC voting to request additional discussions on three concerns relating to: 1. the ownership of the irrigation water right, 2. the amount of irrigation water that would be delivered under the WUA, and 3. details regarding the Water Management Board;

Whereas, the majority commissioners of the Mission and Jocko Valley Irrigation Districts, Paul Wadsworth, Jerry Johnson, Kerry Doney, and Roger Christopher, who are a minority of the FJBC, expressed their disagreement with and opposition to these conclusions of the FJBC process and these concerns by voting twice to withdraw from the FJBC;

Whereas a Referendum intended to ascertain the will of irrigators regarding these issues returned a vote against the withdrawal of the MID and JVID from the FJBC, but, on November 22, those minority commissioners stated they would nevertheless proceed with their determination to withdraw the districts they represent from the FJBC;

Whereas the legal obligations of the FJBC and its commissioners, both statutory and by case law, require that they act as fiduciaries in the best interests of their constituent irrigators, and both those sources of law and the constitutions of the United States and the State of Montana require that they respect irrigators property rights in land and water and not assist any taking of such rights without compensation;

Whereas the FJBC, in 1982 did in conformity with the law of Montana file statements of claim on behalf of all fee land owners within the three districts for all the water rights delivered by the Flathead Project to fee land, and did so as a fiduciary owner of the bare

legal title on behalf of said land owners, who own the beneficial title to the water rights appurtenant to their land;

Whereas none of the three irrigation districts made such filings, and the majority commissioners of the MID and JVID have refused to state their intentions as to these claims, appearing to be willing to dismiss them in favor of another claimant;

Whereas, the legal effect of the involuntary dissolution of the FJBC on its water rights claims, made and held as fiduciary for the land owners, who own the beneficial title, is uncertain and may be adverse;

Resolved that the FJBC, by and through its Chairman, directing its legal counsel, is authorized and directed to take all available legal steps to amend its claims to clarify its ownership of said claims as a fiduciary on behalf of fee land owners, to clarify all aspects of those property rights, including priority dates, and to secure, protect, defend, and prevent such property rights from any relinquishment or compromise in contravention of its fiduciary duty, including, but not limited to, amending those claims in administrative and judicial institutions.

Adopted this day \_\_\_\_\_

Approved \_\_\_\_\_

Attested \_\_\_\_\_