

[New post] Behind the FJBC Election Curtain

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Subject	[New post] Behind the FJBC Election Curtain
From	Western Montana Water Rights
To	jacksranch@freedomforallseasons.org
Sent	Monday, August 15, 2016 11:41 AM

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New post on **Western Montana Water Rights**



[Behind the FJBC Election Curtain](#)

by [icthe4est](#)

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Earlier this year we reported on the [cancellation of elections](#) by the Flathead Joint Board of Control because of Lake County's decision to withhold the ballots of 1/3 of Flathead Project irrigators. We were told that this was being done because the county attorney was interpreting the statute concerning irrigation district elections differently than it had been practiced in the past.

Since May, the Joint Board meetings have been weighed down with mind numbing and unnecessary filibustering from Dick Erb, a commissioner of the Flathead District who refuses to recognize the fact that the so called election results were tainted and compromised, requiring at a minimum, a new election.

Note: Mr. Erb also seems to keep very close ties with state employees who continue to implement the water compact via the Compact Implementation and Technical Team (CITT), seeming to serve as the "eyes and ears" of the state while he sits on the FJBC. But that is a story for a different day.

HISTORY AND CONTEXT

When the Stipulation or [Water Use Agreement](#) was introduced to irrigators in 2012, all hell broke loose. Until that document was unveiled to the public, irrigators had no idea what their consultant Alan Mikkelsen and other Joint Board Commissioners had "negotiated" on their behalf. This is the product of the old FJBC's "negotiation":

- Elimination of double and triple duty water, as well as non-quota water from spring runoff
- An estimated 40-70% reduction of water deliveries
- Forced relinquishment of irrigator water rights to the CSKT, including a "cease and desist" order preventing them from protecting their water claims in court

When irrigators discovered that their representatives had not negotiated in their best interests, they corrected course. This was accomplished by stopping the joint board from voting to approve the water use agreement through [a lawsuit](#) in late 2012. By May of 2013 irrigators had also successfully voted out some of the offending commissioners and fired their consultant.

However, not being deterred by irrigator opposition to the compact and water use agreement, two rogue commissioners of the Mission District and two in the Jocko district selfishly and without public support collapsed the Flathead Joint Board of Control in December 2013.

Irrigators again responded with an almost unheard of successful recall of two commissioners. They then voted in compact opponent replacements, and reformed the Joint Board by mid-2014.

In other words, irrigators knew the power they had with their vote, and they weren't afraid to use it. Unfortunately for irrigators, they don't have the luxury of returning to their fields thinking that the forces in play to destroy their businesses have been defeated. That simply is not the case as there is a [concerted state, federal, compact proponent, and Tribal effort](#) to take their property rights.

It is fair to say that an effort has been underway since 2014 to undermine and weaken the irrigator's vote, and to squelch any efforts by the Flathead Joint Board of Control to defend and protect irrigator's water rights. That is exactly what we are watching being played out today.

Montana took the lead by making a unilateral decision [to "negotiate" on behalf of irrigators](#) in late 2014 ahead of the legislative session. Irrigators had a government board representing them, but the state bypassed them completely.

The state's 2014 "reopened negotiations" began with a public promise to the tribes by Chris Tweeten that not a drop of water would be changed in the compact. Tweeten was true to his word. The state

simply inserted the guts of the water use agreement into the compact by calling it "adaptive management", forming a Compact Implementation Technical Team (CITT) that replaced the FJBC to implement it, gave bare legal title to 100% of project water to the tribes, and told irrigators to have fun defending their now compromised irrigation water rights in the Montana Water Court.

BACK TO THE PRESENT

So here we are today with the Joint Board working earnestly on some VERY IMPORTANT issues for irrigators:

1. an active lawsuit challenging the validity of the water compact vote in the 2015 legislature,
2. a 9th circuit court mediation with the BIA concerning project operations and management, and
3. an intervention in Kerr Dam concerning the irrigators right to a low cost block of power.

As if that is not enough, they are now dealing with a compromised election, at no fault of their own, and a county attorney who through his actions appears to be motivated to interfere with Joint Board of Control business.

A reasonable person might expect the county attorney to have approached the Joint Board with his concerns about the interpretation of the election statutes and attempted to work with them to find a mutually agreeable pathway forward. Instead of doing that, a decision was made by his office to withhold the ballots of at least 1/3 of the irrigators based upon his new "interpretation" of the law, with insufficient notice of this intent to the board prior to the May 2016 elections.

Why might that be?

Attorney Eschenbacher attended a Joint Board meeting in early May where a multitude of examples were provided by the public that demonstrated there was little rhyme or reason to which ballots were withheld and which were mailed. At a minimum, he had to have realized that a significant cleanup of the election records was necessary before any vote should proceed. Yet he refused to acknowledge the Joint Board of Control's authority to cancel the election because it had been compromised. Key questions remain:

- Why was there no acknowledgement of or investigation into the claims of improprieties that were mentioned at the meeting he attended?
- Why would the Lake County Attorney insist on validating an election that clearly was compromised by disenfranchising a large number of project irrigators?

Although his purpose might not be to intentionally undermine the FJBC, it seems on its face to serve that purpose.

Working as if agents of the state, compact proponents Susan Lake, Jack Horner and a number of others sued the Joint Board in May. Their new "group", the Mission Valley Irrigators United, challenges the reformation of the FJBC in 2014 and also asked the court to validate the May 2016 compromised elections and seat the unlawfully "elected" commissioners.

Then in July, Lake County sued the Flathead Joint Board of Control, asking Judge Manley to declare the validity of the May 2016 election. In a hilarious but strange turn of events, the county also sued Mission Valley Irrigators United, Susan Lake's group. It is funny because after complaining publicly for a year about the FJBC spending money to protect irrigators property rights, Ms. Lake will now have to fork up funds to defend herself in both lawsuits from the likely voluminous discovery requests that will find out just exactly what "evidence" they have to defend their lawsuits.

Here are copies of those suits for your reference:

May 2016 - [Mission Valley Irrigators United v FJBC](#)

July 2016 - [Lake County v FJBC and Mission Valley Irrigators United](#)

Regardless of the outcome of these suits or the motives behind them, rest assured that irrigators must prepare themselves to continue to be undermined every step of the way in their efforts to defeat the onerous water compact and to protect their water rights from an overreaching federal government and a complicit state government.

The elections fiasco works hand-in-glove with the *irrational* support of the water compact by compact proponents. We also have little doubt that taking over the largest district of the project, the Flathead District, would allow compact proponents to collapse the Joint Board again, or withhold the funds necessary to support any irrigator opposition to the water compact or defense of irrigation project water rights.

Put simply, supporters of the compact want the irrigators vote and their voice to be stifled. Worse yet, they also want to make it difficult for them to defend their important and valuable water rights.

With all this in mind, it's time for all of us to refresh ourselves on the playbook that is being used against us: [Alinsky's 12 Rules for Radicals](#)

Note: we know you were hoping that we would provide a copy of Susan Lake's diary at this point, or her email communications with officials in the Lake County government, but that too will have to be saved for another time. We would also like to dispel the rumor that Lake County has been renamed Susan Lake County or that the lake will be renamed "Fathead" Lake.

[Useful idiots](#) by definition are dispensable, and while they currently serve a purpose to someone, if proponents of the compact are able to succeed in undermining their neighbors, they will ultimately undermine themselves and be despised by all. In Soviet Russia, the useful idiots were the first to be executed by the new regime.

Sadly if they succeed in their efforts, they will also ruin the rest of us. That is why ultimately, their actions are idiotic.

We can however, take heart in the fact that *no one* has the right to give away or relinquish their neighbors' unalienable property rights, and that truth is what will prevail in the end.

[icthe4est](#) | August 15, 2016 at 11:41 am | Categories: [Compact Commission](#), [Corruption](#), [Destruction of Agriculture](#), [Election Laws](#), [Elections](#), [Failed Negotiations](#), [Federal Irrigation Project](#), [Federal Overreach](#), [Flathead Irrigation Project Water Use Agreement](#), [Flathead Joint Board of Control](#), [Litigation](#), [Property rights](#), [State law](#), [Tyranny](#), [Unconstitutional Taking](#), [useful idiots](#) | URL: <http://wp.me/p2xx0F-1Qr>

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