

FLATHEAD JOINT BOARD OF CONTROL

Regular Meeting Minutes

ST. IGNATIUS, MONTANA

January 14, 2015

PRESENT

Flathead: Wayne Blevins, Paul Guenzler, Shane Orien, Bruce White (Trent Coleman- Absent)

Jocko: Boone Cole, (John Trimble, Kerry Doney – Absent)

Mission: Tim Orr, Gene Posivio; Jerry Laskody

Member at Large: Ted Hein

Consultant/Attorney:

Staff: Johanna Clark

Project: Absent

CTO – 1:12 p.m.

Pledge of Allegiance was conducted.

Chairman Boone Cole motioned to approve current Agenda as presented and was 2nd by Commissioner Jerry Laskody. Motion Carried.

Warrants as listed in January 2015 Budget were approved as presented by Executive Secretary Shane Orien.

Commissioner Bruce White motioned to approve December 9 and December 30 minutes as presented with the following amendments and was seconded by Commissioner Gene Posivio. Motion carried.

- December 9, 2014 - Commissioner Kerry Doney wanted the minutes amended to show the he voted nay on the vote to hire Lobbyist Abigail St. Lawrence.
- Martha V. (irrigator) had suggested changes to the previous minutes. Comments by Commissioner Jerry Laskody and a Consultant comments in regards to the State owning the land and water seem to have been omitted.
- December 30, 2014 - Commissioner Gene Posivio motioned to table the December 30 meeting minutes until the next regular scheduled meeting to allow for further review. Commissioner Wayne Blevins 2nd. Motion carried.

Agenda Item #1 – FERC

Chairman Boone Cole provided an update from Kathleen Mazure (Washington D.C.) attorney researching the FERC issues on behalf of the FJBC. (See attached documentation.) Authorization was requested to receive micro-fish records. Chairman Boone Cole recommended that the board contract with Kate V. in regards to FERC issues. Kate believes that the net power is affected; Senator Jackson is likely to oppose the sale of Kerr Dam. He does not believe that it is set up as a non-profit organization. The tribes applied for an exemption, transfer from CSKT to Energy Keepers Inc. that is for profit. The tribes asked for such extensions without any scrutiny required. FERC denied the request due to incomplete application. Conveyance documents have been submitted to regulatory commission. None of them seem to mention the tribe.

- Compact contains provisions contain wordage regarding the low-block cost of power. Low- Block is a requirement and the tribe is aware of that issue.
- 2nd – Net power revenue sharing. Revenues belong to the FJBC since 1985. The revenues have not been spent on betterment of the project. Thousands of dollars are owed to the FJBC. Revenues are a permanent feature of the project due to the Low Block cost of Power.

Public scrutiny and public hearing have been requested regarding these issues. Kate would like resources combined in a manner that would assist the board. Kate proposed that the board allow her to work on this issue pro-bono and to speak with attorneys on behalf of the FJBC. The liens are not held by the BIA, the land was sold by the BOR or land office. Counsel needs to research where those liens are. The tribes will not allow the release of the liens from

the BIA. Kate would have a report prepared by the next regular scheduled FJBC meeting. Commissioner Jerry Laskody questioned the intention of parties not to release the liens.

Commissioner Jerry Laskody commented his approval of the approach to the issues by Senator Jackson and Kate V. He expressed concern over doing the work needed pro-bono. Kate responded that she was only in need of authorization as of this time to speak with the FJBC Attorneys and that compensation was not an issue at this time. She is already working on these issues and it would assist in allowing all parties to be on the same page. Commissioner Jerry Laskody questioned on when an answer would be needed. Member at Large Ted Hein expressed concern over charges from the attorneys in Washing D.C. to converse with Kate. Commissioner Tim Orr asked how current legal counsel felt regarding this issue. Attorney of Record requested for Executive Session....

- Chairman Boone Cole called for a brief executive session.

Meeting was called back to order @ 2:26 p.m.

- Commissioner Bruce White motioned to allow Katherine V. to speak with attorneys. Commissioner Jerry Laskody 2nd. Paul Guenzler voted Nay. Motion carried. 8-9

Public Comment: Dick Erb questioned the board having the General Attorney take care if this issue, rather than bringing in additional parties.

Agenda Item #2 – BIA Turnover update

Commissioner Tim Orr gave a report on the Turnover Committee's findings on beginning the negotiating process with the BIA to have the project once again return to irrigator control. He hopes to have documentation to present to the irrigators at the next regularly scheduled meeting. Camos, Moiese, Pablo, Charlo, Mission, Jocko, will each have a member. The tribes will have a member. We do not want to have a political board. Its purpose is to operate the project. Each district would choose the representatives. 1, 2 and 3 year terms. Elections are a possibility. Project Operator and Hydrologist are still be defined. It is important that these individuals be a people person as well as a money manager. We are getting close to the point that a call can be made to the BIA. A raise in O&M rates is unacceptable.

Commissioner Jerry Laskody questioned the relationship between the new board and the FJBC. Commissioner Tim Orr responded that the board would report to the FJBC and the BIA jointly. Commissioner Jerry Laskody questioned if the FJBC would set policy for the PME and that was a problem with the previous entity. A definition of that relationship is important. Chris asked if the BIA would be involved temporarily or on permanent bases. Commissioner Tim Orr stated that they were a mandatory party. John Swenson asked if there was wordage to being able to remove a member from this PME board. Commissioner Tim Orr responded that there was in fact wordage relating to that issue. Grande questioned the size of the board. Commissioner Tim Orr responded that the number was nine at this time.

Chris asked who was on this committee. Commissioner Tim Orr responded that volunteers were assisting in gathering information. Gene Erb recommended that the board look into the 1935 laws relating to operating the project. He believes that the CME was a temporary entity and that the UMO was always meant to take over operation of the project management. He recommended that the board be cautious on their movement forward to assure that are parties are operating within the scope of the law. Commissioner Tim Orr commented that George Moon in the 1960's worked on this issue. Gene Erb responded that in 1963 he owned property that had 310 acres of water rights removed from it. Wade Shepard commented that he knew there was concern over the involvement of the FJBC. The FJBC is operating on behalf of the irrigators. Chris. Questioned if there was a list of who was to be hired. Commissioner Tim Orr commented that it had been discussed. Member at Large Ted Hein commented that there was a definite list of who was not going to be hired. Chairman Boone Cole commented that no motions needed to be made at this time.

Agenda Item #3 – WWC Engineering

Commissioner Jerry Laskody commented that WWC Engineering is an asset to Abigail St. Lawrence. Commissioner Laskody stated his support of approving the current 2015 contract. Member at Large Ted Hein commented that he would like to know what the firm is doing before work is performed. Commissioner Jerry Laskody commented that he has been instructed by the legal team over the previous months. The task order covers his instruction. Commissioner Bruce White questioned if work has been performed over the last few weeks. Member at Large Ted Hein commented that he has not received communication from the firm. Commissioner Wayne Blevins questioned if all consultants needed to communicate with all Commissioners. Member at Large Ted Hein agreed. Commissioner Wayne Blevins responded that the board would have to send that message to the attorneys as well. Commissioner Shane Orien stated that it would not be in the best interest of the board to disclose information everyone. Commissioner Jerry Laskody stated that the board needed to trust the individuals hired to do what they are

tasked to do. He believes we have hired quality people. Member at Large Ted Hein commented that it is not the issue of trust. Commissioner Shane Orien responded that it is not the fault of WWC Engineering. It is an inside issue.

Chris C. stated his support of Member at Large Ted Hein's statement. Dean B. stated his support of Member at Large Ted Hein. Bill Slack commented that the billing usually included work performed on behalf of the FJBC and that might satisfy what Member at Large Ted Hein is asking for. Gene Erb believes that WWC Engineering might have a conflict of interest due to previous government affiliation. Michael Gale wanted clarification of responsibilities and a status report from those hired on behalf of the FJBC. He agrees that each commissioner should be able to answer to their commissioners in how tax money has been spent. Commissioner Jerry Laskody commented that irrigators can get that information from the main office. Bill Slack commented that the chairman has the responsibility to dictate what information is released to other commissioners. Wade Shepard made a statement about litigation issues and the accountability of leaking information. Chairman Boone Cole questioned if the information forward to Member at Large Ted Hein was insufficient. Member at Large Ted Hein responded that he was knowledge beforehand and after it occurs.

Dave Lake commented on policy for communication. John Swenson made a statement on statutes that guide the board. Executive Session information is confidential. Gene Erb commented his support of Abigail St. Lawrence and her performance at a recent meeting in Helena. Commissioner Shane Orien commented that he did not want to spend any of the tax funds.

- Wayne Blevins motioned to contract with Ed Evereart for \$40,000.00 maximum budget with work orders to be delivered prior to action being taken. Commissioner Jerry Laskody 2nd. Commissioner Paul Guenzler abstained. Motion carried.

Agenda Item #4 - FOIA

Chairman Boone Cole discussed FOIA from irrigators and the cost associated with such a request. Attorney and Commissioner Orien stated it would be addressed at a later meeting.

Agenda Item #5 – Project Payment from O&M

Commissioner Gene Posivio left the meeting. (2:58 p.m.)

Chairman Boone Cole asked the Attorney Kristin Omvig her opinion on the payment release. Bill Slack stated that law dictated the board to release the payment. Interest and penalties could and would be assessed.

- Commissioner Shane Orien motioned to submit the warrant to the project. Commissioner Paul Guenzler 2nd. Member at Large Ted Hein voted Nay. Motion carried.

Commissioner Wayne Blevins left the meeting. (3:10 p.m.)

Commissioner Tim Orr asked about the project budget (2015) – Member at Large Ted Hein questioned the relocation of the files from Metropoulos to the current legal counsel in Kalispell. Gene Erb provided additional documents to the FJBC Commissioners.

Meeting was adjourned @ 3:20 p.m.