

INTERNAL DRAFT CONCEPTS Discussion Topics for 4/17/14 INTERNAL DRAFT CONCEPTS

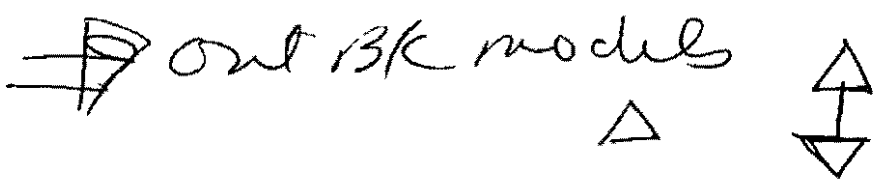
The March 31, 2014 letter from Governor Bullock formally invites the Tribes to reopen negotiation with the State for the purpose of resolving issues with the previously negotiated by the Flathead Joint Board of Control (FJBC) Water Use Agreement (WUA) From a technical perspective, the letter includes important language relating to the expectations of this process "The State believes that negotiations concerning FIIP water use should be based upon the same premise that motivated the initial negotiations – namely, that irrigation deliveries will be protected and that water saved through upgrades and repairs to the FIIP will be allocated to Tribal instream flows "

The State needs to decide whether the following principles appropriately describe an acceptable negotiation position

- 1 The State will replace the former FJBC and become party to any and all provisions relating to quantification of the FIIP water right, protections for Project deliveries, and increased instream flows
- 2 The State will solicit input from the irrigation Districts
- 3 The State will encourage that key components of the WUA, as modified by the limited reopening of negotiations, be incorporated into the Compact as opposed to residing in an Operational Plan that is ancillary to the Compact
- 4 The State will review the previously negotiated WUA for purposes of 1) determining sufficiency of project water rights as previously calculated, and 2) to determine which elements of the agreement should be brought forward into the Compact
- 5 The State will draft proposed changes to the Compact to incorporate previously negotiated WUA components
- 6 The State will encourage removal of former WUA components that stipulate FTAs or similar internal FIIP routing restrictions and instead focus on ensuring that headwork diversion volumes and flow rates are reasonably adequate for future FIIP water requirements and that those diversions can coexist with Minimum Enforceable Flow (MEF) values that are collocated This shift will need to include modification of the non-project irrigation consensual agreement for state-based water users within the FIIP influence area, so that their guaranteed deliveries are equivalent to subsequent years' FIIP quotas
- 7 The State will promote shifting from monthly block MEF values to Enforceable Hydrographs (EH) similar to those found in the State's off-Reservation proposal
- 8 The State will encourage priority irrigation water deliveries be made to individual irrigators that measure their use and have installed and otherwise invested in on-farm efficiencies and the State will encourage the Federal Government to codify these principles in FIIP governing documents so that BIA and future FIIP management entities shall continue to prioritize deliveries to the water users that maintain these measuring devices and on-farm efficiencies Upgrades include sprinkler systems as opposed to flood systems
- 9 The State will propose water measurement during an MEF deferral period for purposes of ground-truthing MEF and FIIP diversion values in a way that enables correction of enforceable values
- 10 The State will seek FIIP governing documentation that mandates future investment in water measuring and accounting infrastructure, to be funded by the federal government — *Re measurement*
- 11 Water Saved through betterment shall be added to MEF values, the quantification of this water shall comport with existing state law
- 12 The State will incorporate flexible adaptive management options for purposes of enforcing interactions between MEF and RDA demands

*WUA
FIIP*

out BK models



A hand-drawn diagram consisting of a triangle pointing to the right, a vertical double-headed arrow to its right, and a horizontal double-headed arrow below the triangle.

