

**MJJB TESTIMONY IN OPPOSITION TO THE MWRPA
CONCLUSIONS**

1. *The MWRPA explicitly reverses the 1908 and 1904 Acts and asserts that the 1904 Flathead Allotment Act established the Flathead Indian Irrigation Project to serve Indians instead of the 1908 Act's Congressional intent expressed to extend irrigation to all reservation lands. Such a reinterpretation of Congressional intent adopted by the MWRPA ignores existing federal responsibilities in the FIPP, including existing federal contracts with irrigation districts, the associated tangible property rights, water rights, economic impacts, and historic land ownership pattern.*
2. *The MWRPA also allows the United States, on behalf of the CSKT, to transfer the beneficial ownership of all FIPP project water to the CSKT and away from the 90% of the landowners in the project, and then further transfers the entire federal infrastructure to the CSKT.*
3. *The MWRPA completely divests the United States and the FIPP project landowners—who paid for the project-- of any opportunity to manage and administer the irrigation project in accordance with the 1908 Act. The MWRPA creates out of whole cloth a brand new water administration program, managed by the CSKT, that rebukes the 1908 Act, the federal directive for project management and turnover to landowners, and repurposes the project away from its Congressionally authorized combined irrigation and power purposes. The MWRPA cannot be implemented in the field.*
4. *To facilitate the Tribal-only management and repurposing of the FIPP, but to appear to "include" the majority non-Indian landowners, the MWRPA proposes that that the Tribes use P.L. 638 (ISDEAA) "self-determination" mechanism to contract the operation and management of the FIPP. But according P.L. 638 and the Department of the Interior's opinion, the FIPP was not constructed solely for the CSKT "because of their status as Indians".*
5. *To work around this legal prohibition of P.L. 638, the MWRPA amends the 1908 Act to eliminate the provision regarding the required federal turnover of project management to the "landowners therein".*
6. *The troubling behavior of the BIA in decoupling the FIPP and allowing the diversion of potentially millions of dollars of net power revenue away from the project is the main reason why the Mission-Jocko Irrigation Districts requested a GAO Audit of the irrigation and power components of the FIPP. We also submit that the completion of this audit is necessary prior to any consideration of the MWRPA.*
7. *The MWRPA rejects the Congressional intent of and framework for the development of the Flathead Indian Reservation and the FIPP by modifying each of the Congressional Acts that authorized the project, including the 1908 and 1948 Acts. By rewriting these laws, the MWRPA is repurposing the history of and framework guiding the development of the Flathead Indian Reservation and the water and power infrastructure for the last 100 years.*
8. *The MWRPA cements in the decoupling of the combined irrigation and power project intended by Congress and already partially enacted through the BIA's unlawful 638 contract for the power component of the project*

9. *The MWRPA violates Section 3 of the Indian Reorganization Act by affecting the water rights, land patents, project infrastructure, and operations of "lands within a reclamation project", that is the FIPP.*
10. *The MWRPA will allow the expansion of P.L. 638 contracts into projects that were not 'built for Indians because of their status as Indians'.*
 - a. *Under the MWRPA, the Tribes will take over the irrigation portion of the FIPP under a 638 contract while non-Indians continue to pay the operation and maintenance fees for the project.*
 - b. *Under the MWRPA, the improper use of a 638 contract for the power component of the FIPP will be allowed to stand, also cementing the inappropriate applicability of P.L. 638 to projects which also serve and derive funds from non-Indians.*

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