

THE FLATHEAD RESERVATION WATER MANAGEMENT BOARD

Bylaws

[], 2023

ARTICLE I. PURPOSE, EFFECTIVE DATE, AND JURISDICTIONAL BOUNDARIES **[General Question – should sections reference Compact/Ordinance Sections?]**

The Flathead Reservation Water Management Board (the “Board”) is an independent board, composed of Tribal and State appointed representatives, created by the Confederated Salish and Kootenai Tribes (CSKT) - Montana water rights compact (MCA 85-20-1901) and the Unitary Administration and Management Ordinance (MCA 85-20-1902 and CSKT Ordinance No. 111-A) to be the exclusive regulatory body for water rights administration on the Flathead Indian Reservation, including the issuance of new water rights and change applications. The Board has exclusive jurisdiction to resolve any controversy over the meaning and interpretation of the Compact on the Reservation, and any controversy over the right to the use of water as between the parties or between or among holders of appropriation rights and existing uses on the Reservation.

The jurisdiction of this Board includes all areas within the exterior boundaries of the Flathead Indian Reservation and does not extend to any water rights whose place of use is located outside the exterior boundaries of the Reservation.

The Board’s creation and jurisdiction began on September 17, 2021, which is the Effective Date of the Compact

ARTICLE II. BOARD COMPOSITION, APPOINTMENT, TERM LIMITS, AND ELIGIBILITY REQUIREMENTS

SECTION 2.1 COMPOSITION

Voting Members. The Board shall consist of five voting members:

two members selected by the Governor of the State after consultation with holders of Water Rights Arising Under State Law located on the Reservation;

two members appointed by the Tribal Council;

and a fifth member selected by the other four members.

Ex Officio Member. The Board shall also have a sixth, non-voting member appointed by the Secretary.

SECTION 2.2 APPOINTMENT OF MEMBERS [*what is the appropriate detail?]

Appointment by the Tribal Council. [*should this be described?]

Appointment by the Governor. Within 15 days of any vacancy in one or more of the Board positions selected by the Governor, the commissioners of each county whose boundaries include any portion of the Reservation shall nominate individuals for the Governor's consideration for appointment to the Board as follows:

The Commissioners of Lake County shall choose five (5) nominees;

The Commissioners of Sanders County shall choose three (3) nominees;

The Commissioners of Missoula County shall choose two (2) nominees;

The Commissioners of Flathead County shall choose one (1) nominee; and

The Governor shall choose two Board members from the group of nominees. If the county commissioners fail to nominate a minimum of seven (7) individuals for selection by the Governor, the Governor may select any two individual(s) who meet the eligibility requirements of the Board after consultation with Holders of Water Rights Arising Under State Law located on the Reservation.

Failure of agreement on a fifth member. Should the four appointed members fail to agree on the selection of a fifth voting member within thirty days after any vacancy in that fifth position occurs, the following procedure shall be utilized:

Within five days thereafter the two members appointed by the Tribal Council shall nominate three individuals to serve as a member of the Board and the two members appointed by the Governor shall nominate three individuals to serve as a member of the Board;

Within fifteen days thereafter the two members appointed by the Tribal Council shall reject two of the individuals nominated by the two members appointed by the Governor, and the two members appointed by the Governor shall reject two of the individuals nominated by the two members appointed by the Tribal Council; and

Within five days thereafter, the remaining two nominees shall be submitted to the Chief Judge of the United States District Court for the District of Montana for selection of the fifth member of the Board.

[*alternative more brief language: There shall be five voting members and one non-voting member. The five voting members shall consist of: two members selected by the Governor of the State, after consultation with water rights holders arising under State law located on the Reservation; two members appointed by the Tribal Council; and one member selected by the other four members. The sixth, non-voting member, shall be termed an ex officio member and is to be appointed by the Secretary of Interior.]

SECTION 2.2 TERMS OF BOARD MEMBERS

Initially, three voting members of the Board shall serve for four years and two shall serve for two years. Once the initial two-year appointments expire, all subsequently appointed Board members shall serve four-year terms. The sixth, non-voting, member shall be appointed for four years.

SECTION 2.3 VACANCIES OF BOARD MEMBERS

In the event there is a vacancy of the Board due to resignations or other, the Tribal Council, if the vacancy is in a position appointed by the Tribal Council, or the Governor, if the vacancy is in a position appointed by the Governor, shall name a new Board member within 30 days of the occurrence of the vacancy. Should Board action be required during the period of any such vacancy, the Department Head of the Tribal Natural Resources Department, if the vacancy is under the purview of the Tribal Council, or the Director of the DNRC, if the vacancy is under the purview of the Governor, shall fill the vacant position until a new appointment is made.

SECTION 2.5 REMOVAL OF BOARD MEMBERS

Any Board member may be removed [for misconduct or poor performance], by a unanimous vote the other voting Board members at a duly held meeting at which all remaining members are present, subject to the rights, if any, of the member under any contract of employment.

[*should parties that appointed the member be consulted in the process?]

[*should reasons for removal be more detailed?]

SECTION 2.6 BOARD ELIGIBILITY

To be eligible to serve on the Board, an individual must be over 18 years of age and be a Reservation resident. For the purposes of filling a position on the Water Management Board, a Reservation resident is an individual who:

- does business within Flathead Indian Reservation boundaries;
- is domiciled within Flathead Indian Reservation boundaries; or
- owns and maintains a seasonal residence within Flathead Indian Reservation boundaries.

An eligible individual must also have education and experience in one or more of the following fields: natural resources management, public administration, agriculture, engineering, commerce or finance, hydrology, biological sciences, water law or water policy.

No elected official of the State of Montana, or any political subdivision thereof, or of the United States, or of the Tribes is eligible for nomination to the Board while holding such

elective office. However, a nominee for Board membership shall not be disqualified by reason of the fact that he or she is an employee or contractor of the State of Montana or any political subdivision thereof, or of the Tribes, or of the United States.

ARTICLE III. BOARD POSITIONS AND COMMITTEES

SECTION 3.1 BOARD POSITIONS

The Board shall choose **4** of its members to serve in the following roles:

[*determine appropriate number of positions and position descriptions]

Board Chair. The Chair shall preside at all meetings of the Board and shall have a general charge over the affairs of the Board, subject to the approval of the Board. The Chair can sign contracts on behalf of the Board and perform other duties that may be imposed by the Board. The Chair may also appoint Board Members to committees as may be necessary.

The Chair serves as the primary copy on communications from the Office of the Engineer regarding 1) payroll, 2) legal workflow management, 3) contracts relating to the Board or the Office of the Engineer, and 4) issues of personnel action taken by the Water Engineer or the Water Engineer's Designee.

Board Vice Chair. In the absence of the Chair, the Vice Chair shall preside at all meetings of the Board and shall have a general charge over the affairs of the Board, subject to the approval of the Board. The Vice Chair can sign contracts on behalf of the Board and perform other duties that may be imposed by the Board. The Vice Chair may also appoint Board Members to committees as may be necessary.

Board Treasurer. The Board Treasurer receives, organizes, and submits for approval and payment, compensation for Board member meeting attendance, reimbursements to Board members for travel, and reimbursements/payment for Board member function/conference attendance. The Board Treasurer shall provide monthly submissions and update budget summaries for purposes of providing an annual report. The Board Treasurer audits budget authorizations and reports to the Board any irregularities or unexplained use of funds.

Board Secretary. The Board Secretary's primary role is to maintain the Board living record of decision making (different and distinct from meeting minutes). The Secretary also serves to assist in ensuring the Water Engineer and Staff follow through on Board directives and serves as the Board's primary reviewer of meeting minutes provided by the Office of the Engineer.

SECTION 3.2 BOARD POSITION ELECTION FREQUENCY AND TERM

Once per year, during the Board's first or second meeting of the year, Board positions will be determined and revisited. Absent request from the Board to make changes, there is no mandate to change Board positions and no position has a term limit.

SECTION 3.3 BOARD POSITION ELECTIONS

To select or reaffirm Board members, an agenda item for board positions is noticed at a regular Board meeting.

For each position, the meeting floor is opened for Board members to nominate or reaffirm a seated position by fellow Board members. Nominees must accept the nomination in order for their name to stand for the position. The floor remains open for nominations until no more nominations or reaffirmations are made. When nominations have been completed, the nomination process is declared closed and those individuals who have agreed to let their names stand are now candidates for election to the position. The election is held using a closed ballot system. Board members write the name of the candidate they are voting for on a piece of paper. Board members can vote for themselves if they are a candidate. The ballots are collected and tallied by staff from the Office of the Engineer. The candidate with the most votes is selected to hold the Board position.

If only one person accepts the nomination for a Board position, the Board still holds a vote to affirm the position, which requires a majority vote.

If no Board member accepts a nomination for a Board position, the position is filled by lottery decision from Board members that are not already selected into a Board position.

Board positions are selected one at a time, in the order they are listed in section 3.1 above.

SECTION 3.4 BOARD COMMITTEES AND/OR WORKGROUPS

The Board may create committees and workgroups for special tasks. Appointees to committees and workgroups are made by the Board Chair. Final formation of committees and workgroups, including appointments, is approved by majority vote of the Board.

ARTICLE IV. BOARD COMPENSATION

SECTION 4.1 BOARD COMPENSATION

Each Board member shall receive compensation for services and reimbursement for expenses for attendance at Board meetings, which are fixed by the State and the Tribal Council for the Board members appointed by the same. The compensation for the fifth Board member shall be set jointly by the State and the Tribal Council. The expenses of the Federal ex officio member shall be covered by the United States. Mileage to and from

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the meeting location is included as an addition to meeting compensation. [Meeting compensation is limited to one meeting rate per day per Board member.]

SECTION 4.2 BOARD MEETINGS ELIGIBLE FOR COMPENSATION

[Regular Board Meetings, Special Board Meetings, Public Information Meetings, Committee Meetings, Workgroup Meetings.

Meetings with staff of the Office of the Engineer that may include interview, workshop, and technical assistance with projects.

Conferences, Public Meetings, and other gatherings where one or more Board member's presence is requested and attendance is approved by the Board.

Conferences, Public Meetings, and other gatherings that are pertinent to Board members, provide continuing education, or are otherwise related, but not approved by the Board.]

SECTION 4.3 BOARD COMPENSATION RATES

Mileage reimbursements shall be in accordance with the IRS standard mileage rates set for the corresponding calendar year: \$0.625 for 2023

Daily Meeting Fee for Tribal Appointees:	\$175
Daily Meeting Rate for State Appointees:	\$175
Daily Meeting Rate for Fifth Appointee:	\$175

Lodging rates are limited to government standard rates as defined by OPM

ARTICLE V. APPROPRIATIONS; FUNDING POLICIES

SECTION 5.1 APPROPRIATIONS

The Board is appropriated money from both the State, through the Department of Natural Resources & Conservation, and the Tribes, through the Montana Water Rights Protection Act. The State administers funds awarded by the legislature, while the Tribes administer funds obtained from the federal government. While funding is provided by both the State and the Tribes, the two entities have no responsibility in the use of the appropriations. Rather, the Board shall use the funds provided exclusively for the formation and operation of the Board. The Board also receives application fees pursuant to the Ordinance that become part of the overall Board funding.

SECTION 5.2 CONTRACTS AND AGREEMENTS

Contracts and agreements entered into by the Board will be preapproved by the Board through majority vote and subsequently executed by the Chair or Vice Chair as signors

representing the Board. Recurring billing pursuant approved contracts and agreements does not require recurrent action from the Board unless cost increases associated with billing increase by 20% or more.

The Water Engineer can enter into contracts or agreements on behalf of the Board or the Office of the Engineer for up to \$1,200 pursuant this authorizing section and without additional Board authorization. The Water Engineer can enter into contracts and agreements on behalf of the Board or the Office of the Engineer for amounts in excess of \$1,200 only with explicit preapproval of the Board through majority vote.

Staff of the Office of the Engineer are preapproved for up to \$1000 per month of officer operating supplies and servies pursuant this section and without additional Board authorization. Staff of the Office of the Engineer will seek Board approval through majority vote for office supplies and serfvies in excess of \$1000 per month.

SECTION 5.3 CHECK SIGNING AND AUTHORIZATION

The Chair or the Vice Chair are responsible for signing checks on behalf of the Board for authorized expenses approved by the Board.

The Water Engineer may sign checks on behalf of the Board for authorized expenses approved by the Board.

Neither the Chair, Vice Chair, or Engineer may sign checks or authorized transfers of funds for any reimbursements, payments, or other direct receipt of funds directed to themselves or their own accounts.

ARTICLE VI. CONFLICTS OF INTEREST AND ETHICS

SECTION 6.1 CONFLICTS OF INTEREST

No Board member may vote on any application or appeal that the member participated in personally and substantially in any non-Board capacity.

A Board member who has a personal or private interest in any vote, decision, hearing, appeal, or other Board action shall disclose the fact to the Board at the time of Board action and abstain from the Board action.

SECTION 6.2 DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED

Board members, Office of the Engineer staff, and all participants in Board activity have the right to work free of discrimination, harassment and retaliation when performing

services in furtherance of Board responsibilities, whether the offender is a meeting participant, employee, or Board member.

ARTICLE VII. BOARD POWERS

SECTION 7.1 POWERS AND AUTHORITY OF THE BOARD

- (a) Generally. Subject to the limitations established in the Compact and Ordinance, these Bylaws, and to the laws of the State of Montana, the laws of the Confederated Salish and Kootenai Tribes of the Flathead Reservation (the “Tribes”), the affairs of the Board shall be managed by the five voting members and one non-voting member. In general, the Board shall have the power to promulgate procedures, prescribe forms, develop additional materials and implement amendments thereto as may be necessary and proper to exercise its jurisdiction and carry out its assigned functions under this Compact and the Ordinance.
- (b) Specifically. The Board shall hold hearings upon notice in proceedings before it and shall have the power to administer oaths, take evidence and issue subpoenas to compel attendance of witnesses or production of documents or other evidence, and to appoint technical experts. The Board shall have the authority to employ a Water Engineer to carry out such functions as assigned by the Board pursuant to the Ordinance, including the supervision of any water commissioners appointed by the Board. The Board shall have the authority, upon unanimous vote of all five members of the Board, to appoint one or more commissioners to provide day-to-day administration of water on the Reservation. Under the jurisdiction of the Board, and as set forth in the Ordinance, the commissioner(s) shall have the authority to administer and distribute water only on the Reservation.
- (c) The Board shall not have jurisdiction over water right ownership updates on water rights appurtenant to fee lands. That authority shall remain with the Department of Natural Resources & Conservation.
- (d) The Board shall cause all Appropriation Rights and Changes in Use authorized by the Board and all uses of water registered pursuant to the Law of Administration to be entered into the DNRC water rights database in a format agreed to by the Board and the DNRC.

SECTION 7.2 AUTHORITY TO EMPLOY WATER ENGINEER

The Board shall have the authority to employ a Water Engineer to carry out such functions as assigned by the Board pursuant to the Ordinance, including the supervision of any water commissioners appointed by the Board.

SECTION 7.3 AUTHORITY AND RESPONSIBILITIES OF THE OFFICE OF THE ENGINEER

- a. Duties. The Engineer shall be an employee of the Board and shall exercise the duties set forth in the Compact and the Ordinance, which include, but are not limited to: the administration of water rights on the Reservation, and the enforcement of the terms of the Ordinance and the conditions of all appropriation rights, determinations, orders, regulations, places, policies, guidelines, and other actions taken by the Engineer or the Board, pursuant to the Compact and Ordinance; coordination with the project manager of the operations of the Flathead Irrigation Project with the administration and enforcement of water rights outside the FIIP; the supervision and management of staff; and the development and submission to the Board of budget requests for approval by the Board and forwarding to the Tribes and State for the purposes of securing necessary appropriations.
- b. Responsibilities. The Engineer shall hold hearings upon notice in proceedings before the Engineer and shall have the power to administer oaths, take evidence and issue subpoenas to compel attendance of witnesses or production of documents or other evidence, and to appoint technical experts. The Engineer shall cause all hearings to be recorded, and shall determine the controversy and grant any relief allowed by the Ordinance, including a temporary order. All decisions of the Engineer shall be in writing, and, together with a written justification for the decision, shall be served personally or by certified mail on all involved in the proceeding before the Engineer.

SECTION 7.4 AUTHORITY TO APPOINT WATER COMMISSIONERS

- a. Generally. The Board shall have the authority, upon a unanimous vote of all five members of the Board, to appoint one or more commissioners to provide day-to-day administration of water on the Reservation. The compensation for any such commissioner and the identification of those responsible for paying costs associated with the appointment of such commissioner must be established by unanimous vote of all five members of the Board as part of the Board action appointing the commissioner.
- b. Authority. The commissioners shall have the authority to administer and distribute water only on the Reservation.

ARTICLE VIII. BOARD MEETINGS

SECTION 8.1 PLACE OF MEETINGS OF BOARD

Meetings of the Board shall be held on the second Thursday of each month at the physical location of 400 Main Street Southwest, Ronan, MT 59864 and via zoom link as provided on the Board's website [update].

SECTION 8.2 APPLICATION OF OPEN MEETINGS LAWS

The Board is a public agency for purposes of the applicability of State and Tribal right to know laws. All regular and executive meetings of the Board, including all hearings conducted by the Office of the Engineer or the Board, shall be open to the observation of the general public pursuant to State and Tribal open meeting laws. Where there is a conflict of laws, the law that provides for greater openness to the public applies.

Notice of any meeting or meeting materials, including an agenda, shall be posted on the Board's website or otherwise provided to the public at least 48 hours in advance of any meeting.

SECTION 8.3 REGULAR MEETINGS

A regular meeting occurs when a quorum of the Board is present by means of in person or electronic equipment, to hear, discuss, or act upon a matter over which the Board has supervision, control, jurisdiction, or advisory power. A regular meeting is open to the observation of the general public.

SECTION 8.4 SPECIAL MEETINGS

A special meeting occurs when members of the Board are present by means of in person or electronic equipment to hear, discuss, or act upon a matter over which the Board has supervision, control, jurisdiction, or advisory power; however, not held during the regularly scheduled Board meeting time or on the regularly scheduled date. A special meeting is open to the observation of the general public. The Board may not put forward any motions or approve or deny of such motions in a special meeting. The Board may place matters discussed during a special meeting on the agenda for a regular meeting to be voted on by a quorum of the Board.

SECTION 8.5 CLOSED EXECUTIVE MEETINGS

A closed executive meeting occurs when the Board determines that the needs of individual privacy clearly exceed the merits of public disclosure. A closed executive meeting can occur by notice or during a regular or special meeting if such issues of individual privacy clearly exceed the merits of public disclosure. The Board must reach a majority vote to carry out a closed executive meeting. A closed executive meeting is not open to the observation of the general public.

SECTION 8.6 PROCEDURE TO SWITCH MEETINGS

During a regular or special meeting, the Board may determine to close the meeting and hold a closed executive meeting when the demands of individual privacy clearly exceed

the merits of public disclosure. The Board must determine by majority vote to close a regular or special meeting. Once the closed executive meeting commences, the Board may reconvene the previous regular or special meeting. If the privacy concern is waived, the Board may continue with the regular or special meeting.

SECTION 8.7 NOTICE OF REGULAR AND SPECIAL MEETINGS

Notice of regular and special meetings shall be provided to the public in a manner and timeframe consistent with the criteria set forth in State and Tribal law. Notice shall be given either by written notice, either by email or website publication, at least 48 hours prior to the date and time of the regular or special meeting, or in person at any prior regularly held Board meeting. The notice shall contain the date, time, and place of the regular or special meeting and the business to be transacted there, and no business other than that stated in the notice shall be transacted at such regular or special meeting.

SECTION 8.8 NOTICE OF CLOSED EXECUTIVE MEETINGS

Notice of a closed executive meeting shall be given either by written notice, either by email or website publication, at least 48 hours prior to the date and time of the executive meeting, or in person at a regularly held Board meeting. The Board may also provide notice contemporaneously during a regular or special meeting should matters of privacy arise and require a closed executive meeting. The Board shall maintain minutes and a record of the business conducted during the closed executive meeting, however, the minutes and records would be concealed.

SECTION 8.9 PARTICIPATION IN MEETINGS BY CONFERENCE TELEPHONE/VIDEO CONFERENCE

Meetings of the Board, whether regular or executive, may be held by means of a conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence in person at such meeting. Any act of the Board may be taken (a) without a meeting or (b) by telephone or email poll, provided that written consent in writing is obtained from all other voting members of the Board with respect to the subject matter. The consent shall have the same force and effect as a unanimous vote of the Board.

SECTION 8.10 QUORUM; ACT OF BOARD

At all meetings of the board, a majority of the members shall be necessary and sufficient to constitute a quorum for the transaction of business. Except as otherwise provided in the Compact or Ordinance, if a quorum is present, the act of a majority of members present at the meeting shall be the act of the Board. Each voting member shall have one vote. There shall be no voting by proxy. Any action taken must be by a majority vote. An equal vote is a "no" vote. A Quorum is required for a meeting, but not for a majority

vote within that meeting, meaning that abstention of Board members does not inhibit the majority voting process.

SECTION 8.11 BOARD OPERATING RULES

The Board operates under Robert's Rules of Order for small boards.

[*Should the below detail be included or excluded from this section?]

- Board members do not have to stand to be recognized by the chair in order to speak or make motions, but members are required to obtain the floor before making motions or speaking, which they can do while seated.
- Motions need not be seconded.
- A board member may speak any number of times on a question, and motions to close or limit debate are generally not permitted.
- A motion does not have to be pending in order to discuss a subject informally.
- Votes can be taken initially by a show of hands.
- If a proposal is perfectly clear to everyone it may be voted on even though no formal motion has been made.
- In putting questions to a vote, the chair need not stand.
- The chair can participate in debate just as any other board members.

SECTION 8.12 ADJOURNMENT

A majority of the members present at a meeting, whether or not a quorum is present, may adjourn any Board meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given to absent members if the time and place be fixed at the meeting adjourned; provided, however, that if the meeting is adjourned for more than twenty-four hours, notice of any adjournment to another time and place shall be given prior to the time of the adjourned meeting to the members who were not present at the time of the adjournment.

SECTION 8.13 REVIEW OF BOARD DECISIONS

Board decisions shall be effective immediately, unless stayed. Persons involved in the proceedings may appeal any final decision by the Board to a court of competent jurisdiction within thirty (30) days of such decision. The appeal shall be formatted as a petition for judicial review of an agency decision pursuant to that court's procedural rules.

[Should the above be expanded to something like this?]:

Review and Enforcement of Board Decisions [Compact Article IV.I.6]:

- a. Decisions by the Board shall be effective immediately, unless stayed by the Board. Persons involved in the proceedings before the Board may appeal any final decision by the Board to a Court of Competent Jurisdiction within thirty days of such decision. An appeal of a final decision of the Board shall be styled as a petition for judicial review of an agency decision pursuant to the rules of procedure of the court from which review is sought. The petition for judicial review shall be filed with the Board and the court and served upon all Persons involved in the proceeding before the Board, as well as the Tribes, the State and the United States. Service shall be accomplished according to the requirements of the court's rules of procedure.
- b. Unless a petition is filed within thirty days of a final decision of the Board, as provided in Article IV.I.6.a, any decision of the Board shall be recognized and enforced by any court with personal and subject matter jurisdiction over the matter on petition by any Person, or a successor in interest, before the Board in the proceeding in which the decision was made.
- c. A Court of Competent Jurisdiction in which a timely petition is filed pursuant to Article IV.I.6.a, or any court with personal and subject matter jurisdiction over the matter in which a petition to confirm or enforce is filed pursuant to Article IV.I.6.b, may order such temporary or permanent relief as it considers just and proper subject to the limited waivers of immunity set forth in Article IV.I.8.
- d. An appeal may be taken from any decision of the court in which a timely appeal is filed pursuant to Article IV.I.6.a, or in which a petition to confirm or enforce is filed pursuant to Article IV.I.6.b, in the manner and to the same extent as from orders or judgments of the court in a civil action.
- e. In any petition to confirm or enforce the Board's decision, the Board shall file with the court to which appeal is taken the record of the proceedings before the Board within the time and in the manner provided by the court's rules of procedure.
- f. The appellate court shall conduct the review on the record made before the Board. In considering the petition, the Board's legal conclusions shall be reviewed for correctness and its factual findings for abuse of discretion.
- g. In the event that a court determines that it lacks subject matter or personal jurisdiction to rule on a petition for judicial review of a Board decision, the party filing the petition shall be entitled to petition for judicial review from any other Court of Competent Jurisdiction within thirty days from the date of a final court order finding a lack of jurisdiction.

SECTION 8.14 RECORD KEEPING

The Board shall keep the following records: (1) minutes of all meetings; (2) recordings of all hearings conducted by the Board or the Office of the Engineer; (3) all documents filed with or generated by the Board or Office of Engineer; and (4) any other records required by applicable provisions of Federal, State, or Tribal law, provided that if there is a conflict of laws, the law that provides for more expansive record retention shall apply. All Board

records are public records and shall be made available to the public for inspection under such reasonable terms and conditions as the Board shall establish.

ARTICLE IV. GENERAL PROVISIONS

SECTION 9.1 OFFICE

The known place of business of the Board shall be 400 Main Street Southwest, Ronan, MT 59864. The Board may have such other places of business within the state as the Board determines.

SECTION 9.2 ENDORSEMENT OF DOCUMENTS; CONTRACTS

(a) In General.

Except as provided below, only the Board shall have the power or authority to bind the Board by any contract or engagement or to pledge its credit or to render it liable for any purpose or amount.

(b) Delegation of Authority.

The Board may delegate its authority to executive instruments on behalf of the Board to the Office of the Water Engineer, in such manner as from time to time it determines to be appropriate.

SECTION 9.3 BOOKS AND RECORDS

The Board shall keep correct and complete books and records of account and shall keep minutes of all meetings of the Board and other offices of the Board. Books, records and minutes shall be in written form or in any other form capable of being converted into written form within a reasonable time. Minutes shall be published and made available on the Board's website and kept in a hard copy record within the Board's place of business.

SECTION 9.4 CONSTRUCTION AND DEFINITIONS

Unless the context otherwise requires, the general provisions, rules of construction and definitions contained in the general provisions of the Compact and Ordinance shall govern the construction of these bylaws.

SECTION 9.5 LOGO

The Board shall have a logo containing the name of the Board.

ARTICLE X. INDEMNIFICATION AND INSURANCE

SECTION 10.1 INDEMNIFICATION OF BOARD MEMBERS

Members of the Board, the Engineer, any Designee, any Water Commissioner appointed, and any Staff shall be immune from suit for damages arising from the lawful discharge of an official duty associated with the carrying out of powers and duties set forth in the Compact or the Ordinance relating to the authorization, administration, or enforcement of water rights on the Reservation.

SECTION 10.2 INDEMNIFICATION OF TRIBES AND STATE

Additionally, pursuant to the Compact, the Board shall defend, indemnify, and hold harmless the Tribes and DNRC and the State of Montana and their agents from and against any and all claims, demands, or actions for damages to property or injury to persons or other damages to persons or entities arising out of or resulting from the performance of the work or services funding by the State and the Tribes.

SECTION 10.3 INSURANCE

The Board shall have and maintain insurance to indemnify any member against any liability asserted against the Board or incurred by a member in that capacity or arising out of the member's status as a member, whether or not the Board would have the power to indemnify the member against that liability.

ARTICLE XII. AMENDMENTS TO THE ORDINANCE

The Board may not amend the Law of Administration. No amendment by the Tribes or the State of the Law of Administration shall be effective unless and until the other makes an analogous amendment. Such modifications are pursuant to, and shall not be deemed an amendment of, this Compact.

ARTICLE XIII. REVIEW; AMENDMENT OF BYLAWS

These bylaws shall be reviewed from time to time, but not less frequently than ever (3) years, and if appropriate, revised by the Board. These bylaws and any part thereof, may be amended or repealed, and new bylaws may be adopted by the Board by: (1) the affirmative vote of a majority of the total number of members and present at a meeting duly held at which a quorum is present; provided, that written notice setting forth the proposed amendments has been given to all members of the Board at least five days prior to said meeting; or (1) by the written consent of all members of the Board.

Optional section on Decorum for Consideration:

Board Intent for Rules of Decorum:

- Provide a safe and secure setting for the Board and the public to attend.
- Enable the Board to conduct its deliberative process without interruption in a manner that can be heard and viewed by all in attendance.
- Ensure that the public has a full opportunity to be heard during public hearings and open comment periods of Board meetings.
- Facilitate transparency in the conduct of Board meetings so that all persons have the opportunity to observe and hear all of the Board discussion and votes.
- State specific rules so that all may know the rules in advance and be subject to the same rules.
- Limit interruptions, unreasonable delay, or duplication of comments, presentations, or discussion.
- Develop an atmosphere of civility that is respectful of diverse opinions and allows presentation of positions that vary from the position of others at the meeting without insults or intimidation.
- Balance the need for the Board to conduct effective meetings without the meetings extending for an unreasonable length of time with the need to give a full opportunity for the public to be heard.
- Facilitate Board meetings as business meetings, therefore public comments should relate to the business of the Board and, as such, be addressed to the Board as a whole, which conducts the business of the Board and the Office of the Water Engineer.
- Adopt these rules of decorum as the standard for conduct of meetings of the Board.

Rules of Decorum for the Public: During all times a meeting of the Board of Directors is being conducted, the following rules shall apply:

- Prior to addressing the Board, a person shall sign-up providing information for the Board record.
- All public comment to the Board shall be only after the speaker is acknowledged by the presiding officer, shall be addressed to the Board as a whole, and shall be limited to the amount of time indicated by the presiding officer, which amount of time will typically be three minutes.
- While in attendance at a Board meeting, no attendee shall disrupt, disturb, or otherwise impede the orderly conduct of any Board meeting by any means in a manner that obstructs the business of the meeting. Disorderly conduct also includes failing to obey any lawful order of the presiding officer to be seated, leave the meeting room, or refrain from addressing the Board.
- No attendee shall make threats or other forms of intimidation against any

person in the Board chambers or meeting room or any employee of the Board of the Office of the Water Engineer.

- To maintain the fire code occupancy limits and allow for safe exit, unless addressing the Board or entering or leaving the Board chambers or meeting room, all persons in the audience shall remain seated in the seats provided. No person shall stand or sit in hallways, corridors, doorways, or other avenues of ingress or egress.
- All persons in the Board chambers or other meeting room, including, without limitation, Board members, staff, and attendees, shall silence all cell phones, pagers, and other electronic devices to prevent disruption at the meeting.
- No person at any Board meeting shall be in a state of intoxication caused by the person's use of alcohol or drugs.
- Members of the public shall make every effort to be respectful at all times of those with opposing views.
- No sign shall be displayed in Board chambers in a manner that blocks the view of another person or in a manner that would violate subsection iv above.

Enforcement of Decorum: The presiding officer of the Board shall be responsible for maintaining the order and decorum of meetings. The presiding officer may order removed from the Board chambers, or other room in which a meeting of the Board is occurring, any person who fails to observe these rules of decorum:

- The presiding officer may interrupt any speaker who is violating these rules of decorum or disrupting a meeting.
- The presiding officer shall attempt to provide a verbal warning to any attendee or particular speaker that may be violating these rules of decorum, but such verbal warning shall not be required as a condition of removing an offender from the Board chambers or meeting room.
- These enforcement provisions are in addition to the authority held by any peace officer in attendance to maintain order pursuant to the officer's lawful authority.
- Any person removed from the Board chambers or meeting room shall be excluded from further attendance at the meeting from which the person has been removed, unless permission to attend is granted upon the motion adopted by a majority vote of the Board.
- In addition, by vote of the Board, any person removed from a meeting may be excluded from attendance at Board meetings for thirty (30) days after such removal. A longer period of prohibition from attendance at Board meetings may be determined by the Board by a vote, if the person has been removed from the Board chambers or meeting room in the past twenty-four months for violation of these rules of decorum, or the Board determines that the attendee's conduct was so severe as to necessitate a longer period of prohibition.
- A person prohibited from attendance at Board meetings may request a hearing to dispute prohibition. The scope of the hearing will be limited to the following: (1) the nature and extent of the behavior resulting in the suspension; and (2) if

applicable, whether there was a prior removal in the past twenty-four months. The hearing officer will forward a recommendation to the Board to affirm the sanction, modify the sanction, or to remove the sanction for the Board's consideration at a subsequent meeting of the Board.

- In addition to any other authority of the presiding officer, the presiding officer may call a recess during which time the members of the Board shall leave the meeting room. Similarly, if necessary for the safety of the Board and public, the presiding officer may order the Board chambers or meeting room cleared of all attendees, and call a recess, adjourn or continue the meeting until another date.

Rules of Decorum for Board: Members of the Board shall attempt to balance the right of the public to know positions of the elected and appointed officials and rationale for decisions with the need for balanced discussion and timely adjournment of the meeting. In order to realize this balance, members shall endeavor to:

- Articulate questions, opinions, comments and reasons for votes succinctly;
- Exercise self-discipline by avoiding repeating statements of others, being verbose in expressing opinions or straying off the topic;
- Allow the presiding officer to manage the meeting and call on members before speaking;
- Support the presiding officer in enforcement of these rules;
- Permit other members an opportunity to speak once on an issue before speaking a second time on the same issue;
- Focus on the issue being discussed rather than disagreement of ideas and avoiding personal attacks or assuming motives of another;
- Consider the adopted Board goals, staff work plans, and limited resources when making requests for delay or additional information;
- During a Board meeting, refrain from electronic communication regarding subjects considered at that meeting. Except that Board members may receive electronic copies of materials from staff displayed on monitors or otherwise made available at the meeting.