

Resolution of the Flathead Reservation Water Management Board

#frwmb 04 (2023): Notice and Comment Policy for the Adoption of Board and Office of the Engineer Procedures

Date of Original Approval: December 14, 2023

Purpose: Provide a timeline for notice to the public of proposed Board or Office Procedures; Provide a mechanism for the public to submit comments to Board or Office Procedures; Provide provision for the review of public comments regarding Board or Office Procedures; and Provide a mechanism for retaining public comments, data, views submitted to the Board.

Authority Granted

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. Compact, art. IV.I.5.a.

The Engineer shall exercise the duties set forth in the Compact and Ordinance, which include but are not limited to: (1) the administration of water rights on the Reservation, and the enforcement of the terms of this Ordinance and the conditions of all Appropriation Rights, determinations, orders, regulations, plans, policies, guidelines, and other actions taken by the Engineer or the Board, pursuant to the Compact and the Ordinance. Ordinance, § 1-2-110(1).

While the Board has the authority to promulgate procedures, and the Engineer has the duty to enforce such procedures and policies, the Compact and Ordinance are silent as to specific notice and comment requirements.

Notice and Comment Procedures

1. Notice

- a. Prior to the adoption of any Board or Office Procedure, the Board shall give written notice of its proposed action. The notice must include a statement of either the terms or substance of the intended action, the reasonable necessity for the proposed action, and the time when, place where, and manner in which the public may present their views on the proposed action.
- b. The notice must be published on the FRWMB website under Meetings and Notices, along with a copy of the Board or Office Procedure being adopted. The notice must also be sent to the Department of Natural Resources & Conservation and the Confederated Salish and Kootenai Tribes for dissemination on the respective platforms.

2. Public Comment

- a. Prior to the adoption of any Board or Office Procedure, the Board shall afford the public no less than 15 calendar days from the date listed on the published notice to submit data, views, or comments in writing. See Ordinance, § 1-1-106 (“[T]he time for completion of the act shall be measured in calendar days unless the last day falls on a Friday, Saturday, Sunday, or Tribal, State or Federal legal holiday, in which case the time for performance is extended to the next subsequent business weekday.”).

The public shall submit such data, views, or comments to the Board by sending an e-mail communication to contact@frwmb.gov or mailing a hard copy to: P.O. Box 37, Ronan, MT 59864. Any public comment submitted via mail shall be postmarked within the 15 calendar days provided for public comment.

- b. The Board may extend the 15-day comment period either during the Board meeting in which the initial Procedure is approved for public notice and comment or after the completion of the initial 15-day comment period during the next scheduled Board meeting. The extension may be for any length not to exceed 45 days.

3. Review of Public Comment

- a. The Board and/or Office shall review any data, views, or comments submitted by the public prior to the Board meeting intending to adopt the Procedure. Any discussion during the Board meeting adopting the Procedure shall state whether public comment was received.

- a.b. Any changes made to the Procedure based on a public comment received, and after proper discussion during a Board meeting, may be approved for publication at that Board meeting. Any substantive changes made to the Procedure after receiving public comment, but that are not based on the public comments received shall require a 15-day comment period. Administrative changes, including to grammar, spelling, and overall formatting of the Procedure shall not require notice and/or distinct approval during a Board meeting.

4. Retention of Public Comment

- a. Any data, views, or comments submitted by the public shall be kept with the Office’s records pertaining to the Procedure being adopted.

Resolution Certification

Resolution #frwmb 04 is hereby adopted by the Flathead Reservation Water Management Board on December 14, 2023, with **four** members voting in favor and **zero** members

voting in opposition. This Resolution will hereby serve to guide and govern the Board and OE operations.

Date:

Board Chair, Clayton Matt

Date:

Board Vice Chair, Roger A. Noble

Date:

Water Engineer Acknowledgement

AMENDMENT