



Lake County Commissioners

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LAKE COUNTY

106 4th Ave. E.

Polson, Mt. 59860

June 6, 2024

President Joseph Biden
Office of the President
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Re: Treaty Depredation Remedy

Dear Mr. President,

We are writing on behalf of citizens of two counties and affected U.S. citizens visiting this area. Enclosed is a copy of a Treaty dated October 17, 1855 between the United States and numerous Indian Tribes and Nations. Paragraph Article 11 provides that in the event of a depredation against U.S. citizens by the tribes and the fact proven to the satisfaction of the President, compensation or a return will occur.

This tribe, the Confederated Salish and Kootenai (CSKT) finished purchasing a hydroelectric – flood control – storage dam in 2015 on Flathead Lake. Part of the natural lake is on the Flathead Reservation, part is not. The Federal Energy Regulatory Commission (FERC) license was transferred to the CSKT and its wholly owned company called Energy Keepers Incorporated, (EKI).

The level of the lake fluctuates from summer to winter each year, and has for over 70 years. Historically, the lake is at full pool from June 1 through October 1 of each year.

During summer of 2023, EKI, for power generating purposes, released water from the dam and lowered the level of the lake making most of the dock, wharfage, piers, and access facilities unusable for boating purposes. This resulted in significant damage to businesses, the shoreline and also made many persons unable to utilize the marina facilities, including owned or leased boats.

This tribe has also on the Reservation since 1980 or so, levied lakebed leases to persons for piers and dock facilities which allow navigation of the entire lake.

Three depredations have occurred and the treaty provides this as the first step in the process of resolving them.

First, CSKT agreed in Article 8 of the treaty that, “the navigation of all lakes and streams shall be forever free to citizens of the United States.” Charging to use lakebed for dock pilings that are used construction of dock decks to provide for navigation on the lake is a breach of the terms of Article 8, and a depredation that needs to be remedied. In this regard, EKI recently filed a response to a FERC inquiry regarding lake levels and suggested longer docks and facilities may solve the problem. This solution proposed is a further treaty breach by CSKT as costs to build or extend facilities and additional lease fees. Both violate the treaty provisions of free navigation for

U.S. citizens.

Second, the drawdown of the lake level during summer 2023 to a historic low eliminated use by many boats and citizens and made most docks unusable during the summer months. This frustrated use of the lake for navigation thereby creating a depredation on lands. Facilities both off and on the Reservation and citizens on and off the Reservation, both residents and visitors were damaged by these actions.

Third, CSKT has posted lands that are USA in trust or tribally owned parks or access facilities to Flathead Lake at Elmo and in Polson as "Tribal Members Use Only." This denies access for navigation to all other citizens at those locations and also seems discriminatory as the facilities are built and maintained with federal or federally authorized funds. This depredation violates the navigation provisions of the treaty and is also a depredation against all citizens based on race, heritage, or history which has long been recognized as a problem in this nation.

We can proceed immediately to prove the depredations should you and/or your representatives schedules allow. We can proceed with the remedy provided by the treaty in this matter, thereby providing U.S. citizens the navigation opportunities guaranteed by the treaties.

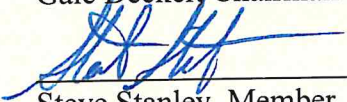
Thank you for your review and consideration, and we look forward to proceeding now as we did with this process in 2019.

Very truly yours,

Board of Lake County Commissioners



Gale Decker, Chairman



Steve Stanley, Member



William D. Barron, Member