



Lake County Commissioners

406-883-7204

Fax (406) 883-7283

LAKE COUNTY

106 4th Ave. E.

Polson, Mt. 59860

December 23, 2019

Senator Steve Daines
320 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Senator Steve Daines,

The Lake County Commissioners have had the opportunity to read and review the draft "Montana Water Rights Protection Act," which you introduced against our wishes to the United States Committee on Indian Affairs on December 11, 2019. The County, nor any of our citizens, had a seat at the table during negotiation of the Settlement Agreement. Instead of meeting the purpose of this Act which was "to achieve a fair, equitable, and final settlement of claims to water rights in the State of Montana," the Bill satisfies none of those purposes. If passed, the Bill has serious and permanent negative consequences for our County and citizens.

The Commissioners met with the Senator in August and September of 2019 to discuss possible components of a Confederated Salish and Kootenai Tribes Water Compact Settlement Agreement. In addition, the Commissioners scheduled multiple conversations with your Northwest Field Office Representative, Ron Catlett regarding a Settlement Agreement. During those meetings, we emphasized certain non-negotiable elements that had to be included in any settlement such as compensation for the County for fee properties being removed from taxable status; protection of private property rights; and compensation for County taxpayers who have funded infrastructure costs incurred by the Flathead Indian Irrigation Project for nearly a hundred years. None of those requests were honored in your Act.

Your Act would expand the definition of "Reservation" to include all County land within the exterior boundaries of the Reservation. The definition would also include any right-of-way through the Reservation. Contrary to the language you proposed, there is language found in the Hell Gate Treaty of July 16, 1855, which guarantees in Article 3, that for the public convenience, roads may be run with the right-of-way "with free access" to the nearest public highway. The Supreme Court of the United States has also determined that public rights-of-way were removed from the Flathead Reservation, per *U.S.A. v. Clairmont*. The October 1855 Treaty of Peace and Friendship signed by 15 Chiefs of the Flathead Nation, also provides in Article 7 that, "citizens of the United States may live in and pass unmolested through the countries respectively occupied and claimed by them."

Our office notified you in May of 2019 that the CSKT has sued lake County over jurisdiction of rights-of-way in the townsite of Big Arm and the Reservation as a whole. Taxpayers have spent tens of thousands of dollars in support of the County arguing against this lawsuit. Rather than let this issue be

decided in Federal Court, you have rendered a decision by the language in your Act. If this definition is included in the final Act, Lake and Sanders Counties would become the only counties in Montana that do not have jurisdiction over dedicated County roads and right-of-ways. The expanded definition of "Reservation" in your Act is unacceptable and must be removed rather than amended.

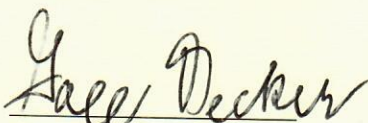
The transfer of ownership of the National Bison Range to be held in trust for the Confederated Salish and Kootenai Tribes included in your Act dismantles work that began in the spring of 2017 by Montana Fish Wildlife and Parks, Bureau of Indian Affairs, Lake and Sanders Counties, and the Confederated Salish and Kootenai Tribes. The agencies above were tasked with writing a Comprehensive Conservation Plan and alternative management plans for the Range. Eleven public meetings were held; three electronic newsletters were sent out by e-mail; information was posted on the National Bison Range Comprehensive Conservation Planning website; and four workshops were held with the Planning Team. None of the three preferred Alternatives recommended for management of the Range included transfer of the Range to the Confederated Salish and Kootenai Tribes. In fact, the record of decision for this project was signed on November 1, 2019, and the Department of Interior is presently beginning to implement the selected management activities. The Preferred Alternative declares that "the Service would seek to facilitate collaborative, cooperative, and coordinated management of the NBR with our Federal, Tribal, State, local, public, and private partners." The Act nullifies the entire body of work done by these Cooperating Agencies. The Act also ignores lands purchased by the United States Fish and Wildlife Service at the site, and compensation paid to the Confederated Salish and Kootenai Tribes for the original land.

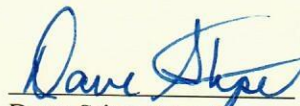
The Commissioners discussed at length with the Senator, the County costs related to repair and replacement of bridges and culverts, and damages to our roads related to the Flathead Irrigation Project. Your Act provides hundreds of millions of dollars to the Confederated Salish and Kootenai Tribes for repair and rehabilitation of project public bridges and culverts while allocating five million dollars to Lake County. In our opinion, these amounts do not represent "a fair and equitable Settlement." It is also disconcerting to the Commissioners, that on September 17, of this year we requested a copy of the report prepared that validated the \$1.9 billion dollars of damage to the Reservation by the Flathead Irrigation Project and we have not yet been provided a copy.


We strongly encourage you to seriously consider the opposition points and work to rectify the legitimate arguments that have been made relative to your draft Act.

Sincerely,

Board of Lake County Commissioners


Gale Decker, Chairman


Dave Stipe, Member


William D. Barron, Member