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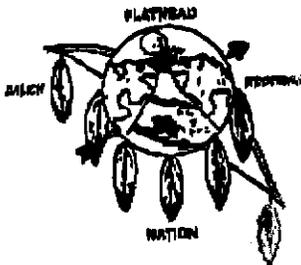
P.2/4

**THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD NATION**

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EXHIBIT 5
DATE 2-17-05
HB 616



Joseph E. Dupuis - Executive Secretary
Vern L. Clairmont - Executive Treasurer
Leon Bourdon - Sergeant-at-Arms

TRIBAL COUNCIL MEMBERS:

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Carole Lankford - Secretary
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Ron Trahan

February 16, 2005

**Honorable Larry Jent, Chairman
House State Administration Committee
Montana House of Representatives
P.O. Box 200400
Helena, MT 59620-0400**

Re: Statement in Opposition to House Bill No. 616

Dear Chairman Jent:

The Confederated Salish and Kootenai Tribes ("Tribes") have reviewed House Bill No. 616 and have consulted on the Bill with representatives from the Montana Department of Justice Natural Resource Damages Litigation and Restoration Programs ("MtNRDP"). After having considered the bill and the need for continued natural resource damages litigation in the Upper Clark Fork River Basin, the Tribes submit this letter for the purpose of stating our opposition to House Bill No. 616.

The river system, now known as Silver Bow Creek and the Clark Fork, is a natural resource of unique significance to Tribal people. It is a place where our ancestors traveled, camped, gathered foods and medicines, prayed, hunted, and fished. Present day Tribal people still use this place in these same ways. We need to respect and nurture it while we are here just as our ancestors did for thousands of years, and leave as legacy a place of beauty and abundance for our descendants.

In 1855, near present day Missoula, the Tribes formalized their relationship with the United States by entering into the Hellgate Treaty. In the Treaty, the Tribes agreed to cede vast areas of their aboriginal territory to the United States, including all of the lands contained within the Silver Bow Creek and Clark Fork River basins in what is now Montana. In return, the United States promised and guaranteed that the Tribes could continue their traditional way of life. The Tribes retained exclusive possession of the Flathead Indian Reservation as their homeland and expressly reserved in perpetuity the right to fish at all of their usual and accustomed places and to hunt, gather plants, and pasture stock in open and unclaimed lands throughout their aboriginal territory. Silver Bow Creek, the Clark Fork River, and their flood plains, are among the places subject to the Tribes' Treaty-reserved fishing right. Pursuant to this Treaty right, the Tribes

FEB. 16. 2005 1:32PM

NO. 054 P. 3/4

function as a co-trustee with the State of Montana for the Silver Bow Creek and Clark Fork River fisheries, and for the aquatic and riparian resources from which they arise. As a co-trustee, the Tribes intervened in *Montana v. ARCO*, No. CV-83-317-H-PGH, and continue to participate in the natural resource remediation and restoration decision-making processes for the Butte/Silver Bow Creek, Anaconda Smelter, and Milltown Reservoir/ Clark Fork River Superfund Sites.

In 1889, the State of Montana formalized its relationship with the United States pursuant to the terms of the Enabling Act, acquired ownership to the bed and banks of Silver Bow Creek and the Clark Fork River, and assumed co-trusteeship of the natural resources of that river system and its flood plains. Over the past 150 years, the State and Tribes have developed a relationship that allows for both parties to perform their co-trustee rights and responsibilities. Although difficult and sometimes violent in its earlier years, over the past ten years the relationship has greatly improved. The MtNRDP has played a significant role in this improvement.

MtNRDP has forged a working relationship with the Tribes which is respectful of the co-trustee rights and responsibilities of each party. The MtNRDP has facilitated development of unified natural resource restoration planning which is comprehensive for government trustees and cost-effective for responsible parties. This approach was key to developing settlements for the Silver Bow Creek in the past, and will be crucial for successful future settlements for the Clark Fork River and Butte Priority Soils Operable Units.

The development, maturing, and continuing of the successful relationships forged by MtNRDP have enabled it to fulfill its natural resource trustee responsibilities to all of the people who value, revere, respect, live and work within, and enjoy the Silver Bow Creek and Clark Fork River systems. This success of MtNRDP has depended on its particular ability to muster and facilitate cooperative and fruitful relationships under very difficult circumstances with at least the following agencies in addition to the Tribes: Montana DEQ, Montana DNRC, Montana DOT, United States FWS, United States USGS, United States EPA, and a number of city and county governments. MtNRDP will need to continue these relationships as further settlements are developed. Because of its crucial, and central role as lead trustee, the MtNRDP should remain centralized in Helena, where other federal and state agencies have their offices and from where it will be able to carry out its crucial responsibilities most efficiently and cost-effectively to the all of the public beneficiaries.

The Tribes trust that the Committee will give its recommendation due consideration and extend their thanks for the Committee's time, effort and attention regarding this issue.

Sincerely,


D. Fred Matt
Chairman - Tribal Council

cc: Hon. John Brueggeman, SD#6

Hon. Norma Bixby, ND#41

FEB.16.2005 1:32PM

NO.054

P.4/4

Hon. Glenn Roush, SD#6
Hon. Janna Taylor, HD#11
Hon. Jeanne Windham, HD #12
Hon. Joey Jayne, HD#15
Hon. Carol Juneau, HD#16

Hon. Jonathan Windy Boy, HD#32
Hon. Margaret Campbell, HD#31
Hon. Veronica Small-Eastman, HD#42

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