

SENATE JOINT RESOLUTION NO. 12

INTRODUCED BY M. CUFFE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA SUPPORTING THE PAYMENT OF COMPENSATION TO MONTANA FOR LOSSES INCURRED AND BENEFITS REALIZED DOWNSTREAM DUE TO THE CONSTRUCTION OF LIBBY DAM AND OPPOSING THE RIGHT TO DIVERT 1,500,000 ACRE-FEET OF WATER FROM THE KOOTENAI RIVER TO THE COLUMBIA RIVER AT CANAL FLATS, BRITISH COLUMBIA.

WHEREAS, Libby Dam, located in Lincoln County, Montana, is the fourth dam constructed under the Columbia River Treaty, which the Canadian government and the United States government entered into in 1964, and is located on the Kootenai River, which is the third largest tributary to the Columbia River and contributes almost 20% of the total water in the lower Columbia River; and

WHEREAS, Libby Dam was dedicated on August 24, 1975, and spans the Kootenai River 17 miles upstream from the town of Libby, Montana; and

WHEREAS, Lake Koocanusa, the reservoir behind Libby Dam, extends 90 miles north of the dam, with 48 miles of Lake Koocanusa located in Lincoln County and the remainder in British Columbia, Canada; and

WHEREAS, Libby Dam, in Montana's northwest corner, and three dams in Canada were constructed to protect downstream areas from flooding, and Libby Dam holds back an average of 5,800,000 acre-feet of water; and

WHEREAS, economic benefits have been derived from the storage of these floodwaters and the coordinated, timely release of those waters for generation of electricity, irrigation, navigation, and recreation; and

WHEREAS, the construction of Libby Dam placed many thousands of acres of land in Lincoln County under water, leading to decreased real property tax revenues for the county and a loss of timber sales and wildlife and fish habitat, among other losses; and

WHEREAS, storage of water behind Libby Dam provides flood protection to British Columbia and provides the opportunity for electricity to be generated throughout the year at seven hydropower generating facilities between Nelson and Castlegar, B.C., as well as at numerous other dams further down the Columbia River in Washington and Oregon; and

WHEREAS, the Canadian government was compensated for construction of the dams and storage of



1 floodwaters through a sharing of dollars on electricity from additional power generated at downstream dams and
2 hydropower generating facilities, leading to the formation of the Columbia Basin Trust; and

3 WHEREAS, citizens of Lincoln County and Montana did not participate in the negotiations for the terms
4 of the Columbia River Treaty, and no compensation has been received by Lincoln County or Montana except for
5 fish and game mitigation; and

6 WHEREAS, the renegotiation or modernization of the treaty is currently in process, and there is a
7 possibility that compensation could be provided to Lincoln County and Montana as a result of federal legislation,
8 litigation, determination of regulations, and the renegotiation of the treaty; and

9 WHEREAS, in 2017, Libby Dam produced 2.557 million megawatts at a value of \$54 per megawatt for
10 a total gross value of \$138 million at Libby Dam, although there is a production cost of \$4.16 per megawatt,
11 leaving a net value of almost \$127 million; and

12 WHEREAS, British Columbia and Canada were granted the right to divert 1,500,000 acre-feet of water
13 from the Kootenai River to the Columbia River at Canal Flats, B.C., before the Kootenai River flows into Montana;
14 and

15 WHEREAS, this reduction of 1,500,000 acre-feet would amount to 26% of the Kootenai River flow into
16 Montana and through Libby Dam; and

17 WHEREAS, such a diversion would create serious and devastating impacts to the ecology of Lake
18 Koocanusa and the Kootenai River Basin and to the life within and surrounding ecosystem, as well as a major
19 loss in revenue to Bonneville Power Administration.

20
21 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
22 STATE OF MONTANA:

23 That the state of Montana seeks compensation for the decreased real property tax revenues, the loss
24 of timber, minerals, and real estate development, and other losses due to the construction of Libby Dam for all
25 the same reasons that the province of British Columbia, Canada is compensated.

26 BE IT FURTHER RESOLVED, that the 66th Montana Legislature, representing all citizens of Montana,
27 requests that the right to divert water from the Kootenai River to the Columbia River at Canal Flats be removed
28 in the modernization of the Columbia River Treaty language.

29 BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to President
30 Donald J. Trump, the Montana Congressional Delegation, the United States Secretaries of the Interior and

1 Energy, the United States Army Corps of Engineers, Chief Negotiator Jill Smail at the United States Department
2 of State, Kieran Connolly at the Bonneville Power Administration, and Jennifer Anders and Tim Baker at the
3 Northwest Power and Conservation Council.

4 - END -