

A Confederation of the Salish,  
Pend d' Oreille  
and Kootenai Tribes

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A People of Vision

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February 23, 2021

Montana Senate Natural Resources Committee  
Montana State Legislature  
State Capitol, PO Box 201706  
Helena, MT 59620-1706  
*Hand Delivered*

**Re: CSKT Letter Opposing Repeal the Selenium Criteria for Lake Koocanusa and the Kootenai River (Senate Bill 324/Draft #3122)**

Dear Senate Natural Resources Committee,

The Confederated Salish and Kootenai Tribes (CSKT) strongly urge the Montana Legislature - and all its Committees - to oppose and vote no on any effort to repeal or alter the site specific criteria that was approved by the Montana DEQ and BER for selenium (0.8 ug/l) for Lake Koocanusa (Senate Bill 324/Draft #3122).

We are very concerned about mining impacts to water quality, fish, wildlife, and traditional cultural uses by CSKT members and non-members alike (and other tribal interests on both sides of the US-Canada border). The Tribes depend on these waters for our cultural and subsistence practices - as we have since time immemorial.

The DEQ's site specific criteria process for selenium in Koocanusa has lasted more than 5-years and involved the Province of BC, CSKT, Kootenai Tribe of Idaho, the Ktunaxa Nation in BC, MT Fish and Game, DEQ, the USGS and many other US federal agencies, and the public. The process also included the greatest selenium expertise available. Characterizations, such as that the process was rushed or flawed<sup>1</sup> are patently contrary to the documented history of DEQ's extensive and complete five-year process with extensive multi-governmental, scientific, public, and other participants.

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<sup>1</sup> If something was rushed regarding selenium in Koocanusa, it is that the legislative hearing for this bill appears to have been posted on a Saturday, only to close sign-ups for remote testimony the next day.

Selenium contamination in Lake Koocanusa is clearly and scientifically tied to coal mines in the Elk River watershed of British Columbia (it has been demonstrated that it is not “background” and not from US/Montana sources). We have years of data for the Elk River and Lake Koocanusa definitively demonstrating that selenium and nitrates from the Canadian mines are degrading - in Montana - water quality, fish, and all life that depends on those waters.

British Columbia - and the companies involved - have failed to adequately respond (in spite much rhetoric, lobbying, seemingly ever-changing plans to fix things, and money). Despite British Columbia’s 2013 Ministerial Order No. M113 recognizing that evidence of “increasing concentrations of contaminants, such as selenium..., in water and/or biota, which may exceed provincial Water Quality Guidelines, may be causing impairment of ecosystem health” and requiring the mining companies to “*stabilize and reverse* increasing trends in water contaminant concentrations”, selenium inputs from the Elk Valley mines into Koocanusa Reservoir and the Kootenai River continue to demonstrate a clear, increasing trend.

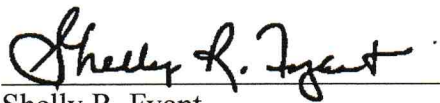
Further, Teck Coal has applied to ‘expand’ the largest coal mine in the Elk Valley, the Fording River Castle Project, which would create the largest coal mine in British Columbia. This mine is currently working its way through the environmental process, without essential cohesive, transparent, multi-governmental review that includes in a meaningful way our governments. Likewise, three additional non-Teck Coal mines are also proposed in the Elk Valley, adjacent to existing mines. Impacts and threats of future impacts are increasing - not decreasing.

The DEQ’s site specific criteria for selenium in Lake Koocanusa is more important than ever.

For these and other reasons, I urge the Committee to reject the proposed bill and leave in-place the Montana DEQ’s adoption of the 0.8 ug/l criteria for selenium for Lake Koocanusa. The DEQ’s process represents over five years of scientifically supportable, public, engaged, and detailed processes. To reverse this goes against not only Montana’s natural resources and economic interests - it would be a travesty.

Thank you for considering our comments. Please contact me if you want additional information, testimony, or I can further assist your deliberations.

Sincerely,



Shelly R. Fyant  
Tribal Council Chairwoman  
Confederated Salish and Kootenai Tribes