

RESOLUTION
OF THE GOVERNING BODY OF
THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD INDIAN RESERVATION

NO. 84-158

WHEREAS, the Confederated Salish and Kootenai Tribes of the Flathead Reservation (the "Tribes") and the Montana Power Company ("MPC") has applied to the Federal Energy Regulatory Commission ("FERC") for a long-term license for the Kerr Hydroelectric Project, located in large part on the Flathead Reservation; and

WHEREAS, MPC's original 50-year license to operate the Kerr Project, designated License No. 5., expired in 1980 and MPC now operated the Project under annual licenses issued by FERC pending resolution of the competing applications for a new license; and

WHEREAS, by order of July 20, 1983, the competing applications for a new license were set by FERC for hearing, and a trial is scheduled to commence on July 11, 1984; and

WHEREAS, MPC currently pays certain property taxes to Lake County, Montana, on account of the generating facilities and other parts of the Kerr Project which are located in Lake County and, based on information received by the Tribes from MPC, the total such property taxes paid by MPC was \$397,325 during 1983 and, during the 10 years prior to that, ranged from a low of \$273,907 in 1981 to a high of \$514,656 in 1973; and

WHEREAS, property owned by the Tribes is not subject to taxation by the State of Montana or any of its subdivisions, and if the Kerr Project is licensed to the Tribes, Lake County will lack jurisdiction to tax the Project facilities located within the County; and

WHEREAS, the Tribes do not intend that the issuance of a license to them adversely affect Lake County, since the Tribes' and the County's well-being are interrelated in many respects, and funding for schools operated in Lake County is provided in part by the County's property tax revenue; and

WHEREAS, the Tribes, in order to minimize the impact on Lake County of the loss of tax revenue resulting from a tribal license, are willing to share with the County some of the revenue which the Tribes would receive under a tribal license.

NOW, THEREFORE, BE IT RESOLVED, that, in the event that the new license for the Kerr Project is issued to the Tribes, the Tribes hereby commit to making a payment to Lake County, during each year of the tribal license term, of not less than \$300,000 and not more than \$500,000, the exact amount within that range to be in the Tribes' discretion; and

RESOLVED, that the Tribes' commitment to making the aforesaid

payment in any given year be conditioned on the prior receipt by the Tribes of a proposal from Lake County for the use of that year's payment for a purpose which is not adverse to the interests of the Tribes, as determined by the Tribal Council, and provided further that no payment be made in the event that any authority having jurisdiction over the rates at which the Tribes sell the Kerr Project output disallows the payment as a cost for ratemaking purposes, and any payment not made in any given year on account of the foregoing conditions shall not be carried over to any subsequent year; and

BE IT FURTHER RESOLVED, that the aforesaid \$300,000 to \$500,000 range may in the Tribes' discretion be adjusted from time to time by the Tribes to account for changes in the cost of living and preserve the buying power of the payments make to Lake County, and

BE IT FURTHER RESOLVED, that the Tribes will support the inclusion by FERC in any license for the KERR Project issued to them of a requirement for payments to Lake County in accordance with this resolution, and

BE IT FINALLY RESOLVED, that nothing in this Resolution shall be deemed to constitute a grant of jurisdiction by the Tribes to the State of Montana or Lake County for any purpose, including the enforcement of their tax laws against the Tribes and the collection of the payments provided for hereunder, but Lake County shall not be precluded from seeking through FERC the enforcement of any license

requirement related to the making of such payments.

C E R T I F I C A T E

The foregoing Resolution was adopted by the Tribal Council on June 12, 1984 by a vote of 9 for, 0 opposed, and 0 not voting, pursuant to authority vested in it by Article VI, Section 1, (a), (c), (h) and (u) of the Tribes' Constitution and Bylaws; said Constitution adopted and approved under Section 16 of the Act of June 18, 1934, (48 Stat. 984), as amended.


Chairman, Tribal Council

ATTEST:


Executive Tribal Secretary

