**Fact Checking Energy Keeper’s Response to Lake County’s FERC Petition**

Lake County Commissioner Gale Decker

Fact checking has become necessary whenever a news article or document is produced that is attempting to convince readers that statements included are based on facts. So, it is necessary to investigate some of statements in Energy Keepers, Inc. (EKI’s) recent response to Lake County’s petition to the Federal Energy Regulatory Commission (FERC). In their Petition, the County Commissioners requested that FERC order Energy Keepers, license holders for SKQ Dam, be required to maintain a Flathead Lake level of no less than one foot below full pool for the summer recreation season. I have taken the time to research some of the information included in the response, prepared by a law firm in Seattle, as to the accuracy of several of the claims.

**Response Claim: “the County has manufactured public safety concerns as a pretext (for the complaint),”** (pg. 2 response).

*Not True.* In 2003 the production of a Community Wildfire Protection Plan became a national standard for counties. The initial Lake County plan was adopted in 2005 and revised in 2024. A local paper reported that, “Updating the plan is a collaborative endeavor involving Lake County, local fire departments, the Montana DNRC, and the Confederated Salish and Kootenai Tribes.” The wildfire threat to our residents is not something new, invented by the County.

**Response Claim: The County’s petition is “nothing more than an effort to ensure a constant summer lake level to benefit a small group of lakefront dock owners.”** (pg. 2, response)

*Not True:* A simple Google search for a definition of a small group produces the following: “A small group requires a minimum of three people (because two people would be a pair or dyad), but the upper range of group size is contingent on the purpose of the group. When groups grow beyond fifteen to twenty members, it becomes difficult to consider them a small group based on the previous definition.”

*“There are over 3,000 docks on Flathead Lake, and almost all of them are configured with a static lake level in mind.”* [*https://www.flatheadlakeshoreconsulting.com/*](https://www.flatheadlakeshoreconsulting.com/).

Any rational thinker would not view a group of 3,000 as being “a small group.”

**Response Claim:** **“Lake County provides no citation to any authority that suggests that waterbodies serve as an appropriate form of wildfire egress.”** (pg. 6, response)

*True:* Advising residents to seek safety from a fire by escape using a body of water doesn’t seem like an idea that would need to be advised by any “authority,” but no authority was cited. Residents of Maui during the summer of 2023, when facing death by wildfire or possible escape using water, did not appear to wait for advice from “authorities” before fleeing into the ocean to save their lives.

*Although the fire continued to burn in Lahaina throughout the night,*[*U.S. Coast Guard*](https://www.britannica.com/topic/United-States-Coast-Guard)*boats arriving offshore were able to evacuate several people trapped along the coast.* [*https://www.britannica.com/event/Maui-wildfires-of-2023*](https://www.britannica.com/event/Maui-wildfires-of-2023)

*Dozens of people fled to the ocean seeking refuge from the flames.*[*https://www.theguardian.com/us-news/2023/sep/08/hawaii-wildfires-maui-missing-recovery-aid*](https://www.theguardian.com/us-news/2023/sep/08/hawaii-wildfires-maui-missing-recovery-aid)*.*

**Response Claim:** “encouraging residents to take to the lake during wildfire is dangerous because it leaves those individuals exposed to smoke inhalation.” (Pg. 6, response)

*False:* It is impossible to fact check a statement that is this illogical. Smoke is a by-product of a wildfire; distancing oneself from the wildfire would seem to reduce the amount of smoke an individual is exposed to.

**Response Claim**: “CSKT operates the primary law enforcement agency, the primary fire prevention, and fuel reduction program, and the primary wildfire suppression agency on the Flathead Reservation and within Lake County.” …” (Pg. 5, Response).

*Partly true:* Lake County employees 24 full time deputies under the direction of Sheriff Don Bell. The CSKT employees 18 Tribal Officers. The two entities provide 24-hour law enforcement coverage for the County and Reservation. Although CSKT does prosecutes misdemeanors and some felonies committed by Tribal members on the Reservation, the vast majority of felony prosecutions are processed and paid for by Lake County taxpayers.

CSKT is the primary wildfire suppression agency on the Reservation, but they do not provide initial attack on any fire called into Lake County Dispatch. Initial response is provided by the 15 volunteer fire departments that serve Lake County and the Reservation.

CSKT has implemented an aggressive fuel reduction plan and does serve as the primary wildfire suppression agency on the Reservation.

**Response Claim:** “that situation (lack of evacuation routes) was caused by deficient zoning and planning policies of the County, and it is the County’s responsibility to remedy that situation,” (page 5).

“Moreover, through this Petition, the County attempts to improperly shirk its own responsibilities to address wildfire safety and evacuation routes through its planning and zoning,” (page 2).

*False:* Lake County Subdivision regulations include the following provisions: “All subdivisions shall be planned, designed, constructed, and maintained so as to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons, property and forested areas,” (Section X.R. Fire Protection). In addition, the following requirement is made if the property development lies within the Wildland Urban Interface: “For all subdivisions with a risk rating of moderate risk or greater, at least two accesses must be provided to assure more than one escape route for residents and access route by fire fighting vehicles,” (Section X.S. 2, a,i.).

In contrast, Tribal sub-divisions have no requirement for review.

Finger pointing at the County for not providing alternate wildfire evacuation routes in land use planning is a weak attempt to divert attention from a real solution such as using the lake as an escape route. Many of our lake lots were created years prior to the formation of the County, and an attempt to hold County land planning responsible for the lack of evacuation routes is an absurd argument.

**Response Claim: “Regardless, there is no mechanism by which licensees can be forced to lease their projects,”** (Page 4).

*Partly True:* EKI cannot be forced to lease the SKQ project, but in their Petition, the County did not ask that FERC force EKI to lease the SKQ facility to another entity for operation. This solution was presented as a possible action CSKT could take to possibly put the control of the level of Flathead Lake in more experienced hands.

**Response Claim: “Lake County’s Petition not only requests relief that cannot be granted, but the concerns it identifies are self-inflicted and its solutions are meritless,”** (page 7).

*False:* EKI’s recently received approval in late March from the Army Corp of Engineers to hold the spring lake level two feet higher than required by their license. Interestingly, one of the County’s “meritless” potential solutions in their FERC petition was a suggestion that EKI rely on snowpack estimates to determine the amount of drawdown of Flathead Lake in preparation for spring runoff. The license allows a drawdown of ten feet, but our Petition suggested that the drawdown should be “driven by snowpack estimates.” The petition goes on to state that, “Two feet of extra water in the lake in the spring would be very beneficial in helping the lake reach full pool for the summer during a drought,” (pg. 6, Petition). The EKI press release announcing the approval of the deviation states that, “The deviation increases the probability of lake refill in June, however, the flood risk is minimal.”

 The probability of lake refill and remaining full pool through the summer is trending upward. The snowpack is somewhat better than last winter, our area has not had a stretch of abnormally hot, dry weather this spring and Hungry Horse Reservoir is headed towards full pool. How the water is managed going forward will determine whether or not we enjoy a full pool Flathead Lake this summer.