

SENATE RESOLUTION NO. 49

Senator McBroom offered the following resolution:

1 A resolution to oppose the Keweenaw Bay Indian Community's
2 application to regulate water quality and air quality under federal
3 law on the L'Anse Reservation.

4 Whereas, The Keweenaw Bay Indian Community is seeking federal
5 approval to set water quality standards within the L'Anse
6 Reservation and regulate activities impacting water quality through
7 the water quality certification process under the federal Clean
8 Water Act. The community is also seeking to be treated the same as
9 a state for the purposes of receiving federal funding for air
10 regulation and submitting recommendations on air operating permits
11 issued by the state of Michigan and other states; and

12 Whereas, Approving these requests would inevitably lead to
13 unreasonable consequences, a patchwork of regulations, and be

1 inappropriate for non-tribal property owners within and outside of
2 the reservation borders. This is a significant concern given that
3 the reservation boundaries encompass approximately 59,071 acres of
4 land, of which only 35 percent (20,427 acres) are tribal lands; and

5 Whereas, The state of Michigan already has in place strong
6 water quality standards to protect state waters. The state has
7 designated that all state waters should be safe for fishing,
8 swimming, and other uses and support native aquatic life and
9 wildlife. The state has established—and the United States
10 Environmental Protection Agency (EPA) has approved—scientifically
11 based water quality criteria that ensure these uses are preserved;
12 and

13 Whereas, The state of Michigan has administered for decades
14 permit programs that protect the air and water for all Michigan
15 residents. Michigan has been addressing air pollution since at
16 least 1965 and issuing operating permits to protect air quality
17 since the mid-1990s. Since 1972, Michigan has administered a permit
18 program under state law that prevents discharges that would impair
19 the designated uses of state waters. The EPA delegated authority to
20 administer permit programs under the federal Clean Water Act to the
21 state in 1973 based on these laws and has recently re-approved that
22 delegated authority. This request by the Keweenaw Bay Indian
23 Community raises questions and concerns on how future permits
24 issued by the state could be impacted, including wetland permits,
25 permits for discharges into state waters, and hydropower licenses;
26 and

27 Whereas, Approving the Keweenaw Bay Indian Community request
28 would not improve air or water quality but would create an
29 unnecessary layer of government bureaucracy and increase the

1 regulatory burden on businesses, property owners, and the state.
2 Regardless of whether the request is approved, the state of
3 Michigan will continue to regulate activities impacting state air
4 and waters within the reservation under state law. Michigan's
5 programs are sufficient to protect residents and wildlife from
6 pollution; and

7 Whereas, Approving the Keweenaw Bay Indian Community request
8 would lead to jurisdictional conflicts between the community and
9 the state related to control of activities on state-owned land
10 within the reservation boundaries. These conflicts would involve
11 complicated and not easily resolved legal questions regarding state
12 versus tribal sovereignty. It would also raise questions regarding
13 potential impacts to state-owned mineral rights within the
14 reservation; and

15 Whereas, Approving the Keweenaw Bay Indian Community request
16 would subject non-tribal property owners within reservation
17 boundaries to the decision-making of a tribal government in which
18 they have no representation. Only around one-third of the people
19 living within the reservation boundaries are tribal members. Our
20 nation was founded on the democratic concept that people should
21 have a say and be represented in the government that impacts their
22 lives; now, therefore, be it

23 Resolved by the Senate, That we oppose the Keweenaw Bay Indian
24 Community Lake Superior Band of Chippewa request for treatment as a
25 state under the federal Clean Water Act and the federal Clean Air
26 Act; and be it further

27 Resolved, That copies of this resolution be transmitted to the
28 Administrator of the United States Environmental Protection Agency
29 and the members of the Michigan congressional delegation.