



# Modernizing the Columbia River Treaty

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Columbia River Inter-Tribal Fish Commission

October 3, 2019



# First Foods





“...the right of taking fish at all usual and accustomed places, in common with the citizens of the Territory, and of erecting temporary buildings for curing them: together with the privilege of hunting, gathering roots and berries....”

—1855 Treaty with the Yakima

# Four Tribes' Ceded Lands

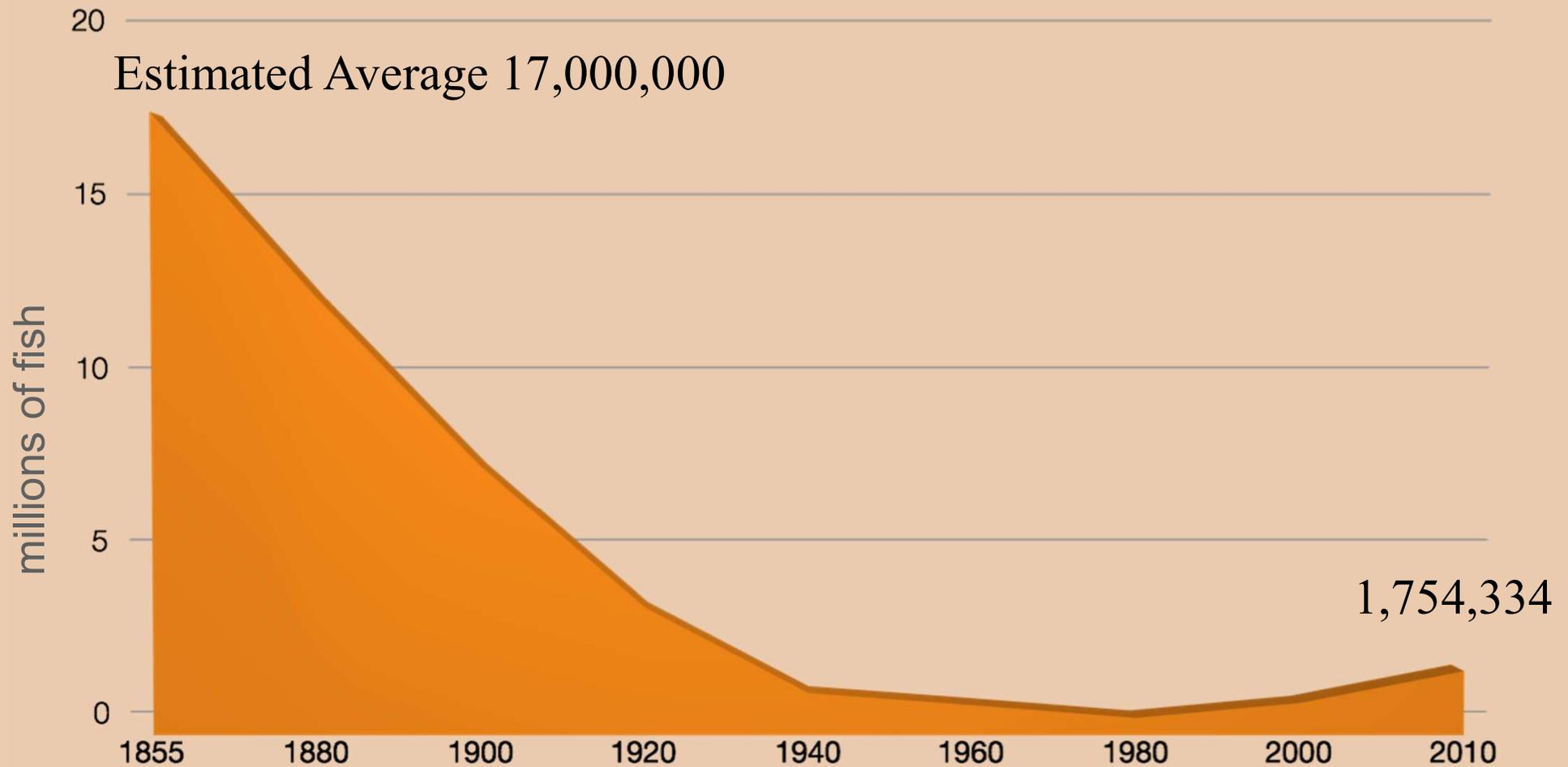
Combined ceded area:

- 66,591 square miles
- More than 25% of the entire Columbia Basin
- 55% of the rivers and streams that are still accessible to salmon
- Includes almost all of the salmon habitat above Bonneville Dam



# Salmon Decline

Returning Columbia River salmon (chinook, steelhead, sockeye, coho)



# 1964 Columbia River Treaty





# Examine Broad, Coordinated Development of Columbia River

International Joint Commission established under Boundary Waters Treaty of 1909. With initial power development proposals in Canada rejected, U.S. and Canada agree in 1944 on study:

- ...having in mind (A) domestic water supply and sanitation, (B) navigation, (C) efficient development of water power, (D) the control of floods, (E) the needs of irrigation, (F) reclamation of wetlands, **(G) conservation of fish and wildlife**, and (H) other beneficial purposes.
- International Columbia River Engineering Board undertakes extensive technical analysis of benefits of developing basin's water resources.



# Vanport Flood

The Columbia River flooded in 1948, completely wiping out Vanport, Oregon  
Note: this city was built in a floodplain without adequate flood protection (levees)



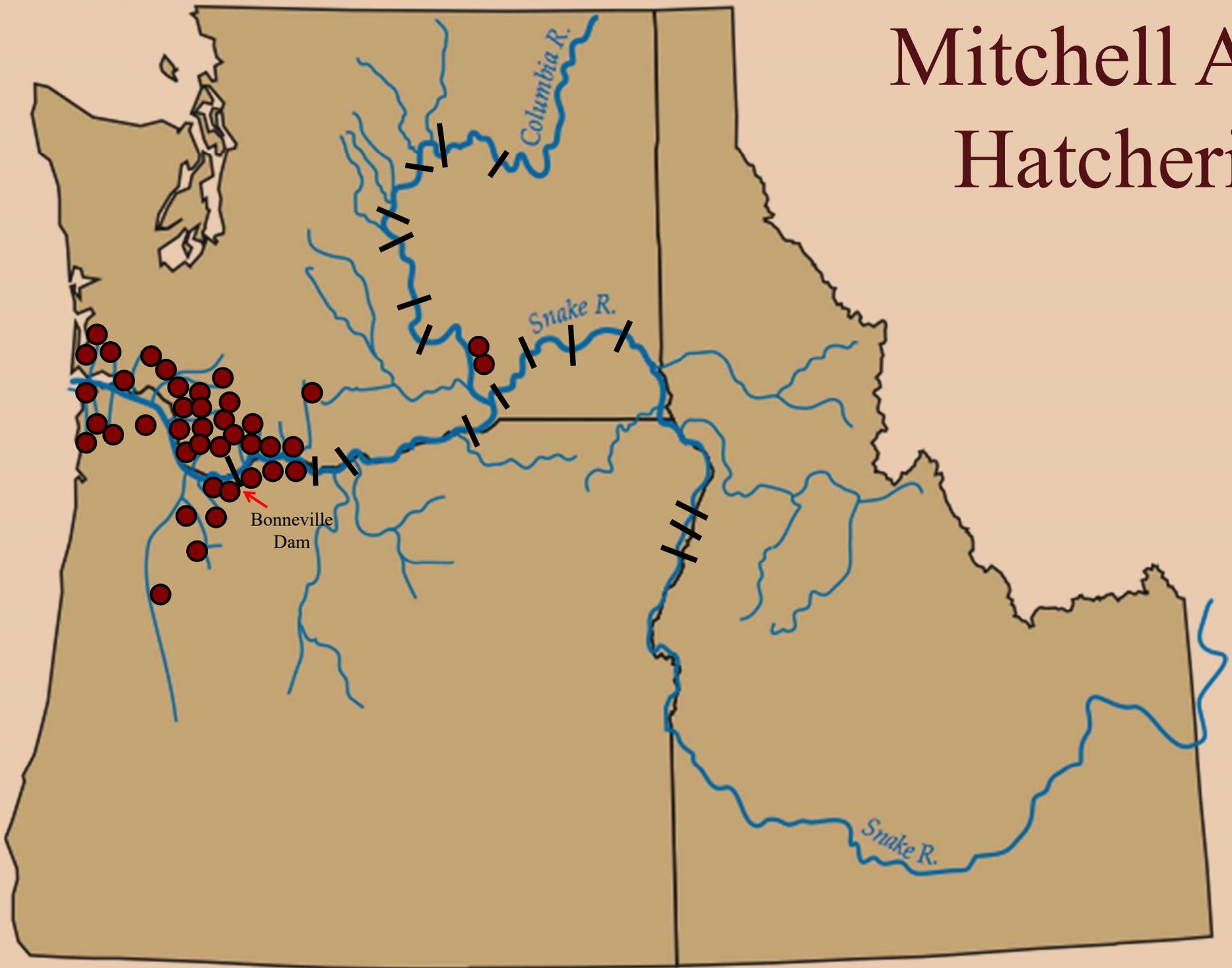
# Decision to Focus on Hydropower and Flood Risk Management

International Columbia River Engineering Board, narrows **1959** referral for negotiating a Columbia River “Water” Treaty

- (a) benefits on storage of waters and electrical interconnection within the Columbia River system
- (b) benefits apportionment between the two countries focused on electrical generation and control.

Mistaken underlying assumptions: ecosystem function for the basin could be achieved through unilateral domestic management activities and that hatcheries could mitigate for stocks lost because of no fish passage.

# Mitchell Act Hatcheries

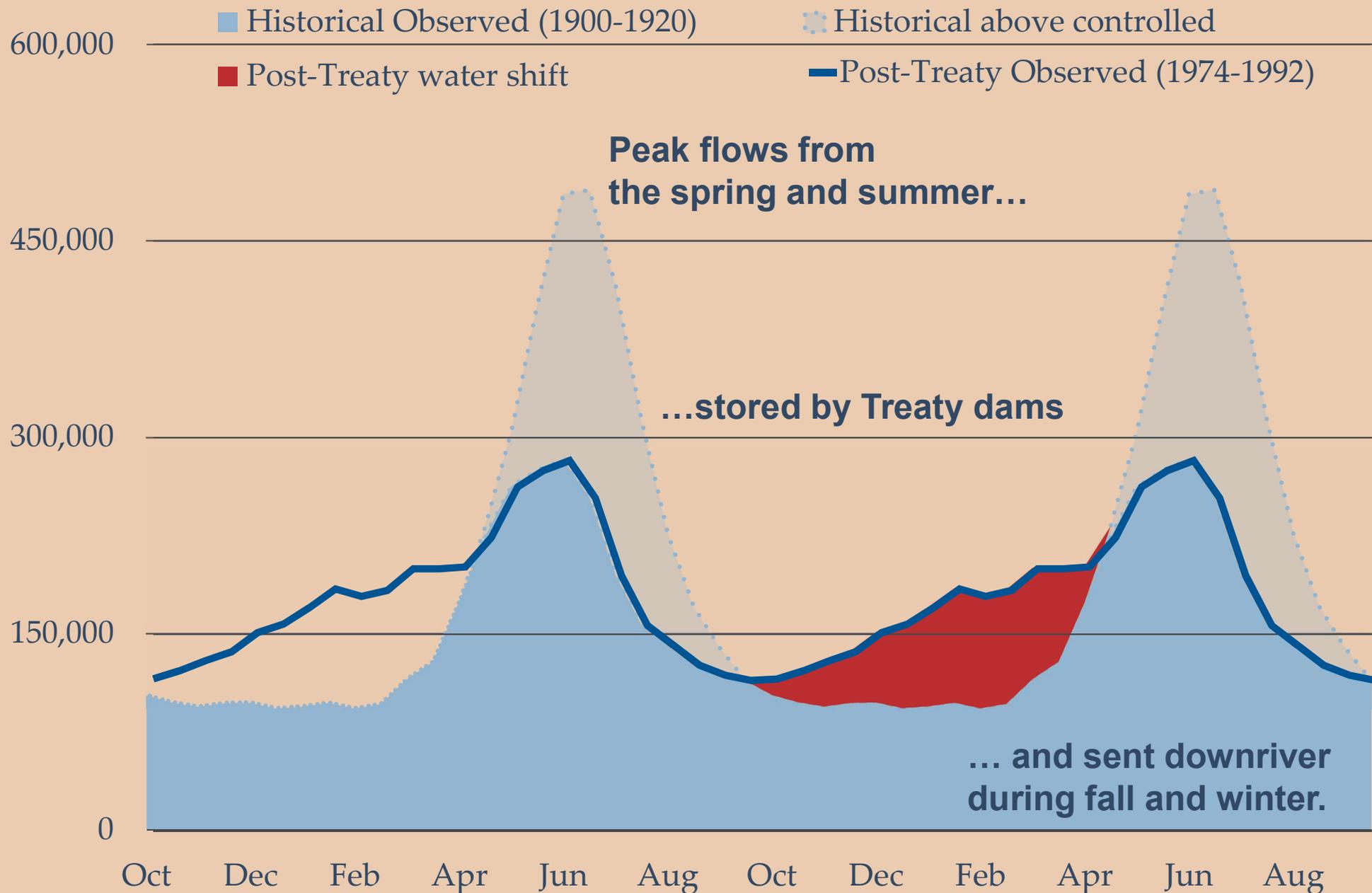


# Columbia River Treaty

- Treaty came into force in 1964, no end date
- Canada builds three dams, US builds Libby – no passage
- Twin goals:
  - optimize hydropower
  - coordinate flood control
- With 10 year notice, Treaty may be terminated in 2024
- Tribes not consulted, no fish & wildlife coordination



# River Level at The Dalles Dam



# Permanent Floods Created Upriver to Protect Portland from Flooding



Relocating a Church from Waldo  
Now under Koochanusa Reservoir



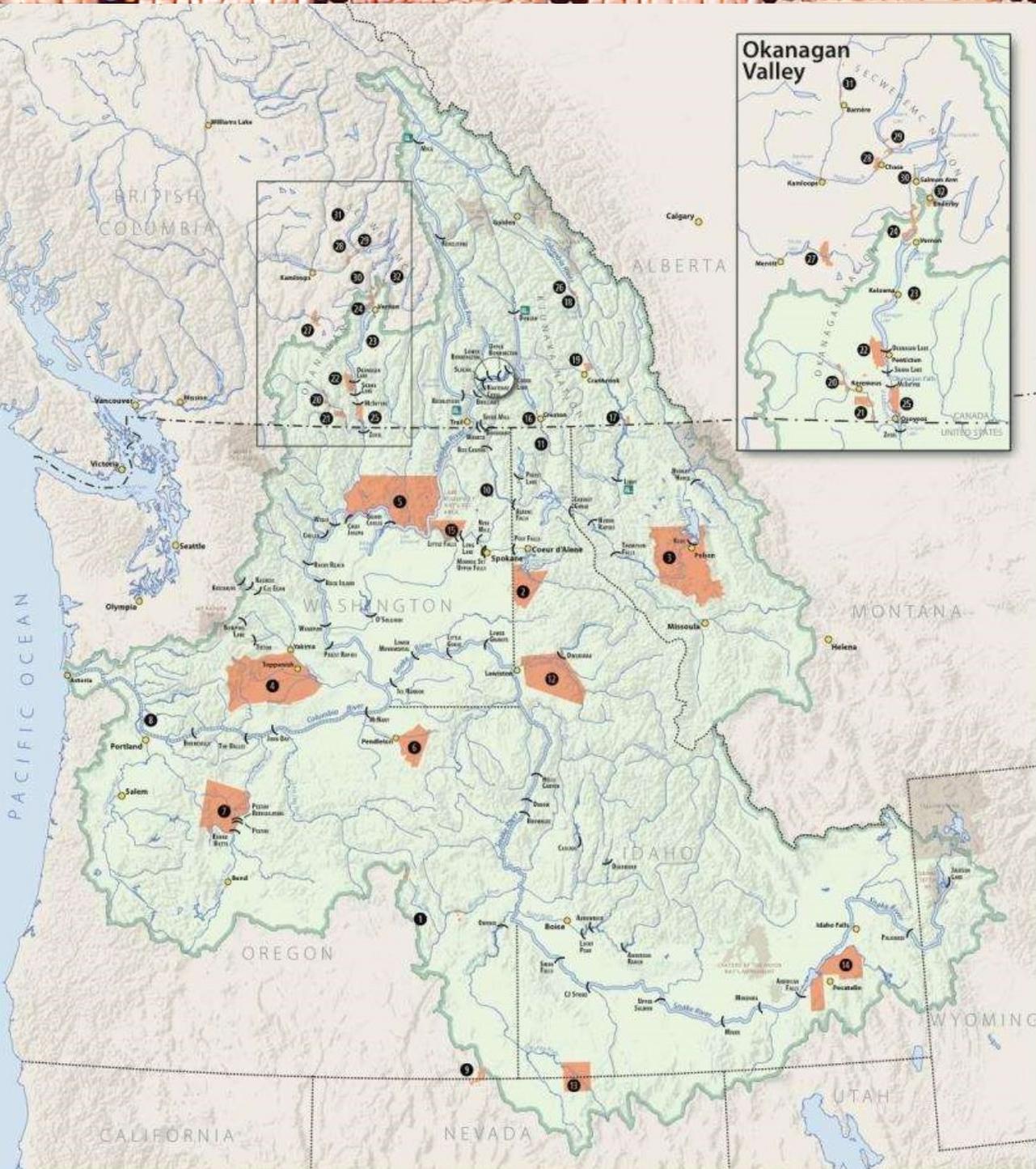
Mica Dam built in 1973



Kinbasket Reservoir  
Drawdown Effects



Vanport Flood, near Portland



# Columbia Basin Tribes

15 tribes with management authorities and responsibilities affected by the Columbia River Treaty

*Tribal Coalition formed 2009  
Common Views February 2010  
First Nations Outreach 2011*

This map was produced by the Columbia River Inter-Tribal Fish Commission. It is meant for informational and display purposes only and was created with the best data available at the time of production. It does not represent any legal boundaries or information. Map date: March 2012

North ↑

0 25 50 100 200 Kilometers

0 25 50 100 200 Miles

Columbia Basin Boundary
  Reservation or Reserve
  Dam authorized by Columbia River Treaty



# Tribal Caucus products

- Mission OR workshop – discuss issues and concerns (December 2009)
- Columbia Basin Tribes develop Common Views on Future of the Treaty (February 2010)
- Tribes develop Common Goals and Objectives (May 2010)
- Tribal Leaders meet with U.S. Entity (July 2010):
  - Agreed to establish Sovereign Participation Process for the purpose of developing a Regional Consensus



# Tribes Issues with Treaty

- No **tribal consultation** during negotiation nor **tribal representation** during implementation
- Adopted hydropower and flood control as management goals, **disregarding fisheries** and other ecosystem elements
- Flood control plan **eliminated annual flooding** and freshets, **moved flood upriver**
- Grand Coulee and Treaty projects **built without passage and eliminated salmon spawning habitat**
- Benefits of Treaty system **not shared** with tribes



# Tribes Goals for Modern Treaty

- Secure a seat at the table (Treaty review, negotiation and implementation);
- Manage river for ecosystem function, equal with power production and flood risk management (stabilize reservoirs and provide spring freshet);
- Restore fish passage to historical habitats;
- Equitably share benefits of system; and,
- Equal access to resource development opportunities, consistent with ecosystem function.



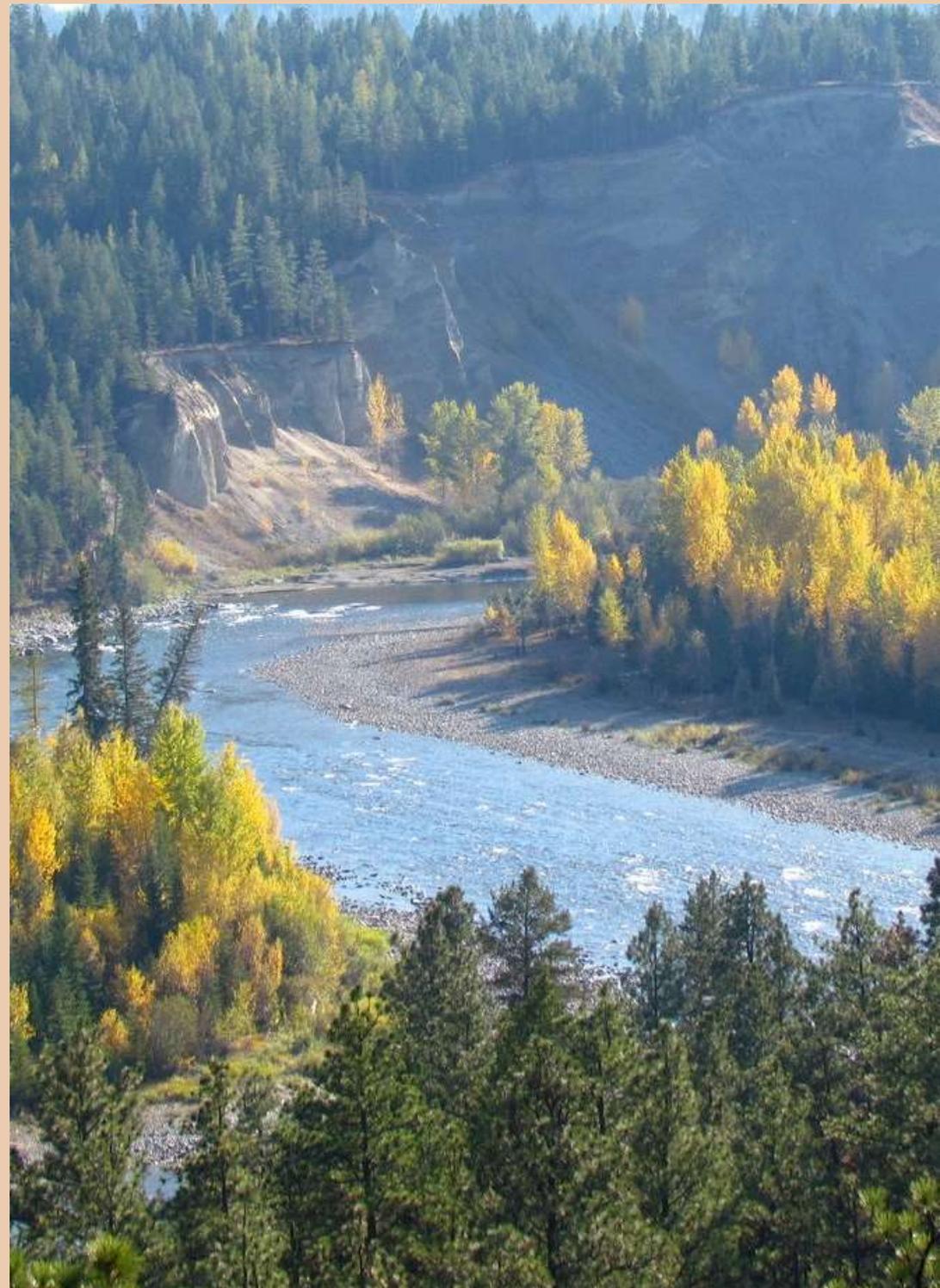
# Sovereign Participation Process

U.S. (Entity & Federal Agencies), Tribes, States

- **Government-to-government level:**  
Decision makers
- **Sovereign Review Team:**  
Guides technical analysis, resolves process issues
- **Sovereign Technical Team:**  
Modeling and technical analysis
- **Stakeholder Involvement Throughout**

# Tribes Advocated for an Ecosystem Management Approach

- Restore and preserve tribal natural and cultural resources
- Restore spring freshets:
  - Helps to restore estuary
  - Helps move fish
- Minimize draw downs at upper reservoirs
- Restore fish passage to all historical locations.





# Goal of Regional Recommendation

“The region’s goal is for the United States and Canada to develop a modernized framework for the Treaty that maintains a similar level of flood risk and assures reliable and economic hydropower benefits, while providing a more resilient and healthy ecosystem-based function throughout the Columbia River Basin.”



# Elements of Regional Recommendation

- Maintain coordinated flood risk management, and protect public safety and region's economy.
- Maintain coordinated hydropower operations and a reliable, economically sustainable hydropower system.
- Modernize the Treaty to further ensure a more comprehensive ecosystem-based function approach throughout the Columbia River Basin watershed.



# Elements of Regional Recommendation

- Meet regional needs for irrigation, municipal and industrial use, in-stream flows, navigation and recreation.
- Incorporate new or formalized mechanisms or provisions into Treaty that allow for adaptation and flexibility to address changes.
- Strategy for adapting the Treaty to future changes in climate should be resilient, adaptable, flexible and timely.

# Address Flood Control Provisions: Impacts from Dramatic Reservoir Level Changes



Spokane River in Washington State, impacts from Grand Coulee Reservoir Drawdown  
*Cultural resources impacted, dust (contaminated in some cases)*



# Flood Risk Management - Tribal Concerns

- Corps reluctant to balance reservoir operations that will provide necessary ecosystem flows while maintaining adequate flood control.
- What is Flood Risk Management (FRM)?  
$$\text{FRM} = \text{Cost} \times \text{Probability} \qquad \text{FRM} \neq \text{Probability}$$
- **Why is this important?** Current flood control approach creates problems in upriver reservoirs, perhaps for little flood risk benefit.



# Flood Risk Management

## Need to Investigate New Approaches

Updated flood risk management approaches can:

- Reduce problems in upriver reservoirs
- Increase salmon survival
- Improve estuary health

Could this be possible while maintaining adequate flood control? The Regional Recommendation calls for this to be investigated.



# Flood Risk Management – *Update*

- Initiate regional review
- Involve sovereigns and stakeholders
- Continue coordinated flood risk management
- Measure system capability for a range of flows and flood years
- Review current infrastructure capability, assess future needs
- Identify opportunities to reconnect floodplains



# Water Supply & Irrigation Interests

- A Treaty left unchanged:
  - Canada insists that, post-2024, all U.S. reservoirs will need to be managed for flood risk before we “call upon” Canada for assistance
- Water rights are primarily a State-Tribal issue
- Should we incorporate water supply into the Treaty?
- Lets have that discussion about whether a Treaty provision for Waters Supply is in our best interest



# Downstream Benefits and the Canadian Entitlement - *Concerns*

- Faulty assumptions made about thermal power development in U.S.
- Not part of calculation: wind power, other renewables, and conservation
- U.S. is currently integrating ecosystem function into its operations
- Restored fish passage is an ecosystem benefit in Canada, as are U.S. flows for fish survival



# Maintaining Regional Consensus

- U.S. Dept of State cannot succeed if we are a region in disarray, non-consensus
- There is no court to seek relief in an international treaty negotiation, though there are provisions for resolving differences under current Treaty.
- Creating controversy may result in Canada walking away from the negotiating table, leaving current provisions in place for 2024 and beyond

*Treaty changes in 2024, but it does not go away*

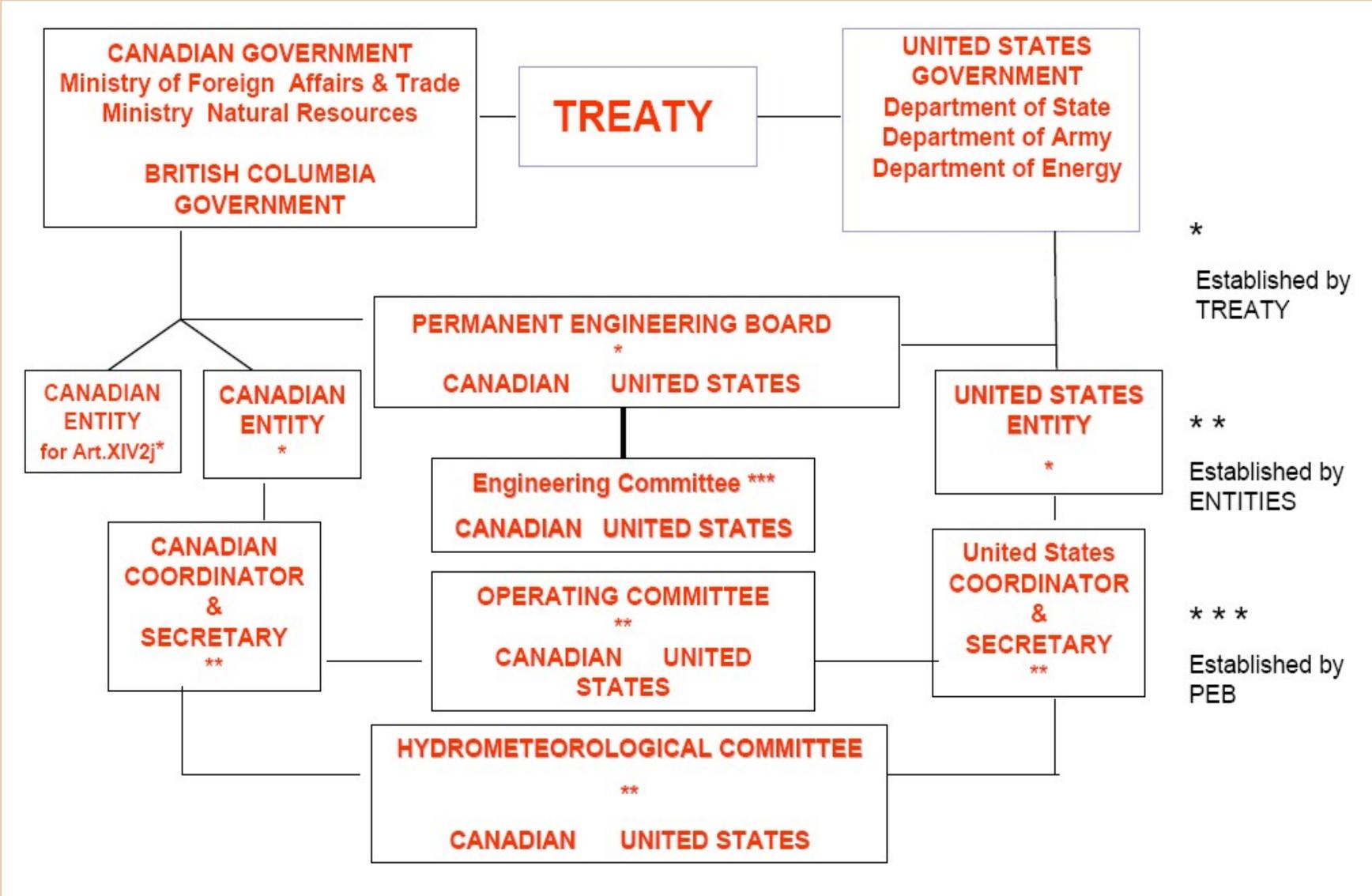


# Steps Forward

- Domestic advisory mechanism needed to support U.S. State Department
- Treaty options: continue, terminate, or modernize
- Senate ratification needed for a new Treaty and potentially needed for major changes to the Treaty

*Maintaining Regional Consensus is  
Key to Success*

# Treaty Operations





# Additional Resources

- Background information on the Columbia River Inter-Tribal Fish Commission:  
<https://www.critfc.org/about-us/critfcs-founding/>
- Information and documents (and maps) on the tribes' Columbia River Treaty positions:  
<https://www.critfc.org/tribal-treaty-fishing-rights/policy-support/columbia-river-treaty/>
- Information and documents on the Sovereign Participation Process and Regional Recommendation: <https://www.crt2014-2024review.gov/>
- Information and documents on the implementation of the current Treaty:  
[http://www.nwd-wc.usace.army.mil/PB/PEB\\_08/peb.htm](http://www.nwd-wc.usace.army.mil/PB/PEB_08/peb.htm)
- Jim Heffernan, Policy Analyst – Columbia River Treaty, Columbia River Inter-Tribal Fish Commission, 700 NE Multnomah Street, Portland Oregon 97232 (503) 238-0667

## United States Entity

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### Columbia River Treaty

P.O. Box 3621, Portland, OR 97208-3621

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**Chairman:**

Administrator and Chief Executive Officer  
Bonneville Power Administration  
Department of Energy

**Member:**

Division Commander  
Northwestern Division  
Corps of Engineers  
Department of the Army

13 December 2013

In reply refer to: **BPA A-7 / USACE CENWD-DE**

Ms. Sue Saarnio, Director  
Office of Canadian Affairs, WHA-CAN  
United States Department of State  
2201 C Street Northwest  
Washington, D.C. 20520

Dear Ms. Saarnio:

The purpose of this letter is to transmit the U.S. Entity's regional recommendation concerning the future of the Columbia River Treaty after 2024. The U.S. Entity for the Columbia River Treaty (Treaty) is composed of the Administrator of the Bonneville Power Administration and the U.S. Army Corps of Engineers Northwestern Division Engineer, and is charged with the duty to formulate and carry out the operating arrangements necessary to implement the Treaty. The attached recommendation is being provided to the U.S. Department of State and the Administration at the direction of the Interagency Policy Committee to produce a regional recommendation that reflects the broadest possible consensus.

The regional recommendation was developed by the U.S. Entity in collaboration and consultation with the region's sovereign states, federally recognized tribes, and a variety of stakeholders through an extensive, multi-year process known as the Columbia River Treaty Review (Treaty Review). The U.S. Entity submits that the Pacific Northwest region broadly supports modernization of the Treaty to bring about better and more balanced benefits, and believes this would be in the best interest of the region and the United States.

The stated goal of the regional recommendation is for both countries to develop a modernized Treaty framework that reflects the value of coordinated power operations with Canada, maintains an acceptable level of flood risk and supports a resilient and healthy ecosystem-based function throughout the Columbia River Basin. It is important to achieve a modernized framework for the Treaty that balances power production, flood risk management, and ecosystem-based function as the primary purposes addressed in the Treaty, while also meeting other congressionally authorized purposes of the U.S. projects, such as irrigation and navigation.

The recommendation includes general principles, followed by topic-specific recommendations for a modernized Treaty. In addition to the regional recommendation, we have included a section that identifies domestic matters for consideration by U.S. domestic interests to be addressed post-2013.

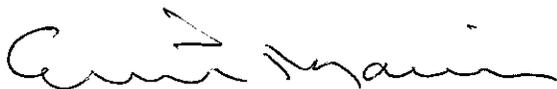
Throughout the Treaty Review process, every effort was made to achieve the broadest regional consensus possible. This recommendation represents the U.S. Entity's best effort to reflect the perspectives of the full spectrum of regional interests, but, like any process of this scope and complexity, some compromise

was necessary to garner as much region-wide support as possible. As such, not every opinion or perspective submitted to the U.S. Entity could be incorporated into the recommendation.

In forthcoming discussions at the national level, some parties may advocate for future Treaty operations that benefit certain uses over others. The U.S. Entity believes this would be inconsistent with the spirit and letter of this recommendation, which is built around the idea that all of the general principles outlined in this document are to be taken together and should be mutually achieved in a post-2024 Treaty. We support improving the Treaty for the benefit of all interests in the region by providing a collective net “win” and ensuring the Treaty is sustainable for the long term.

While the submission of this recommendation is an important first step, we understand that we now enter a new phase of review that will be carried out by the State Department in consultation with the Administration. The U.S. Entity, regional sovereigns and stakeholders remain very interested in participating in the State Department’s future review and any subsequent related actions or decisions. In particular, the U.S. Entity and its Northwest partners stand ready to work with our Canadian counterparts in coordination with the State Department to develop the details of a modernized Treaty that is fair, balanced, and sustainable.

Sincerely,



Elliot E. Mainzer,  
U.S. Entity Chair, Columbia River Treaty  
Acting Administrator, Bonneville Power Administration



Brigadier General John S. Kem  
U.S. Entity Member, Columbia River Treaty  
Commander, U.S. Army Corps of Engineers, Northwestern Division

Attachment: “U.S. Entity Regional Recommendation for the Future of the Columbia River Treaty after 2024”

U.S. Entity Regional Recommendation  
for the  
Future of the Columbia River Treaty after 2024

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**December 13, 2013**



# U.S. Entity Regional Recommendation for the Future of the Columbia River Treaty after 2024

## **Introduction**

The Pacific Northwest depends on a healthy Columbia River system to provide environmental sustainability, national energy independence, protection of public safety and infrastructure, and economic well-being. The Columbia River Treaty (Treaty) has provisions that should be improved to address this region's long-term ability to meet these objectives. Consequently, the region's sovereigns and stakeholders believe that modernization of the Treaty is in the best interest of the United States.

This recommendation identifies potential modifications to the Treaty post-2024. It begins by identifying regional goals for the future of the Treaty post-2024. It includes a set of general principles underlying this recommendation, followed by more specific recommendations related to a number of Treaty elements. Finally, in addition to this recommendation, we identify a number of matters related to possible post-2024 Treaty implementation for consideration by domestic interests.

The U.S. Entity developed the regional recommendation in collaboration and consultation with the region's sovereign states, federally recognized tribes, and a variety of stakeholders through an extensive, multi-year process known as the Columbia River Treaty Review.

## **Regional Goal for the Columbia River Treaty**

The Pacific Northwest recognizes the value of the Columbia River Treaty in facilitating shared water resource management in the Basin to maximize benefits to both the United States and Canada. When the Treaty was originally drafted in the 1960s, it was designed to optimize hydropower production and coordinate flood risk management as its two primary benefits. In terms of those purposes, the Treaty has served the people of the region well. The assured streamflows under the Treaty support the region's hydropower system, which serves as a crucial backbone of the Pacific Northwest economy. The Treaty also has assisted in effectively managing flood risk to ensure public safety and facilitate regional development.

While the importance of the Basin's ecosystem has long been recognized and valued by those in the region, the Treaty does not identify ecosystem considerations. Significant efforts to address ecosystem concerns began in the 1980s through various avenues, and the region, principally through its electric utility ratepayers, has invested hundreds of millions of dollars annually to achieve ecosystem mitigation and improvements throughout the Basin over the intervening decades. In addition, the United States and Canadian entities in 1993 began using the flexibility in the Treaty to assist in meeting Endangered Species Act (ESA) requirements and to address ecosystem considerations on an annual basis through actions such as flow augmentation agreements. While it is recognized that significant ecological improvements are being implemented and realized in a number of critical areas and are anticipated to continue over time,<sup>1</sup>

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<sup>1</sup> There are a number of domestic actions that have contributed, and will contribute to ecological improvements in the Basin. These include the Federal Columbia River Power System Biological Opinion requirements under the Endangered Species Act, the Nez Perce Water Rights Agreements of 2004, actions under the Northwest Power and Conservation Council's Columbia River Basin Fish and Wildlife Program, actions under the Clean Water Act to improve water quality, and implementation of the Columbia Basin Fish Accords. In addition, there are numerous habitat and conservation programs and FERC license requirements associated with non-federal dams on the Columbia River.

there is an opportunity for inclusion of certain additional ecosystem operations to expand, enhance, and complement these existing ecosystem investments as part of the post-2024 Treaty.

There also is increasing awareness in the region that an imbalance has developed in the equitable sharing of the downstream power benefits resulting from the Treaty. When the Treaty was ratified, the United States and Canada structured Canada's share of these benefits as one-half of the downstream power benefits with the Canadian Treaty projects as compared to without those projects. An equitable sharing of these benefits should instead be based on the more realistic measure of the power value of coordinated operations as compared to non-coordinated operations. Based on the present formula developed in the 1960s, the estimated value of the Canadian share of the downstream benefits in 2024 is significantly greater than anticipated, and far exceeds the value of coordinated power operations under the Treaty.

Flood risk management continues to be a vitally important aspect of coordinated operations with Canada. Recent high water events in 1996/1997 in the Portland/Vancouver area and in the Kootenai River Basin in 2006 and 2012 are examples of the effectiveness of coordinated operations that reduced flood impacts to the communities in both Canada and the United States. After the first 60 years of assured flood risk management operations in Canadian reservoirs, the Treaty shifts to "Called Upon" procedures for post-2024 flood risk management operations. As the nation and region develop a better understanding of the potential implications of climate change, future flood risk management procedures need to be resilient to provide for public safety.

Other important elements of a modernized Treaty are current and future water supply to help meet regional needs for irrigation, municipal and industrial use, in-stream flows, navigation, and recreation. In addition, the Treaty should include both short- and long-term mechanisms that allow for adapting the Treaty to build in flexibility of operations as conditions change (e.g., climate change, ESA listings or de-listings, or as new information and technology become available).

Accordingly, the region's goal is for the United States and Canada to develop a modernized framework for the Treaty that ensures a more resilient and healthy ecosystem-based function throughout the Columbia River Basin while maintaining an acceptable level of flood risk<sup>2</sup> and assuring reliable and economic hydropower benefits. Therefore, it is important to achieve a modernized framework for the Treaty that balances power production, flood risk management, and ecosystem-based function as the primary purposes, while also recognizing and implementing all authorized purposes.<sup>3</sup>

It is essential to note in the reading of this recommendation that, while the inclusion of ecosystem-based function as a third primary purpose of this Treaty is being recommended, a very important balance of water management uses has been established in the Basin and its tributaries over the past 50 years. This recommendation respects the importance, complexity, and trade-offs of each of these many uses and the benefits that the region has strived to achieve.

In summary, this recommendation seeks to formalize, provide certainty, and build on the many ecosystem actions already undertaken through annual or seasonal mutual agreements between the countries, while also providing a net increase in U.S. power benefits based on the actual value of coordinated operations

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<sup>2</sup> Throughout this document, "acceptable" flood risk is defined as "similar to the current level" of flood risk; however, the "acceptable" level of flood risk may change pending the outcome of a regional flood risk review process post-2013 as noted in item 1 listed in the *Domestic Matters to be Addressed Post-2013* section at the end of this document.

<sup>3</sup> In this document, the "primary purposes" refers to the "benefits" to be achieved through the Treaty. Where noted, "authorized purposes" is used to connote those purposes that have been authorized in the Basin through the United States Congress.

with Canada, preserving an acceptable level of flood risk to the people of the Basin, and continuing to recognize and implement the other authorized purposes in the Basin.

In this document the term “modernization” of the Treaty refers to the construct of a post-2024 arrangement. This construct could include amendments or revisions to the existing Treaty, diplomatic notes or protocols, or other means resulting in a modernized Treaty.

### **General Principles**

Nine key principles underlie this recommendation and a modern approach to the Columbia River Treaty. These General Principles are to be taken together with the intent that all of the interests addressed herein be improved.

1. Treaty provisions should enable the greatest possible shared benefits in the United States and Canada from the coordinated operation of Treaty reservoirs for ecosystem, hydropower, and flood risk management, as well as water supply, recreation, navigation, and other pertinent benefits and uses, as compared to no longer coordinating Treaty storage operations.
2. The health of the Columbia River ecosystem should be a shared benefit and cost of the United States and Canada.
3. The minimum duration of the Treaty post-2024 should be long enough to allow each country to rely on the Treaty’s planned operations and benefits for purposes of managing their long-range budgets, resource plans, and investments, but adaptable enough to allow responses to new information and changing conditions.
4. All operations of the Treaty should be based on the best available science, and, to the extent practicable, measurable outcomes.
5. U.S. federal reservoirs/projects will continue to meet authorized uses consistent with applicable legislation, Indian treaties and tribal rights, the U.S. Government’s trust responsibility to the tribes, and other U. S. laws such as the Clean Water Act and the Endangered Species Act. Non-federal U.S. projects will continue to meet their responsibilities pursuant to their Federal Energy Regulatory Commission licenses.
6. The United States and Canada should pursue a more coordinated use of Treaty and Canadian non-Treaty storage under the Treaty to increase the flexibility to, and benefits of, meeting ecosystem-based function, power, flood risk management, and other authorized water management purposes in both countries.
7. The region anticipates impacts from climate change to all of the elements described in this document. The strategy for adapting the Treaty to future changes in climate should be resilient, adaptable, flexible, and timely as conditions warrant.
8. It is recognized that modifications to the Treaty could result in new benefits and/or costs to both Canada and the United States. U.S. interests should ensure that costs associated with any Treaty operation are aligned with the appropriate party.
9. Implementation of ecosystem-based functions in the Treaty should be compatible with rebalancing the entitlement and reducing U.S. power costs.

## **Recommendation Details**

Consistent with the intent of the general goals and principles, the following sections provide more specific recommendations for a modernized Treaty.

### **Hydropower**

In order to maintain coordinated hydropower operations and a reliable, economically sustainable hydropower system in a modernized Treaty, the region recommends the following:

1. The United States should pursue rebalancing the power benefits between the two countries to reflect the actual value of coordinated operations. This rebalancing is necessary because the present Treaty power benefits are not equitably shared and Canada is deriving substantially greater value from coordinated power operations than the United States. Accordingly, for the Treaty to be sustainable after 2024, the United States should only provide benefits to Canada equivalent to one-half of the actual U.S. downstream capacity and energy benefits received from coordinated operations as compared to a non-coordinated operation.
2. The United States should renegotiate for the replacement of the present "Aspects of Delivery Agreement" to create the least-cost transmission strategy for both countries to return the Canadian Entitlement to Canada. This includes reconsidering the flexibility of the return.
3. A modernized Treaty should retain the ability for both the United States and Canada to maintain an economical and reliable power supply post-2024. This requires consideration of the implications of any reductions in generation capability for either country, including lost revenue, system reliability, substantial increases in loss-of-load probability, carbon emissions, renewable resource integration, energy efficiency and conservation, and shifts in streamflow quantity and timing due to climate change.
4. A modernized Treaty should avoid substantial changes in hydropower generation during peak load periods that result in lower system reliability or flexibility<sup>4</sup>.

### **Flood Risk Management**

In order to maintain coordinated flood risk management, and to protect public safety and the region's economy, the region recommends the following:

1. The United States should pursue post-2024 Treaty flood risk management through a coordinated operation plan that provides for an acceptable level of flood risk. Unless modified based upon future review of flood risk management policy for the Columbia River, the level of risk will be similar to the level of risk existing prior to 2024 (see *Domestic Matters to be Addressed Post-2013* section).
2. The United States should pursue an assessment with Canada of potential alternatives for post-2024 operations to meet flood risk management objectives, including the possibility of using planned or assured Canadian Storage.
3. The United States and Canada should establish a common understanding of the methods and procedures for post-2024 Called Upon, which should reflect the following principles based on the

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<sup>4</sup> Flexibility in the hydropower system is the ability of hydropower generation to respond rapidly to changes in the balance between demand and system generation and is critical for integrating variable renewable power generation such as wind and solar.

U.S. Entity White Paper: *Columbia River Post-2024 Flood Risk Management Procedure*, September 2011:

- A. Called Upon should be considered only if coordinated Canadian power, flood control, and other operations do not provide sufficient storage in conjunction with the use of U.S. system flood storage or when needed during refill season to modify planned Canadian releases.
  - B. Draft U.S. projects according to their storage reservation diagrams (SRDs). Future flood risk management studies may evaluate alternative SRDs to include incorporation of ecosystem-based function such as dry year operating strategies.
  - C. Define “effective use” as applying to the eight U.S. reservoirs authorized for system flood control.
4. The United States and Canada should identify reasonable compensation to Canada for economic losses and operating costs associated with Called Upon. Any payments for Columbia River flood risk management should be consistent with the national flood risk funding policy of federal funding with applicable local beneficiaries sharing those costs as appropriate.
  5. A modernized Treaty should enable the necessary flexibility to adapt both to changing flood risk management objectives in the United States and Canada and climate change (such as the potential for more frequent and intense winter flood events) to avoid additional risks to authorized purposes.

#### Ecosystem-based Function

In order to achieve the goal of modernizing the Treaty to further ensure a more comprehensive ecosystem-based function approach throughout the Columbia River Basin watershed, the region recommends the following:

1. A modernized Treaty should provide streamflows from Canada with appropriate timing, quantity, and water quality to promote productive populations of anadromous and resident fish and provide reservoir conditions to promote productive populations of native fish and wildlife. While recognizing existing Treaty obligations, a modernized Treaty should: (a) incorporate existing Treaty flow augmentation operations and accommodate post-2024 modifications to flow augmentation; (b) incorporate a dry-year strategy; and (c) gain long-term assurance of ecosystem-based functions rather than negotiating for these functions on an annual basis.
2. A modernized Treaty should recognize and minimize adverse effects to tribal, First Nations, and other cultural resources in Canada and the United States. To the extent there are adverse effects to U.S. cultural resource interests, such changes should be addressed under the Federal Columbia River Power System (FCRPS) Cultural Resources Program. This Program has the ability to be amended and expanded as needed if there are effects on cultural resources resulting from changes due to future operations in a modernized Treaty.
3. A modernized Treaty should be designed to be adaptable to meeting ecosystem-based function requirements as new information becomes available or conditions change (e.g., climate change) based on the management priorities of both countries.
4. The United States should pursue a joint program with Canada, with shared costs, to investigate and, if warranted, implement restored fish passage and reintroduction of anadromous fish on the

main stem Columbia River to Canadian spawning grounds. This joint program would proceed on an incremental basis, beginning with a reconnaissance-level investigation, and continue with implementation actions. All such federal actions at the Chief Joseph and Grand Coulee projects are subject to congressional authorization and appropriation. Modernized Treaty operations should not interfere with other opportunities to restore fish passage and reintroduction of fish in other blocked areas of the Columbia River Basin.

5. The United States should continue to coordinate its operation of Libby Dam with Canada, with the goal of achieving mutually desirable ecosystem benefits on both sides of the border. VarQ at Libby and Hungry Horse dams, including any modifications to VarQ, balances the multiple uses of the dams and incorporates ecosystem-based function.

### Water Supply

Treaty Review studies indicate the potential for a modernized Treaty to allow for additional storage of water in Canada during the fall and winter, and release in the spring and summer. The Treaty should allow the storage and release of water from Canada in the spring and summer for additional in-stream and out-of-stream uses, including irrigation and municipal/industrial uses.

Irrigation has a long and important history in the Columbia River Basin for crop production and other purposes. The need for irrigation will only increase as the region continues to grow and as food supply and security continue to grow in importance. Operations under a modernized Treaty should recognize irrigation as an important authorized purpose in the Basin.

Any future water supply allocation decisions associated with a modernized Treaty should be subject to the requirement that they not adversely affect the operation of upstream reservoirs such as VarQ, and be made through a future domestic process and be consistent with ecosystem-based function and water rights, including tribal reserved water rights (see *Domestic Matters to be Addressed Post-2013* section).

### Navigation

Since the Treaty was ratified in 1964, the regional and national economic significance of Columbia River navigation has grown. Operations under a modernized Treaty should recognize navigation as an important authorized purpose in the Basin and provide river flows that do not undermine safe navigation, efficient cargo movement, or the ability of navigation infrastructure to be maintained. This will ensure the economic value of port and transportation facilities, including commercial import and export of agricultural, bulk and manufactured goods.

### Recreation

The region recognizes and supports the recreational and cultural opportunities that are a significant outcome of the Columbia River watershed management processes. Operations under a modernized Treaty should strive toward the protection of these resources.

### Climate Change

A modernized Treaty should consider impacts from climate change to all elements described above, and create new terms in the post-2024 Treaty to allow the adaptive management of coordinated Treaty operations to better mitigate any impacts associated with climate change. The United States and Canadian Entities' Hydro-meteorological Team should continue to collaborate and share the best available climate change data and information.

## **Recommendation Timeframe**

The region recommends that the U.S. government make a decision by mid-2014 to proceed with a renegotiation of the Treaty with Canada in order to modernize the Treaty by incorporating the objectives in this regional recommendation. Further, the region recommends that the U.S. government seek to complete that effort no later than 2015. If the United States and Canada are unable to achieve agreement on key aspects of a modernized Treaty by 2015, other options to create a modernized post-2024 Treaty should be evaluated.

## **Domestic Matters to be Addressed Post-2013**

In addition to the preceding recommendation to the U.S. Department of State, this section identifies domestic matters related to possible post-2024 modernized Treaty implementation for consideration by domestic interests. Some of these are appropriate for consideration once the United States Entity makes its recommendation to the U.S. Department of State in 2013 and others are more appropriate for consideration once the U.S. government has a better understanding of post-2024 circumstances.

1. **U.S. Columbia River Basin Flood Risk Policy Review:** Pacific Northwest states and tribes support the pursuit of Congressional authorization and appropriations for a region-wide public process to assess potential changes to the current level of flood risk protection in the Columbia River Basin to enhance spring and summer flows. Any such process should occur between 2014 and 2024. Post-2024 Treaty provisions, including Called Upon, will be designed to adapt to any such changes that may be authorized. If a process is initiated, it will be a comprehensive approach, subject to public input, that addresses all opportunities to manage high flow events, including floodplain management, Columbia River Basin reservoir operations, and strategic improvements to existing levees and the need for additional levees. Potential impacts to other river uses and infrastructure such as navigation, bridges and other transportation features, hydropower, irrigation, recreation, fish and wildlife, and cultural resources also will be evaluated and addressed.
2. **Water Supply Allocation:** Pacific Northwest states, tribes, and appropriate federal agencies will design and initiate a process to allocate and manage any additional spring or summer flows for in-stream, irrigation, and municipal/industrial purposes derived through post-2024 Treaty operations. All water rights interests should be represented in this process. The U.S. Entity will incorporate decisions from this process into their post-2024 Treaty planning and operations. It is recognized that the states have authority to allocate and manage water pursuant to state law and consistent with other applicable law.
3. **Assessment of Canadian Entitlement:** BPA will host a public process in which states, tribes, federal agencies, and stakeholders can participate. This process will take place between 2014 and 2024 to assess the expected potential changes to its annual revenue requirements and rates due to any redesign of the Treaty post-2024. BPA also will discuss with the region how to manage those costs and benefits consistent with BPA's statutory authorities.
4. **Plan for Post-2024 Treaty Implementation:** Following the conclusion of the United States and Canadian negotiations of the terms of the post-2024 Treaty, and subject to funding, the U.S. Entity will lead an effort in consultation with regional sovereigns and stakeholders to develop a plan identifying the steps necessary to implement the modern Treaty post-2024. This plan will define the appropriate work needed to incorporate and implement any new ecosystem-based function, flood risk management, hydropower, and any other expected new operational objectives under the Treaty.

5. **U.S. Flood Plain Reconnection:** Tribal, federal, and state sovereigns will work with the Northwest Power and Conservation Council’s Fish and Wildlife Program and the National Oceanic and Atmospheric Administration/National Marine Fisheries’ Recovery Planning process (particularly estuary actions) or any other identified process throughout the Basin to advance selective flood plain reconnection for the purpose of achieving additional benefits from a modernized Treaty.
6. **U.S. domestic advisory mechanism:** The U.S. Department of State should establish and resource a structured domestic advisory mechanism to assist, inform, and advise the Department of State in the negotiations phase of this process. The Department of State should seek to involve a broad cross-section of regional parties in this mechanism. This mechanism may also be used to provide advice regarding additional work needed to address ecosystem-based function, hydropower, flood risk management, and other beneficial water uses.
7. **Composition of U.S. Entity:** At an appropriate time, membership of the U.S. Entity should be reviewed by the Administration, with consideration given to assuring a composition and membership that is best suited to effectively and efficiently implement the Treaty post-2024.



June 29, 2016

The Honorable Barack Obama  
President of the United States  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear Mr. President,

We write to you today in support of modernizing the Columbia River Treaty (Treaty) between the United States and Canada. The Columbia River and its tributaries have been central to the culture and economy of the Pacific Northwest and the future of the river's international governance will have significant ramifications for the entire region.

The Treaty between the U.S. and Canada has provided considerable value to our states over the past 50 years. But much has changed since its inauguration in 1964, and we believe the Treaty must be updated so that future generations of Americans and Canadians will continue to share in its benefits.

Our states were participants in the regional process that developed the "U.S. Entity Recommendation on the Future of the Columbia River Treaty after 2024", which was presented to your administration in December of 2013. We support the balanced approach for modernizing the Treaty and support the negotiation process to modify or amend the Treaty.

Our states request being informed when the Department of State and the Interagency Policy Committee reach a formal decision about renegotiating the treaty. We are also interested in how the Department of State plans to coordinate with the states and regional sovereigns on the several issues that will be negotiated. We stand ready to coordinate with the U.S. Entity and Department of State and provide additional support and information in this effort.

Thank you for your consideration.

The Honorable Barack Obama

June 29, 2016

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Sincerely,



Governor Jay Inslee  
State of Washington



Governor C.L. "Butch" Otter  
State of Idaho



Governor Kate Brown  
State of Oregon



Governor Steve Bullock  
State of Montana

CC: The Honorable John Kerry, U.S. Secretary of State  
Members of the Idaho Congressional Delegation  
Members of the Montana Congressional Delegation  
Members of the Oregon Congressional Delegation  
Members of the Washington Congressional Delegation



# COLUMBIA RIVER TREATY REVIEW

## *B.C. Decision*

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## PREAMBLE

The Columbia River Treaty (Treaty) is known throughout the world as one of the most successful models of a transboundary water treaty. Other countries see the agreement as a benchmark on cooperation to create and share benefits.

The construction of the Treaty dams and reservoirs caused much hardship to communities and First Nations that were directly affected, and ongoing reservoir operations continue to cause negative environmental, social and economic impacts. However, the Treaty dams have been a success in preventing damaging floods to Kootenay communities and residents, in creating renewable energy that powers a large portion of the province, in providing jobs and economic spinoffs to nearby communities, and by contributing to the province's general revenue that supports services to all British Columbians. In addition, Columbia Basin Trust was created in 1995 to enhance the social, economic and environmental wellbeing of Basin residents in recognition of the impacts of the Treaty in the Columbia Basin.

In November 2011, the Province initiated a Columbia River Treaty Review (Treaty Review) process to evaluate future decision options, including possible continuation, amendment or termination of the Treaty. Over the past two years the Treaty Review Team has heard from a wide variety of residents and stakeholders regarding the future of the Treaty.

The Treaty Review Team has been consulting on a government-to-government basis with potentially affected First Nations with the objective to avoid further impacts to aboriginal rights and title. Impacts to aboriginal territories, cultures and practices from the construction and operation of the Treaty dams and reservoirs remain a serious and ongoing concern to

First Nations. The Treaty Review Team has also explored with First Nations other interests and how they may be addressed in the spirit of the New Relationship and the Transformative Change Accord.

Over the past two years there have been 23 community events in the Columbia Basin, and a public consultation report has been released that reflects the views of residents and feedback collected during four rounds of information sessions and workshops. Feedback was also received by mail and online through the Treaty Review website. The last round of public consultation on the Province's draft recommendation and public consultation report closed on November 20, 2013, and informed the final recommendation.

The Treaty Review Team also worked with elected officials in the Columbia Basin through the Columbia River Treaty Local Governments' Committee (Committee). The Committee's primary role is to advocate for local residents and to make recommendations on the future of the Treaty to the Review Team and Ministers. The Committee provided an extensive list of Canadian Columbia Basin Dam and Reservoir Related Issues to the Treaty Review Team. The Province's response to these issues can be found at: <http://blog.gov.bc.ca/columbiarivertreaty> The Province and BC Hydro have committed to exploring and working with Basin communities on a number of these issues.

The Treaty Review Team heard a wide range of diverse perspectives on matters relating to the Treaty and on those issues that can be addressed within existing programs and initiatives. Some of these issues include:

- Residents are big proponents of ongoing enhancement to environmental values within the Basin through further investments in compensation and mitigation programs and by adjustments to hydro system operations to balance ecosystem needs with those of flood protection and power generation.
- There is an increasing awareness of climate change and a desire for planning and adaptation to be incorporated in future Treaty management decisions.
- Residents appreciate the effectiveness of the Treaty dams in minimizing flood damage and want to see close communication and coordination continue.
- Economic development has been an ongoing concern from the standpoint of lost opportunities as a result of the creation of reservoirs. An economic stimulus has

been created for those who participate in ongoing hydro operations, construction and maintenance. The inequity between impact and benefit from the Treaty across communities has been highlighted.

- Public participation in decisions that affect them has changed greatly since the 1960s. Today, residents and stakeholders want to receive timely and pertinent information that they can understand, and have input and influence in management of resources, such as Treaty operations including Libby Dam.
- Basin residents want recognition of the full range of benefits to the United States today and in the future, and to ensure that the Province receives its fair share as it relates to the benefits of coordinated operations from Canadian reservoirs.

The following B.C. decision and principles reflect the outcomes of the British Columbia Treaty Review process. Any changes to the Treaty that may be pursued by the Province will be guided by these principles.

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## **B.C. DECISION:**

**Continue the Columbia River Treaty and seek improvements within the existing Treaty framework.**

## **PRINCIPLES**

- 1. The primary objective of the Treaty should be to maximize benefits to both countries through the coordination of planning and operations.*
- 2. The ongoing impacts to the Canadian Columbia Basin to meet Treaty requirements should be acknowledged and compensated for. The level of benefits to the Province, which is currently solely in the form of the Canadian Entitlement, does not account for the full range of benefits in the United States (U.S.) or the impacts in British Columbia.*
- 3. All downstream U.S. benefits, such as flood risk management, hydropower, ecosystems, water supply (including municipal, industrial and agricultural uses), recreation, navigation and any other relevant benefits, including associated risk reduction arising*

from coordinated operations compared to alternatives available to each country, should be accounted for and such value created should be shared equitably between the two countries.

4. Treaty provisions post-2024 should be fixed for a sufficient duration to provide planning and operational certainty while allowing for adaptive mechanisms to address significant changes to key components and interests.
5. Implementation of post-2024 flood control obligations will be consistent with the Treaty requirements that a Called Upon Flood Control request can only be made when forecasts of potential floods indicate there is a reasonable risk of exceeding 600,000 cubic feet per second at The Dalles, Oregon, the U.S. must make effective use of all related storage in the U.S. before seeking additional help from British Columbia, and the U.S. must pay Canada compensation due as result of a Called Upon operation.
6. To supplement Called Upon Flood Control, a coordinated flood risk management approach should maximize the benefits and mitigate impacts and risks to multiple U.S. interests as compared to Called Upon Flood Control regime post 2024 which includes effective use of U.S. reservoirs.
7. Ecosystem values are currently, and will continue to be, an important consideration in the planning and implementation of the Treaty.
8. The Province will explore ecosystem based improvements recognizing that there are a number of available mechanisms inside and outside the Treaty.
9. Current and future operating conditions of Canadian Columbia Basin dams and reservoirs are subject to provincial and federal licensing including Water Use Plans, where they exist, and consideration of aboriginal rights under the Canadian constitution.
10. The Province will seek improved coordination on Libby Dam and Koochanusa Reservoir operations.
11. Salmon migration into the Columbia River in Canada was eliminated by the Grand Coulee Dam in 1938 (26 years prior to Treaty ratification), and is currently not a Treaty issue. British Columbia's perspective is that the management of anadromous salmon populations is the responsibility of the Government of Canada and that restoration of fish passage and habitat, if feasible, should be the responsibility of each country regarding their respective infrastructure.
12. Adaptation to climate change should be incorporated in Treaty planning and implementation.
13. The Canadian Entities (Province of British Columbia and BC Hydro) will continue to consult with First Nations on a government-to-government basis and engage with Basin communities throughout any negotiation process.
14. Canadian Columbia Basin issues not related to the Treaty will be addressed through other government programs and initiatives.

