

# Columbia River Treaty: Recommendations

## December 2013

The BC Columbia River Treaty Local Governments' Committee (the Committee) has prepared these Recommendations in response to the Columbia River Treaty-related interests and issues raised by Columbia River Basin residents in Canada. These Recommendations are based on currently-available information. They have been submitted to the provincial and federal governments for incorporation into current decisions regarding the future of the Columbia River Treaty (CRT).

The Committee plans to monitor the BC, Canadian and U.S. CRT-related processes and be directly involved when appropriate. As new information becomes available, the Committee will review this information, seek input from Basin residents, and submit further recommendations to the provincial and federal governments, if needed.

The CRT Local Governments' Committee will post its recommendations and other documents at [www.akblg.ca/content/columbia-river-treaty](http://www.akblg.ca/content/columbia-river-treaty).

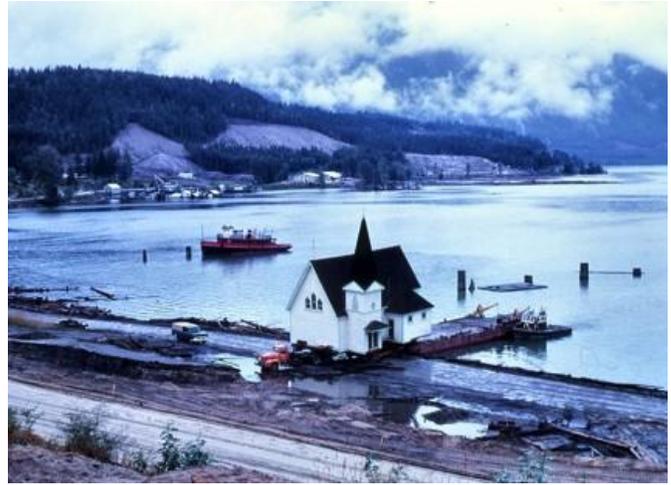
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### Background

The Columbia River Treaty (Treaty) was ratified by Canada and the United States (the U.S.) in 1964, resulting in the construction of three dams in Canada—Mica Dam north of Revelstoke; Hugh Keenleyside Dam near Castlegar; and Duncan Dam north of Kaslo—and Libby Dam near Libby, Montana. Since 1964 the Treaty has provided benefits for the Pacific Northwest region in the U.S. and in BC. However, here in the Canadian portion of the Columbia River Basin (the Basin)—the area that was most impacted by the Treaty—substantial sacrifices were made by residents during the creation of the dams and reservoirs, and impacts continue as a result of hydro operations.

Beginning in 2024, either the U.S. or Canada can terminate substantial portions of the Treaty, with at least 10 years' prior notice. Canada—via the BC Provincial Government—and the U.S. are both conducting reviews to consider whether to continue, amend or terminate the Treaty.

Local governments within the Basin have formed the BC Columbia River Treaty Local Governments' Committee (the Committee) to actively and meaningfully engage in decisions around the future of the Treaty. Through the Committee, with support from Columbia Basin Trust (CBT), Basin local governments are working together to seek refinements to the Treaty and to address existing domestic issues to improve the quality of life for Basin residents.



## Respecting Our History

The signing of the Treaty with the U.S. was a major historical milestone for the Province of BC. However, this agreement was signed without consulting Basin residents or First Nations, and construction of the Treaty-related dams and the associated reservoirs had massive social, economic and environmental impacts in this region, leaving deep wounds in Basin communities. Our communities and First Nations' communities continue to make substantial sacrifices for the economic benefits that are enjoyed by the entire Province and much of the U.S. Pacific Northwest.

In our communities, approximately 2,300 people were displaced from their homes, often without adequate or fair compensation, and more than a dozen small communities lost their infrastructure, public spaces and way of life. Many of these losses were a result of creating the Arrow Lakes, Duncan and Koochanusa Reservoirs. The industrial reservoirs created following the construction of the Treaty-related dams, including Revelstoke Dam, inundated approximately 120,000 hectares (300,000 acres/470 square miles), including over 70,000 hectares (173,000 acres/270 square miles) of lakes, rivers, wetlands, ponds, streams and riparian areas, with related habitats for fish, wildlife, waterfowl, birds and other species being affected. First Nations and our communities lost access to unspoiled wilderness, with

forests, wildlife and fish, and related recreation experiences. Economic development in these areas has been constrained by the loss of valuable low-elevation lands and lack of efficient transportation.

Some Basin communities feel that commitments that were made about the future development of infrastructure and economic opportunities were not delivered by the Province of BC. Some residents feel measures to address the social, environmental and economic impacts have not been adequate. These issues remain sources of hurt, anger and mistrust today.

While we remember and recognize this past history, Basin residents and the Committee are looking to the future. We see the current Provincial Columbia River Treaty Review as an opportunity to work collectively with the Province, First Nations, BC Hydro, other hydro-electric facility operators and the U.S. Entity to improve our quality of life in the Basin, and retain the benefits of a world-class treaty on the Columbia River.

## Recommendations

The following recommendations are based on the interests and issues that Basin residents have said are important to them, and our understanding of the currently-available information.

## A. International Treaty

The current focus of the BC and U.S. Treaty Reviews is to decide whether BC or the U.S. Entity will recommend to the BC or U.S. governments respectively, that notice should be given to terminate the Treaty in 2024. Regardless of whether the Treaty continues, is modified or is terminated, the Province of BC, the Government of Canada and BC Hydro as the Canadian Entity for the Treaty, must address the following priorities for Basin communities, listed here with no priority ranking intended.

### Process

#### 1. Local Government Status in International

**Discussions:** To avoid repeating the unfortunate legacy that resulted in Basin residents not being consulted before the Treaty was signed, we strongly recommend, in addition to ongoing input from Basin residents, that local governments and First Nations from within the Canadian Columbia Basin, be directly involved in all international discussions regarding the Treaty through: a) a “guidance team” with representatives from both local governments and First Nations, and b) representatives of local governments and First Nations holding observer status. In our view, the Province would benefit greatly by bringing the knowledge of Basin residents directly into these discussions.

#### 2. Continued Engagement with Basin

**Residents:** The interests of Basin residents must be incorporated in the ongoing discussions and decisions related to the Treaty by the Province of BC and Canada. New information must be shared promptly with Basin residents and there must be opportunities for residents in affected areas to fully understand any potential benefits and impacts, and to provide meaningful input to any decisions. Basin residents want to receive regular public updates about the status of these discussions and decisions.

**3. Assess Benefits and Impacts:** Throughout this process it is essential that the benefits and

impacts in both the Basin and the U.S., resulting from the current Treaty framework and any future changes, are fully assessed as the basis for sound decisions.

This must include a thorough assessment of benefits and impacts to Basin residents. This information must be promptly communicated to Basin residents, with adequate opportunities for meaningful input to decisions.

A current concern of Basin residents is the U.S. expectation of additional water flows during the spring and summer. The Committee requests that the Province assess the benefits/impacts of this expectation on Basin interests, then secure input from Basin residents to incorporate into any decisions regarding this U.S. expectation.

### Treaty Content

#### 4. Reduce Negative Impacts to the Basin:

Basin residents strongly support options that reduce the current negative impacts related to the Treaty. We caution the Province and Canada against considering Treaty options or hydro system operations that result in further negative impacts in the Basin—our communities and residents cannot accept more negative impacts.

**5. Equitable Benefit-Sharing:** We believe the Downstream Power Benefits provision of the Treaty should continue to reflect the full value of incremental power generation at U.S. facilities as a result of Canadian storage. In addition, we believe the U.S. receives additional incremental economic benefits from Canadian water storage in the form of tourism, recreation, navigation, ecosystems, and potentially agriculture, which were not accounted for in the original negotiation of the Treaty and should be accounted for now. The U.S. should share these benefits equitably with BC.



It is essential that the Basin receives an equitable share of the benefits to address the ongoing negative impacts of reservoir operations in this region. The Committee will explore mechanisms to ensure the Basin receives its fair share of benefits.

- 6. Expand the Focus of the Treaty to Include Ecosystems and Other Interests:** The Committee urges the Province to seek refinements to the Treaty and/or the supporting documents that provide for operations, which benefit a broad range of interests in this region and in the U.S. As an initial priority, Basin residents support incorporation of ecosystem function as a first-order value within the Treaty, along with flood control and power production. Many Basin residents view a healthy environment as the foundation for economic and social well-being in the Basin.
- The Committee expects the Province to continue to work with Basin residents to model and explore scenarios that improve ecosystem function and support restoration to offset past, and any future impacts from dam construction and reservoir operations.
- 7. Flood Risk Management:** Under the current Treaty, in 2024 the existing Assured Annual Flood Control Agreement expires and flood risk management requirements shift to a different approach described as “Called Upon.” Canada and

the U.S. have not yet reached agreement on how this type of flood management will be implemented. In the Committee’s view, implementing a carefully-coordinated annual flood management approach has the greatest potential to meet Basin interests in flood risk management, as well as the greatest mutual benefit for the U.S. We urge the Province to seek an agreement for a new flood risk management approach through the Treaty that maximizes benefits and minimizes negative impacts to the interests of Basin residents. Within any agreement, the Committee asks the Province to ensure the definition of “economic losses” under “Called Upon” operations includes impacts on private property, public infrastructure, communities and regional resources.

The Committee will continue to urge local governments in the Basin to do what they can to reduce flood risk, and we will encourage our local government colleagues in the U.S. to address flood risks in their respective areas.

- 8. Canadian Input to Libby Dam Operations:** The Province must bring Libby Dam fully into the Treaty so that it is managed as the Committee recommends for other Treaty dams—for power generation, flood control, ecosystem functions and other interests. This management needs to include a formal

mechanism to ensure Canadian interests are meaningfully incorporated in operational decisions at Libby Dam, as U.S. interests are accounted for in the operation of the Canadian Treaty dams. As well, a compensation mechanism, paid for by those who benefit, is needed to address the negative impacts in Canada from Libby Dam operations, such as reductions in fish and wildlife habitat, floating debris, dust storms and economic damage to property and infrastructure from fluctuating water levels, including damage to dikes in the Creston area.

9. **Power Generation:** Basin residents support the continued supply of reliable hydropower from Treaty-related facilities in the Basin. Any future Treaty-related decisions must ensure that CBT-owned power facilities are not negatively impacted as these facilities create the funds for CBT programs that enhance Basin well-being.
10. **Continue Treaty Rights to Water Use in BC:** Existing Treaty rights for Canadian interests to withdraw water from the Columbia River system for “domestic uses,” including irrigation, industrial and municipal use, must be maintained. These rights will continue to be exercised consistent with BC legislation and policy.
11. **Integrate Climate Change:** We strongly support the continued incorporation of climate change-related information—particularly projected increases in extreme events and changes in stream flows resulting in more frequent, deeper droughts—into international hydro system planning and operations. Any Treaty negotiations must include this critical factor, creating a flexible, adaptable Treaty framework that is resilient to changing conditions.
12. **Pursue Salmon Restoration:** First Nations and other Basin residents are

passionate about returning salmon to the Columbia River in Canada. We strongly support agencies and First Nations/Tribes on both sides of the border exploring the technical and financial feasibility of returning salmon to their historic ranges in the Canadian portion of the Columbia River. The Committee believes each country should take responsibility for restoration activities in their jurisdiction.

## B. Domestic Issues

Many of the concerns we have heard from Basin residents relate to the ongoing operations of dams and reservoirs in the region. We invite the Province and BC Hydro to work collaboratively with local governments, CBT and others to identify and implement practical, effective solutions to the issues below in a timely manner.

1. **Mitigate and/or Compensate for Negative Impacts in the BC Basin:** The Treaty is clear that each country is responsible for addressing impacts in their own jurisdiction. The Committee appreciates the Province’s willingness to continue to work with local governments, CBT, and Basin residents to identify and then mitigate or compensate, in ways that are acceptable to Basin residents, for current negative impacts from Treaty-related dam construction and operation. If changes to the Treaty result in additional negative impacts to the Basin, beyond current operations, a clear compensation model must be implemented to address these impacts.
2. **Community Economic Development:** The creation of the Treaty reservoirs impacted local economies through loss of settlement lands, fertile agriculture lands, productive forests and recreation/tourism opportunities, along with related loss of potential local tax revenues. Economic development is further hampered on an ongoing basis by dust storms, navigation safety hazards, erosion, expensive roads

along the edges of reservoirs, ferries rather than fixed links, and unsightly mudflats. The communities most impacted by these conditions will continue to work with CBT to identify and implement feasible economic opportunities. However, the Committee expects the provincial and federal governments to enforce relevant legislation to avoid further degradation of the environment, and expedite assistance and necessary approvals for feasible community economic development initiatives, recognizing the sacrifices our communities have made for the benefits that are enjoyed by the Province and the U.S.

With regard to the fertile agriculture lands that were flooded by the Arrow Lakes and Kootenusa Reservoirs, the Committee has not been able to verify the Treaty impacts on the agriculture sector from the available information. We request that the Province complete a study to document the impacts to agriculture in these affected areas so Basin residents can assess whether some form of agricultural mitigation or compensation is warranted.

3. **Meaningful Ongoing Engagement of Basin Residents:** Decisions about the operation of hydro facilities in the Basin impact many Basin residents on a day-to-day basis. Many residents have told us they want to know more about the system and these decisions, and to be involved in these decisions on an ongoing basis. The Committee urges the Province to direct BC Hydro to establish some form of long-term engagement with Basin residents that supports meaningful participation in decisions about hydro operations. To be credible, effective and meaningful, the approach must be transparent, equitable across the Basin, skillfully-facilitated and adequately resourced. The Committee is available to provide advice on this essential aspect of successful hydro facility operations in the Basin.
4. **East Kootenay-Kootenusa Fish and Wildlife Restoration and Conservation:** Kootenusa Reservoir was created by the construction of

Libby Dam in the U.S. BC does not have jurisdiction over this dam and a fish and wildlife compensation program has not been established to address the historical footprint impacts of the Kootenusa Reservoir in Canada. Compensation programs exist for the Canadian Treaty dams in the rest of the Columbia River system. In March 2013, CBT approved one-time funding of \$3 million (CDN) to establish the East Kootenay-Kootenusa Fish and Wildlife Program in partnership with the Province and BC Hydro. The Committee looks to the Province to ensure that adequate funding is in place for an ongoing annual program to fully address the footprint impacts in Canada from Libby Dam.

5. **A Water Management Process for the Kootenay River:** Residents with interests in the Kootenay River system in Canada have told us they have no clear way of understanding if and how their interests are taken into account in operational decisions about water management in this system. The Committee expects the Province of BC, and all Canadian operators on the Kootenay River system, to work together to collectively initiate a process similar to a water use plan for the Kootenay River system to better understand how hydro operations benefit or impact the full range of interests, and to address the impacts.
6. **Full Implementation of the Columbia and Duncan Water Use Plans:** In BC, the purpose of Water Use Plans (WUPs) is to understand public values and to develop a preferred operating strategy through a multi-stakeholder consultative process. WUPs were approved in 2007 for the dams along the Columbia River, and Duncan Dam. Near the conclusion of the Columbia WUP process, all members of the WUP Consultative Committee (CC) who were present during the final voting process either endorsed or accepted the overall

package of WUP recommendations, however, some CC members remained concerned that, in their view, the WUP results did not fully address the issues and concerns they had raised.

Basin residents have the following concerns about the implementation of these WUPs: delays in implementation, difficulty accessing information about implementation and lack of ongoing involvement in plan implementation and decisions. There are also challenges to accessing reservoirs in some locations due to inadequate boat ramps and poorly maintained roads. These issues must be more effectively dealt with under the WUP process.

Effective implementation of WUPs is one of the primary opportunities for the Province and BC Hydro to build trust and goodwill with Basin communities following the legacy of negative impacts from the Treaty. The Committee asks the Province to direct BC Hydro to proactively address these concerns regarding WUP implementation, in order to begin to build a foundation of trust and goodwill.

#### 7. Columbia Fish and Wildlife

**Compensation Program:** Basin residents have expressed concerns about the limited budget and allocation of funds within the Fish and Wildlife Compensation Program – Columbia. The Committee needs more information before it can make recommendations on this topic. This will be a priority for the Committee to research in 2014.

### Continued Role in Treaty-Related Decisions

Local governments across the Basin are committed to continuing to advise the Province on Treaty-related decisions, and to work with the Province and others to pursue solutions to

domestic issues identified by Basin residents. Swift, proactive and thoughtful response to these recommendations is one of the primary opportunities for the Province, BC Hydro and other hydroelectric facility operators, to build trust and goodwill with Basin communities as we move forward together to refine the Treaty and address outstanding issues.

Basin residents are concerned about whether the Province will act on the commitments it has made during the Treaty Review and address any impacts arising from changes to the Treaty in the future. The Committee strongly supports the Provincial Treaty Review Team continuing beyond its current December 2013 mandate to signal the importance of this initiative. The Committee will continue to work with the Review Team and others to seek solutions to the identified domestic issues, as a priority. We will also monitor BC, Canadian and U.S. processes related to the Treaty, and become involved when appropriate.

By working together, within the Basin, with the Province, and internationally, with all governments, hydroelectric facility operators, interest groups and residents, we believe it is possible to refine the Columbia River Treaty and related documents to enhance this agreement, and to address the existing domestic issues to improve the quality of life for Basin residents. We believe this can be done while expanding the benefits to others. As local governments, we plan to continue to work together to achieve this vision.

