

Columbia River Treaty: Recommendations

DRAFT for REVIEW September 2019

The BC Columbia River Treaty Local Governments' Committee (the Committee) provided its original recommendations on the future of the Columbia River Treaty (CRT) to the federal and provincial governments in 2013. The original recommendations have been updated in response to CRT-related interests and issues raised by Columbia River Basin residents in Canada. These DRAFT Recommendations are based on currently-available information.

You are invited to review these DRAFT recommendations and provide your feedback. **Please send your comments on these recommendations by end of day December 9, 2019 to Cindy Pearce, our Executive Director at cindypearce@telus.net or by mail to Box 2029, Revelstoke, BC V0E 2S0. Thank you for any comments you provide.**

Once these recommendations are finalized they will be submitted to the provincial and federal governments to contribute to the current negotiations to renew the CRT. The Committee will continue to pursue solutions to domestic issues and to monitor and be involved in the Treaty negotiations when appropriate.

For more information about the Committee or to provide your perspectives on CRT related topics, please contact the Committee Chair, Linda Worley (lworley@rdkb.com 250 231-1300), the Committee Executive Director, Cindy Pearce (cindypearce@telus.net 250 837-8505) or visit the Committee webpage at: http://akblg.ca/columbia_river_treaty.html.

For more information about the CRT negotiations go to: <http://engage.gov.bc.ca/columbiarivertreaty/>.

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. Communities in the Canadian Basin, including First Nations continue to make substantial sacrifices for the economic and environmental 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. First Nations and our Canadian Basin 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. As well, substantial fluctuations in river levels below the Arrow and Duncan dams impact ecosystems and recreation uses.

Basin communities state 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. The phrase 'Acknowledge the losses and enhance what remains' was coined by Basin residents during the 2018 CRT community meetings and reflect this view. We see the current negotiations to modernize the CRT as an opportunity for local governments to work collectively with the Province, First Nations, BC Hydro, other regional hydro-electric facility operators and U.S. interests to improve our quality of life in the Basin, and retain the benefits of a modernized treaty on the Columbia River.

Recommendations

A. International Treaty

During negotiations 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.

Treaty Process

1. Local government Status in International

Discussions: To avoid repeating the unfortunate legacy of no consultation with Basin residents or First Nations before the Treaty was signed, the province and the federal governments have been engaging extensively with First Nations and local governments in the current modernization of the Treaty. The Committee acknowledges and supports the federal decision that regional First Nations will have observer status during negotiations. This is consistent with the views stated by many Basin residents during the 2018 CRT community meetings.

Our Committee is engaged with the Canadian CRT Negotiating Team through a Communications and Engagement Protocol. This allows the Team to keep the Committee as informed as possible, while recognizing confidentiality limitations. We remain confident that our recommendations and the voices of Basin residents are being reflected during negotiations. However, the Committee is aware that as negotiations evolve, different outcomes that do not align with these recommendations may be considered. We are prepared to respond swiftly and strongly should this develop.

2. Engagement with Basin Residents: The interests of Basin residents must continue to 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 the negotiations.

In 2014 the Committee worked with the Province and BC Hydro to create the [Columbia Basin Regional Advisory Committee](#) (CBRAC). CBRAC is a diverse Basin-wide group representing a broad range of perspectives, interests, and geography, which is informing hydroelectric operations in the Columbia Basin and potential improvements to the CRT. The Committee encourages the Province and Canada to continue to engage with this knowledgeable group of Basin residents.

3. Assess Benefits and Impacts: Throughout the negotiations it is essential that the benefits and impacts in both the Canadian and the U.S. portions of the Basin 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.

An ongoing 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 and 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 potential incremental power generation at U.S. facilities as a result of Canadian storage.

In addition, we know that the U.S. receives additional incremental economic benefits from Canadian water storage in the form of tourism and recreational opportunities; reliable and economical navigation; ecosystem enhancements; and agriculture benefits. Although these additional benefits to the U.S. will be difficult to fully document, they need to be clearly described in information that is easily accessible to all Basin residents.

These additional benefits to the U.S. were not recognized or accounted for in the original negotiation of the Treaty. They must be accounted for and shared equitably with BC through the renegotiation of the Treaty.

Clear and easily accessible information about the financial benefits to BC created through the Treaty and how these benefits are shared within BC is needed now and in the future.

It is essential that the Canadian Basin receives an equitable share of the benefits that come to BC to address the ongoing negative impacts of reservoir operations in this region. At this point, communities that are most impacted by the Treaty feel that they are not adequately compensated. The Committee will continue to 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 to 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 priority within the Treaty, alongside flood control and power production. Many Basin residents view a healthy environment as the foundation for economic and social well-being 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. We encourage the Province to continue to assess the Arrow Lake

Reservoir Mid-Elevation Scenarios, and expand this assessment to all Basin reservoirs.

- 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. However, there are some potential regional benefits from the Called Upon approach because reservoirs in the U.S. will have to be drawn down more than they are now for flood risk management.

We urge the Province and Canada 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 Canadian Basin residents. To minimize the impacts in the region, as much as possible the U.S. should be required to utilize their reservoirs for flood risk management more than they do now. Within any agreement, the Committee asks the Province and Canada 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 can be 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 into operational decisions at Libby Dam, just 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. These include reductions in fish and wildlife habitat; floating debris; dust storms; damage to dikes in the Creston area; and economic damage to property and infrastructure from fluctuating water levels.

9. Power Generation: Basin residents support the supply of reliable hydropower to the province and Canadian Basin communities from Treaty-related facilities in the Canadian Basin. Any future Treaty-related decisions must ensure that power facilities owned by the Columbia Basin Trust (CBT) 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. 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 where habitats can support salmon species. The Committee believes each country should take responsibility for restoration activities in their jurisdiction, through joint planning and actions where appropriate.

13. Less Fluctuation in Reservoir Levels: It is a priority for Basin residents that water levels in all Treaty related reservoirs fluctuate less to reduce impacts on ecosystems, tourism, recreation and transportation. The Committee applauds the province for continuing to explore options to reduce fluctuations through the Arrow Lake Reservoir Mid-Elevation Scenarios process and encourages expanding this scoping to other reservoirs. A minimum summer drawdown level is needed for the Arrow Lakes Reservoir to avoid extreme summer drawdowns in dry years as occurred in 2015-16. These dry years are expected to occur more frequently as the climate changes.

14. Governance: Treaty implementation is currently governed by the hydro system operators and related provincial and federal government agencies. The Committee acknowledges and supports the growing nation to nation roles for regional First Nations in Treaty negotiations and strongly encourages expansion of these roles to include domestic hydro system operations over time. Local governments seek a more substantial, ongoing advisory role,

through provincial agencies, in Treaty related implementation decisions.

The addition of ecosystem function as a first order value in Treaty operations, as recommended above will require that governance structures be expanded to ensure equal and effective ecosystem function expertise is involved to represent these objectives in all Treaty decisions. Governance should seek increased operational flexibility to allow for experimentation under an 'active adaptive management' approach to explore changes that will restore and/or enhance ecosystem and habitats within reservoir footprints and affected river reaches.

While perhaps beyond the governance of the Treaty, the Committee will continue to explore and stay informed about options to establish a transboundary, Basin-wide organization, with local government and resident representation, for a future Basin-scale river management system.

B. Domestic Issues

Many of the concerns we continue to hear 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 Canadian Basin residents to identify and then mitigate or compensate, in ways that are acceptable to Canadian Basin residents, for current negative impacts from Treaty-related dam construction and operation. However, communities most impacted by the Treaty feel they are not yet adequately compensated. The Committee urges the Province and CBT to work together with the most impacted communities to identify and implement feasible actions, including responding to suggestions that

were raised during the 2018 CRT community meetings. The Committee embraces the community statement from these meetings – 'Acknowledge what was lost and enhance what remains' – to guide its advocacy for improved community compensation for impacted communities.

As well, the Committee will advocate for adequate, secure, long-term funding to expand ecosystem restoration and environmental impact mitigation across the Basin, consistent with placing ecosystem function as an equal priority within the Treaty.

If changes to the Treaty result in additional negative impacts in the Canadian Basin, beyond current operations, a clear compensation model must be implemented to address these impacts.

2. Community Economic Development: The creation of the Treaty related reservoirs impacted local economies through loss of settlement lands, fertile agriculture lands, productive forests and recreation/tourism opportunities, along with related loss of 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. Kinbasket Reservoir has an especially high economic impact on adjacent communities because of the large area of fertile forest lands and valuable road systems that were inundated and the absence of tourism and recreation development opportunities along the reservoir to offset these losses. As well, after having made sacrifices for provincial power production, frequent power outages in impacted areas with lower populations, such as Nakusp and Meadow Creek, further limit local economic development options.

The communities most impacted by these conditions will continue to work with the province and CBT to identify and implement feasible economic opportunities, including the suggestions from the 2018 CRT community meetings. 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.

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 Columbia Basin Regional Advisory Committee (CBRAC) was implemented by the Province in 2014 with ongoing guidance from the Committee and BC Hydro to begin to fill the need for long-term, meaningful engagement with Basin residents. CBRAC is a diverse Basin-wide group representing a broad range of perspectives, interests and geography. It is helping inform hydroelectric operations in the Columbia Basin and potential future improvements to the Treaty.

4. Koocanusa Reservoir: Koocanusa Reservoir was created by the construction of Libby Dam in the U.S. under the Treaty. BC water licenses for the other Treaty dams create requirements for Water Use Plans and other mechanisms to address local impacts. As there isn't a BC water license for Libby dam, these mechanisms don't exist for Koocanusa Reservoir. BC Hydro benefits from this reservoir through power generation at the Kootenay Canal and does undertake some activities to reduce impacts including debris removal after extreme high water events. However community members and local governments have identified several impacts that require further attention including recreation access management and enforcement in the drawdown zone; agriculture supports to mitigate impacts; ecosystem and fish/wildlife baseline studies and habitat enhancement; and ongoing debris removal. The Committee strongly encourages BC Hydro, the Province and CBT to work together to address the identified impacts.

5. **A Water Management Process for the Kootenay River:**

Residents with interests in the Kootenay River system in the Canadian Columbia Basin 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. They have concerns about flooding, impacts on fish habitat, spring drawdown for fisheries in the U.S., dyke infrastructure damage and other topics that require a system-wide perspective to understand and consider potential solutions. For several years the Committee has advocated for the Province and all Canadian operators on the Kootenay River system to work together to collectively initiate a process for the Kootenay River system to better understand how hydro operations benefit or impact the full range of interests, and to address the impacts. The Committee will seek funds to undertake a scoping study to better understand the local interests and concerns; to research options to engage these interests in management of the system; and encourage implementation of feasible options.

6. **Columbia and Duncan Water Use Plan Reviews:**

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. At the completion of the consultative processes for both the Columbia and Duncan WUPs, some members of the Consultative Committees remained concerned that, in their view, the WUP results did not fully address the issues and concerns they had raised. WUPs were approved in 2007 for the dams along the Columbia River, and Duncan Dam.

These WUPs have resulted in minimum flow requirements for ecosystem functions from Revelstoke dam, sophisticated boat ramps for ongoing water access as reservoir levels fluctuate and \$128 million spent on research, monitoring, debris removal and some on-site enhancement of ecosystems and fish/wildlife habitats. Basin residents and local governments have concerns about the lack of opportunities for any involvement in plan implementation and decisions; the validity of the research studies; and the absence of public information about the upcoming important review processes. BC Hydro has outlined their developing plans for the upcoming WUP Order Reviews for the Committee. These plans include some opportunities for Basin residents

and local governments to understand the extensive information that has been collected during these WUPs and an opportunity to review the final report.

Effective implementation of WUPs, including full engagement of Basin residents and local governments during the upcoming reviews continues to be one of the primary opportunities for the Province and BC Hydro to build a foundation of trust and goodwill with Basin communities following the legacy of negative impacts from the Treaty. The Committee urges BC Hydro to communicate with Basin residents about the planned review processes, with regular updates. The Committee will provide suggestions to BC Hydro to expand its current plans for engagement with Basin residents and local governments in the reviews, including considering CBRAC as representing key stakeholders, and will advocate to the Province for expanded roles if needed. In addition, the Committee encourages BC Hydro and the Province to establish a credible oversight process for the reviews to address the questions about the validity of the research studies.

- 7. Columbia Fish and Wildlife Compensation Program (FWCP):** There are opportunities to better align FWCP's community communications and engagement practices to meet the interests of Basin residents and local governments. The Committee will continue to communicate with the FWCP program to work towards improving the satisfaction of Basin residents with FWCP communications and engagement opportunities.

Continued Role in Treaty-Related Decisions

Local governments across the Basin are committed to continuing to advise the Province and Canada on Treaty-related decisions, and to work with the Province and others to pursue solutions to domestic issues identified by Basin residents. Proactive and thoughtful response to the Committee's recommendations is one of the primary opportunities for the Province, Canada, BC Hydro and other hydroelectric facility operators to continue to build trust and goodwill with Basin communities as we move forward together to refine the Treaty and address outstanding domestic issues.

Basin residents are concerned about whether the Province will act on the commitments it has made during the Treaty Review and the 2018 CRT community meetings and address any impacts arising from changes to the Treaty in the future. The Committee will continue to monitor and provide input to the ongoing Treaty negotiations to ensure Basin voices are heard and reflected in Treaty decisions. We will also continue to work with the BC CRT Team and others to seek solutions to the identified domestic issues.

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 will continue to work together to achieve this vision.

