

Columbia River Treaty

**MINISTRY OF ENERGY AND MINES
ELECTRICITY AND ALTERNATIVE ENERGY DIVISION
ESTIMATES BRIEFING NOTE 2014/15**

ISSUE: Columbia River Treaty 2014 Review

KEY MESSAGES:

- The Government of British Columbia has made the decision to continue the Columbia River Treaty and seek improvements within its existing framework. This decision is expected in March 2014
- The British Columbia decision includes 14 principles to guide the Province in discussions with Canada and the United States on the future of the Columbia River Treaty.
- The decision was based on an extensive First Nations, local government and public consultation process, and more than two years of geotechnical, social, economic and legal studies.
- In December 2013, the U.S. Entity submitted its final recommendations to the U.S. Department of State to continue the Columbia River Treaty and negotiate modifications. The U.S. Department of State will conduct an internal federal interest review, expected to take 6 –12 months, to determine what, if anything, the United States wishes to negotiate with Canada and British Columbia.
- British Columbia believes the Columbia River Treaty continues to benefit both Canada and the United States, but the benefits to the United States are significantly undervalued and extend across a much broader range of interests - such as fisheries, navigation and water supply - than the original Treaty focus of flood control and power production.
- British Columbia believes the benefits to the United States are greater than the Canadian Entitlement power the United States now sends to the Province. The Ministry of Energy and Mines is currently undertaking an economic analysis of the range of benefits to the United States.
- Under the current arrangements of the Columbia River Treaty, flood control provisions change in 2024 from assured flood control to a more ad hoc "called-upon" arrangement. There is a difference of opinion on the interpretation of "called-upon" as laid out in the Treaty.
- The Province will continue to refine studies on potential improvements to Columbia River Treaty operations in British Columbia, complete a valuation of Treaty benefits to the United States, work with the federal government to prepare for potential negotiations, and engage with Basin residents and First Nations.

Columbia River Treaty

BACKGROUND:

- The Columbia River Treaty is a trans-boundary water management agreement between the U.S. and Canada that was signed in 1961 and ratified in 1964.
- One of the key principles of the Columbia River Treaty (Treaty) is to create and equitably share benefits resulting from the trans-boundary coordination.
- Although the Treaty has no specified end date, either Canada or the U.S. can unilaterally terminate most of the agreement's provisions as early as September 16, 2024, provided that at least 10 years notice is given (on or before September 16, 2014).
- Currently, the Treaty returns approximately \$100 – \$300 million each year to the Province's Consolidated Revenue Fund through the sale of Canada's share of the U.S.'s downstream power benefits (referred to as the Canadian Entitlement).
- Although international treaties like the Columbia River Treaty are within the jurisdiction of the executive branch of the Federal Government, the Canada-British Columbia Agreement (1963) transferred most treaty rights and obligations to the Province, and also requires the agreement of the Province before terminating or amending the Treaty.
- The primary purposes of the Treaty are to provide flood control in Canada and the U.S., and increase the power generating potential of the Columbia River by capturing spring run-off and releasing water at other times of the year when it is more valuable.
- Under the Treaty, Canada agreed to build 15.5 million acre-feet of storage in three dams – Duncan, Arrow (now called Hugh Keenleyside) and Mica.
- The Treaty also gave the U.S. the option, which it exercised, to construct a dam near Libby, Montana that floods the Kootenay River valley 68 km (Kootenay Reservoir) back into Canada almost as far as Cranbrook.
- In 1964 Canada (British Columbia) received an upfront \$64 million one-time payment for 60 years of flood control. This assured flood control provision expires in 2024 and changes to a more ad hoc "called-upon" version of flood control.
- Canada's (British Columbia's) share of U.S. downstream benefits were sold to the U.S. for the first 30 years for \$254 million to help finance the construction of the Treaty dams.
- In Canada, BC Hydro is the designated "Entity" with the responsibility to implement the Treaty on behalf of the Province and Canada. The Province has been designated as the Canadian Entity for the purposes of disposing of the Canadian Entitlement. In the U.S., the Treaty is entirely the responsibility of the federal government which has jointly designated the Bonneville Power Administration and the U.S. Army Corps of Engineers as the U.S. Entity responsible for implementation.

Columbia River Treaty Review (Treaty Review)

- Beginning in late 2011, Ministry of Energy and Mines' Columbia River Treaty Review Team (Review Team) led a review process to evaluate future decision options, including possible continuation, amendment or termination of the Treaty. s.13

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- The provincial and federal governments have worked together to ensure a coordinated and comprehensive approach to the Treaty Review including First Nations consultation.
- There was little or no public or First Nations consultation when the Treaty dams were built and valleys flooded. Feelings of frustration remained in many communities. Expectations for an inclusive and transparent government consultation on the Treaty Review were low.
- The Review Team completed four rounds of public consultation delivering 24 community events and an all-day technical conference. More than 1,000 Basin residents attended the events. The Review Team also established a cross-Basin advisory group of knowledgeable residents, attended regional youth and college events, and developed and delivered a classroom project reaching 600 students.
- Basin residents were able to provide feedback throughout the consultation process, including on the draft recommendation, principles and public consultation report, in person at community events and through email, blog posts, Facebook and Twitter.
- Basin residents agreed that they have been heard, that the public consultation report captured and reflected their issues, concerns and interests.
- The Review Team also consulted with local and regional governments, federal agencies, and stakeholder groups.
- The Treaty Review outcome is overall stakeholder support to continue the Treaty and seek improvements.
- The Review Team consulted the Ktunaxa, Shuswap and Okanagan nations who assert rights and title in the Columbia Basin on a government-to-government basis.
- The Review Team achieved agreement with participant First Nations on respective consultation plans. A flexible approach and progress on a number of Aboriginal interests resulted in

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- On June 27, 2013, the U.S. Entity released working draft recommendations on the future of the Treaty. In September 2013 a subsequent draft was released for further stakeholder and public comment, prior to final recommendations being made to the U.S. Department of State on December 13, 2013.
- The U.S. will conduct a federal interagency review under the general direction of the National Security Council on behalf of the President in order to determine what, if anything, should be negotiated with Canada and British Columbia. The review is expected to be completed by late 2014.
- The Review Team has had several discussions with U.S. counterparts and key stakeholders on key issues regarding the future of the Treaty.

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