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Dear Elliot, Colonel Kem and Mr. Rooney,

The Save Our wild Salmon Coalition and NW Energy Coalition submit these comments on the Working Draft recommendation for the Columbia River Treaty. Thank you for considering them.

Save Our wild Salmon’s fishing, fishing business and conservation groups, whose combined memberships include some 6 million Americans, seek to restore Columbia and Snake Basin salmon for use by people and ecosystems. NW Energy Coalition, with more than 110 member groups spanning environmental, civic and human-service organizations, progressive utilities and businesses in Idaho, Montana, Washington, Oregon and British Columbia, promotes energy efficiency and renewable energy; consumer and low-income protections, and restoration of fish and wildlife affected by Northwest power production.

We thank you and your staffs for the hard work done in the Treaty process to date, but we will strenuously oppose a U.S. position like that recommended in the Working Draft. The Working Draft recommendation falls short of the changes needed to modernize the Columbia River Treaty so it helps ensure ecosystem health, public health, and economic health for Northwest people for the coming decades. The 1964 Treaty is insufficient to the challenges of the Basin’s next 50 years, and the Working Draft’s thrust to largely ratify the outdated “two use only” focus of the old Treaty, and to emphasize financial over substantive changes, is not in our region’s, or the Columbia Basin’s, interest.

Climate change, whose effects are already noticeable in the Columbia; the major changes in public values, uses and demands in 50 years; the sweeping physical, technological, economic and public changes affecting power production and flood risk management as each was practiced in 1964; the evolution of the Northwest’s economies to ever-greater reliance on healthy productive ecosystems: all are examples of modern realities that fundamental
frameworks of law, policy and practice such as the Columbia River Treaty must be revised to focus on.

Let us make this concrete with an example. Today Columbia and Snake River temperatures rise routinely above 70 degrees F each July and August. 30, 40 and 50 years from now, this will occur through June and September too, maximums will be above 75 F and climbing, and reduced late spring/summer due to runoff alterations flows will exacerbate the negative effects on all uses. In other words, the Columbia and Snake will be very sick rivers, and the primary task for U.S. and Canadian managers will be ameliorating and adjusting to such profound damage.

This, and similar scenarios of unprecedented challenge, form the context for the Treaty task today. The Treaty must be re-visioned anew for today and tomorrow, or it will fail the people of both nations. This is the context for our comments.

1. “Ecosystem function” must become an explicit third purpose of the Treaty, at least co-equal with power production and flood risk management. This must be an explicit principle in the U.S. negotiating position. Northwest people, ecosystems and economies need this change. Inclusion of ecosystem function as a Treaty purpose can then lead to the balanced approach the Northwest needs in the new Treaty: ecosystem benefits and resilience to climate change on both sides of the border; flood risk protection for downstream towns and balanced system-wide flood risk management; and a clean, reliable and economical power supply.

The draft contains much mention of ecosystem function, but worded to effectively subordinate ecosystem health and productivity to current hydropower and flood management operations, and potentially to future water withdrawals. The draft should be amended to make ecosystem function a co-equal purpose, with the operational re-balancing that will then be required a major subsequent task for both nations under a new Treaty.

We support a definition of ecosystem function like that proposed by Columbia Basin Tribes, with one addition: it should also include the essential economic support which healthy Columbia and Snake Rivers provide to Northwest people and communities.

The U.S. position should state plainly that the Northwest’s economic health is fundamentally dependent on the ecological health of the Columbia and Snake Rivers and their tributaries. Our region’s diverse salmon economies, for example, provide many thousands of jobs in large and small communities across the Northwest – yet those jobs, and thousands more like them that depend on healthy rivers, are ignored and scanted by the current Treaty, and by current operations and policies of dam agencies in charge of the Treaty.

2. A third co-equal federal or Tribal voice must join the Bonneville Power Administration and Army Corps of Engineers for negotiation and management of a modernized Treaty. Bonneville and the Army Corps are suited to represent the two existing purposes of the Treaty, but neither is suited – legally, scientifically, or by present inclination – to represent ecosystem function with equal force.

For our coalition, strong evidence that Bonneville and the Army Corps are not suited to effectively advocate for ecosystem function in equal balance with their respective foci in the current Treaty, is their joint failure for the last 13 years to develop a lawful plan to restore endangered and threatened Columbia and Snake River salmon. Three plans by three administrations, each of which the two agencies led in developing, have been ruled illegal in federal court. This failure has legal, scientific, economic and policy components. Both agencies represent their respective dominant purpose well, but neither represent well the purpose of ecosystem function which must be included in a modernized Treaty.
This third equal voice in Treaty negotiation and management could be the U.S. Fish and Wildlife Service. It could be the 15 Columbia Basin Tribes, acting with one voice and vote. It could be the U.S. Department of Interior, acting on behalf of its conservation and Tribal agencies. But it should have legal authority, scientific and operational expertise, and a solid relationship with relevant constituencies, akin to that of Bonneville and the Army Corps on power production and flood management respectively.

We note in this regard the recent emphasis that Department of State and both agencies are putting on not getting too explicit about the U.S. position in advance of formal talks with Canada. Such calculated vagueness or silence may make sense in some contexts, but we worry it will become a non-transparent means to diminish or jettison entirely the U.S. commitment to ecosystem function. An important way to reassure Northwest people on this point is to include an expert, lawful, trusted voice for ecosystem function as third equal partner on the U.S. team.

3. Salmon passage above salmon-impassable dams must be a stated U.S. objective for the new Treaty. The loss of salmon productivity, and economic productivity based on it, has harmed native and non-native people, communities and economies basin-wide, on both sides of the border. Salmon productivity is also a measurable surrogate or indicator, though not a total one, for a healthy ecosystem function in the Columbia and Snake.

The Working Draft's proposal to merely explore Canadian interest in such a program is wholly insufficient. Salmon passage above salmon-impassable dams is in the interest of Northwest people and the nation, as an economic growth and job creator, an indicator of ecosystem health, and a matter of justice and compliance with American treaties that far predate 1964. The U.S. position should say so plainly, and pursue such a program actively.

This salmon passage objective and work must include the Snake Basin as well as the Columbia River proper. The Hells Canyon Complex and Dworshak Dam are top priorities. The U.S. Entity has itself linked Snake dams to the Columbia River Treaty with its proposed flood risk management plan for 2024 and after, that relies (in our view, wrongly) on effective use of Snake Basin reservoirs rather than continuing coordinated flood storage with Canada.

We recognize that a plan to implement salmon passage will, and should, set priorities, and contain legal, scientific, economic and experimental standards that allow for progress, and account for failure, in an orderly, adaptive, affordable and lawful manner.

A BPA official has been publicly quoted on this matter as concerned about "the cost." We agree any program's cost is an important criterion, and so we suggest an analysis of the ongoing cost to Americans and Canadians of ongoing Treaty and U.S. operations that caused or co-caused salmon extinctions above salmon-impassable dams. This analysis can also examine benefits, including economic and job benefits, of alternative approaches to this program. Such full cost-benefit analysis can help ensure the best possible program is designed.

4. The "hydropower production" purpose of the current Treaty should be changed to "power production." Hydropower is a large and vital component in Northwest energy production and value, but it is a component, not the whole. As regards new energy production, hydropower is a small component in a mix that is and will be dominated by energy efficiency, wind power, solar power and related technologies. A modern Treaty must reflect today's facts and the trends for tomorrow. Providing clean, reliable and affordable energy to Northwest people and communities is now done very differently now than in 1964, and will be more different still ten years from now. Expanding the Treaty's energy purpose to include but not be limited to hydropower, and thus to embrace today's energy mix and technologies will make the Treaty much more useful to Northwest people and businesses. And such expansion will foster positive interrelationships and synergies with flood risk management and ecosystem function. This change will also better reflect the Administration's national policies and priorities for clean and affordable energy.
5. The Working Draft's proposed flood risk management approach is at odds with protecting and restoring ecosystem function for the Northwest's ecological and economic health. The draft's proposes to "implement post-2024 CRT flood risk management, including effective use and called upon..." But operating Columbia and Snake reservoirs under "effective use" will significantly harm already-endangered salmon and other resources -- for example, due to storage reservoir drawdowns to low levels -- and threaten the system's ability to provide additional flows salmon need. Other existing uses will be adversely affected as well.

We also believe this approach to flood risk management will prove illegal in its effects on both present and needed future salmon operations of federal dams. Since the federal dam system is already unlawful in its salmon operations, the U.S. objective should be to end that illegality, not deepen it.

This is one among many examples why ecosystem function must become a co-equal third purpose of the Treaty - so that, for instance, reservoir refill and improved salmon flows can be integrated rather than one sacrificed to the other.

More broadly, protecting and restoring ecosystem function, and providing effective flood risk management, and doing both under increasingly adverse climate-caused changes, is best done by continuing coordinated flood risk management with Canada. That should be the U.S. goal entering negotiations.

In the Treaty process to date, the Army Corps has refused to thoroughly analyze and explore, or provide the data allowing others to explore, a full flexible range of flood management measures that include alteration of current flow targets the Corps says (inaccurately) are legally required. Maintaining these targets without flexibility to assure flood protection in other ways (e.g., probability and consequence metrics), and letting flood management revert to effective use and called upon, will hamstring protecting and restoring ecosystem function, and thus further hamstring regional economies based on healthy ecosystems. In addition, climate change demands a more modern, flexible, toolkit approach. The U.S position should support this approach.

6. Climate change prevention and adaptation should be stated as a main driver of and purpose for the Treaty's integrated operations for power production, flood management and ecosystem function. The recently released Climate 2012 report from the National Oceanic and Atmospheric Administration makes plain, as do dozens of other scientific and economic assessments including some by your agencies, that climate change is altering, and will further alter, the Columbia and Snake Rivers and watershed in dozens of interacting ways. The economy, environment and public health of the Northwest will depend upon rapid, flexible and adaptive reaction to these changes now and for decades to come. This reaction must of necessity occur watershed-wide, thus cross-border. This fact must be acknowledged in, and made a main goal of, a modernized Treaty.

The U.S. needs to think harder and deeper about how climate change will change the Columbia watershed and its big rivers, how those changes will affect every existing use, and then how a modernized Columbia River Treaty with Canada can help both nations, together, respond to such unprecedented challenge.

In summary, the working draft recommendations protect current power operations, seek reduction of the Canadian Entitlement to the exclusion of broader regional needs, and adopt "effective use and called upon" flood control operations -- all at the expense of establishing ecosystem function as an equal third purpose of the Treaty for the benefit of Northwest people today and tomorrow.
These faults are amplified by recent, sudden changes in the schedule and process. These include release of this Working Draft, on which public comments are being sought (in mid-summer!) even as the scheduled final draft is hurried to conclusion; a newly expressed intent to make decisions before the data from the so-called “Iteration 3” modeling is available for use by sovereigns or people (data which the federal dam agencies promised would be thoroughly evaluated and used); and the new signals of secrecy and vagueness as to U.S. positions now being sent.

Thank you for considering our position that the Working Draft needs significant changes to be in the best interest of Northwest people.

Sincerely,

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Cc: Northwest Members of Congress
    Northwest Governors