

## **Testimony of Gregory Haller, Pacific Rivers Council to the U.S. Senate Committee on Energy and Natural Resources on the Columbia River Treaty, November 7, 2013**

Chairman Wyden, Ranking Member Murkowski and members of the Committee, thank you for the opportunity to testify on the Columbia River Treaty 2014/2024 Review process. My name is Gregory Haller, and I am the Conservation Director for the Pacific Rivers Council. The Pacific Rivers Council is a regional river conservation group, located in Portland, Oregon, which works throughout the Columbia Basin and northern California to protect rivers, their watersheds and the native aquatic species that depend on functioning, high quality ecosystems. On the main points of my testimony, notably for modernizing the Treaty by including ecosystem function as a third primary purpose, I also speak today for the Columbia River Treaty Conservation Caucus, consisting of environmental and renewable energy advocacy organizations with several million members nationwide, and tens of thousands in the Northwest.<sup>1</sup>

### **Support for Modernizing the Treaty With Ecosystem Function as a Primary Purpose**

The Pacific Rivers Council and Columbia River Treaty Conservation Caucus support the U.S. Entity's conclusion in its Draft Recommendation to the U.S. Department of State that modernizing the Columbia River Treaty with Canada is in the best interest of the United States, the millions of people that rely on the river and the Columbia River ecosystem. We commend the U.S. Entity for recommending ecosystem function as a primary purpose of the Treaty, along with flood risk management and power supply. The elevation of ecosystem function as a primary purpose accurately reflects the high value that citizens of the Pacific Northwest place on the health of the Columbia River and is consistent with nationally held opinions about how society should manage its interaction with the environment, as evidenced by environmental laws such as the Endangered Species Act (ESA) and the Clean Water Act (CWA). It also reflects the reality in today's Northwest that ecosystem health and economic health are inextricable.

Because Ecosystem-based Function was not addressed when the current Treaty was enacted in 1964, modernizing the Treaty represents a rare opportunity to positively affect the river ecosystem at the basin scale through a comprehensive, public planning process. This effort should integrate new analysis of flood risk management under predicted climate change scenarios with an assessment of the how renewable and conventional energy sources will affect the demand for and use of power produced at the Federal Columbia River Power System (FCRPS) in order to determine the degree to which flows can be enhanced in the spring and summer, particularly in dry years, where target flows for migratory fish are regularly not met and water temperatures are dangerously high for extended periods during the critical pre-spawning timeframe.<sup>2</sup> Further, it will involve a

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<sup>1</sup> The Columbia River Treaty Conservation Caucus consists of Pacific Rivers Council, Save our Wild Salmon, Waterwatch of Oregon, The Center for Environmental Law and Policy, Sierra Club, NW Energy Coalition and Earthjustice.

<sup>2</sup> This summer, the reach of the lower Columbia River that includes The Dalles and John Day Dams experienced water temperatures of 70 degrees (or above) for 56 straight days.

review of the adequacy of existing flood control infrastructure and an assessment of where floodplains can safely be reconnected with the river.

Given the fact that 38% of the Columbia's average annual flow and 50% of the peak flow originates in Canada,<sup>3</sup> the United States has little choice but to seek modernization of the Treaty in order to continue coordinated river management to maximize the benefits that the three primary purposes of a modernized treaty will provide to the citizens in the U.S side of the basin.

As a result of dam building throughout the Basin, the Columbia River is now a highly fragmented and mechanized system, with degraded habitat and water quality and large areas of river inaccessible to anadromous fish. The sharply reduced populations of salmon and lamprey have imposed a substantial burden on communities throughout the region that rely on these species for recreation, cultural heritage, food and economic purposes. Recent returns of Columbia River fall Chinook, which are not listed under the Endangered Species Act, are cause for celebration, but these runs are the result of good ocean conditions and the court-ordered spill program at the Columbia and lower Snake River dams. Because there is still no lawful federal plan to restore endangered Columbia-Snake salmon and steelhead, and because all but one of ESA-listed stocks are still far below levels needed for recovery, there is still much work to be done, particularly regarding flow management, improving river temperatures, which are dangerously high in both the Snake and Columbia rivers during the summer and early fall, restoring habitat, improving passage for lamprey, reconnecting floodplains and restoring salmon to areas now blocked by dams. Modernization of the Treaty will allow the region to address some of these issues by integrating strategies more consistent with regional salmon recovery and ecosystem health goals. Salmon recovery is only one component of a healthy Columbia River ecosystem, but it is a very important one.

Absent a modernized Treaty, the Army Corps of Engineers must demonstrate that it has "effectively used" all U.S storage capacity for system flood control before it can "call upon" Canadian reservoirs for additional storage. Proceeding with this type of flood risk management may require larger and more frequent drawdowns at Lake Roosevelt and perhaps at all U.S. storage reservoirs, including non-treaty dams such as Dworshak and Brownlee. Such operations would adversely impact anadromous and resident fish, recreation, riverbank stability, cultural resources and public safety and could limit system capability to provide needed spring and summer flows for salmon. Further, it could

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This previews coming years, when this year's highest temperature, 73.2 degrees at John Day Dam on September 11, will be the new norm that portends an unhealthy river pushing salmon to extinction. The Hells Canyon reach of the Snake River experiences temperatures well above 70 degrees into September, dangerously high for ESA-listed fall Chinook.

<sup>3</sup> Shurts, J. 2012. Rethinking the Columbia River Treaty. In B. Cosens, editor. *The Columbia River Treaty revisited: transboundary river governance in the face of uncertainty*. Oregon State University Press, Corvallis, Oregon, USA.

jeopardize operations at Dworshak Dam, developed pursuant to the Nez Perce Water Rights Agreement, and designed to enhance flows and lower temperature in the Snake River in the critical late summer period when both ESA-listed juvenile and adult Chinook are present.<sup>4</sup> Treaty negotiations should proceed with full understanding and respect for these operations.

Power production under a modernized Treaty must account for and promote development of non-carbon energy sources in the Northwest, including conservation and renewable resources, consistent with the region's goals as stated in the Northwest Power and Conservation Council's *Sixth Northwest Conservation and Electric Power Plan*. Energy efficiency and new renewables are the dominant growth areas in the region's energy supplies. Based on expanded power production model, the United States and Canada should re-evaluate the division of surplus power generation between the two nations.

### **The Canadian Entitlement**

Though we acknowledge the concern about the calculation and size of power deliveries made to Canada pursuant to the current Treaty, we strongly believe that calls to terminate the Treaty as a negotiation tactic in order to reduce the so-called Canadian Entitlement are shortsighted. The United States must be cautious in its approach to suggestions that reducing or eliminating the Canadian Entitlement be a primary driver in Treaty negotiations, or as a basis to terminate the Treaty to avoid power deliveries. The significance of entitlement power deliveries as an inducement to British Columbia and Canada to negotiate changes to the Treaty that the U.S. may seek should not be underestimated, particularly when Canada can point to other benefits provided to the U.S. from operations of Canadian Treaty dams, including predictability of hydropower forecasting, flood control, recreation, navigation, water supply and ecosystem benefits. The U.S. analysis that has been done to determine what the cost of termination would be to the United States in reduced hydropower flexibility, and in resorting to "called upon" flood control is based upon assumptions of how Canada might operate in the absence of the Treaty, this should be a bilateral analysis. See [http://www.crt2014-2024review.gov/Files/Final\\_Report\\_No\\_Treaty\\_Canadian\\_Operations.pdf](http://www.crt2014-2024review.gov/Files/Final_Report_No_Treaty_Canadian_Operations.pdf). Canada estimates the benefits to the US of flood control over the lifetime of the current Treaty at \$32 billion, and in 2012 alone at over \$2 billion.<sup>5</sup> Those numbers do not address the enormous economic benefit of predictable hydropower management, recreation, navigation, water supply and ecosystem benefits. Therefore, this issue, while important, should not be given undue weight moving forward, but should be fully examined in a transparent process to determine its role in modernizing the Treaty.

In our view, the most critical issue facing residents and users of the Columbia River and its tributaries over coming decades is not dividing up money or seeking to protect current power and flood management operations. Weathering and adapting to climate change will be the major issue on the Columbia. The Northwest is far better placed to tackle this

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<sup>4</sup> See *Mediators Term Sheet*, Snake River Water Rights Act of 2004

<sup>5</sup> Province of British Columbia, "U.S. Benefits from the Columbia River Treaty- Past, Present, and Future: A Province of British Columbia Perspective," June 25, 2013.

very difficult economic and environmental transition if ecosystem function is included in the Columbia River Treaty.

### **Water Supply Allocation**

PRC is concerned by calls from states and irrigators, and as acknowledged by the Draft Recommendation, for a process to allocate additional water from Canada for out-of-stream uses. Given existing streamflow deficits, allocating additional spring and summer flows for out-of-stream uses would be inconsistent with the elevation of ecosystem function as a primary purpose of a modernized Treaty. Only after instream uses are fully supported should analysis of consumptive uses be considered. Further, the Canadian government has already signaled that water supply is one of the many benefits it should be compensated for, and therefore, any additional out-of-stream use will be viewed as an additional benefit requiring additional compensation.

### **Columbia River Basin Flood Risk Policy Review**

In order to improve the health of the river's ecosystem and fulfill the promise of a modernized Treaty with ecosystem function as a primary purpose, a basin-wide assessment of flood risk management and how to best modernize it for the era of climate change is required. Only with such an assessment can the region move forward with confidence that flows can be increased without jeopardizing public health or property. The analysis should include an assessment of current flood control infrastructure and funding for the integration of modern precipitation and runoff forecasting techniques into seasonal planning processes. Flood risk management based on monthly forecasts has often resulted in unnecessarily large reservoir drawdowns and missed refill targets, resulting in diminished flows for anadromous fish and higher river temperatures. With improved forecasting and modeling, reservoirs can safely be maintained at higher levels to aid both anadromous and resident fish species. Maintaining reservoirs at higher levels also enhances recreational opportunities and protects Native American cultural resources. Because the Army Corps' current position is that the agency will not move forward with a basin-wide flood risk management review absent congressional authorization, we strongly urge Congress, particularly Northwest members of Congress, to direct the Corps, to perform this review, using the best available science in a fully transparent and public process.

Modernizing flood risk management offers the region a unique opportunity to address the challenges of climate change. Climate change will manifest in the Pacific Northwest as decreased snowpack, shorter and earlier runoff periods and elevated summer river temperatures. Improvements in Treaty-based operations can help to mitigate these issues by providing additional flow and temperature benefits during the summer months.

### **A Representative for Ecosystem Function in the U.S. Entity.**

An ecosystem-expert should be added to the U.S. Entity, to better prepare for negotiations with Canada and to better implement this 50-year Treaty for today's Northwest. The Treaty process should include a third agency or sovereign in the U.S. Entity, co-equal to Bonneville Power and the Army Corps of Engineers, for both negotiations on and implementation of the Treaty. We suggest that the 15 Columbia

Basin Tribes, along with appropriate federal agencies such as U.S. Fish and Wildlife Service, NOAA Fisheries, and the Environmental Protection Agency, should be co-managers of ecosystem-based function.

In closing, PRC, and the Treaty Coalition of fishing and conservation groups, believes that modernizing the Treaty to include Ecosystem Function as a primary purpose is in the best interest of the United States and the Columbia River's ecosystem and economy. We believe the Draft Recommendation lays a solid foundation to begin negotiations with Canada. We also appreciate the commitment made by Deputy Assistant Secretary Mathew Rooney during the recent listening sessions held by the US Entity and the State Department that PRC would be invited to participate in the negotiation process as it relates to Ecosystem Function. We believe that while some differences may remain unresolved among the region's stakeholders, states, and Native American Indian Tribes about the shape of the final Recommendation, these differences should not be interpreted by the U.S. Department of State as reason not to proceed with negotiations with Canada. Rather, these differences merely highlight the importance and complexity of the many values the Columbia provides to society.