Summary Report

4th Annual Symposium on Columbia River Governance

Convened by

Universities Consortium on Columbia River Governance
&
First Nations and Tribes of the Columbia River Basin

October 10-12, 2012

KwaTaqNuk Resort -- Polson, Montana

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Executive Summary

The first three symposia have provided a basic understanding of the Columbia River basin and the Columbia River Treaty, identified key interests and concerns throughout the basin, and catalyzed a discussion on alternative future scenarios related to flood control, power production, ecosystem services, and governance. These symposia have fostered mutual learning, built working relationships, and generated the beginnings of a common vision for the future of the basin. Annual symposia are intended to facilitate informed dialogue and deliberation, not to stake out positions or to negotiate solutions per se.

The 4th Annual Symposium on Columbia River Governance built on this momentum and sought to achieve the following objectives and outcomes:

1. Clarify the needs and interests of Native American tribes and Canadian First Nations, and explore ways to integrate these needs and interests into the Treaty and the ongoing management of the Columbia River system;

2. Provide timely, relevant information/suggestions to inform and invigorate the ongoing formal treaty review process; and

3. Build agreement on a Sense of the Future document that can be delivered to key decision makers and stakeholders within the region.

Keeping with Chatham House Rule[1], a governing principle of the annual symposia, this summary will not identify who said what, but capture the essence of all of the comments and questions raised during each of the panel sessions and roundtable discussions of the Symposium. Each summary section begins with a description of the panel and the questions guiding the conversation, followed by a summary of the answers and discussion that ensued. Many concerns or comments continually reappeared over the course of the Symposium. In order to avoid repetition, this summary sorts comments into their related panel session. For example, comments on fish passage, to a great degree, will be found in the section on Ecosystem Values and Services.

[1] "When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed." In other words, every person is participating on his or her own behalf and does not represent any organization or institution in any official capacity.

Update – Formal Treaty Review Process

The purpose of this session was to facilitate a common understanding of the status of the formal Treaty review process in both Canada and the United States. To achieve this purpose, each country provided a 20-minute presentation, followed by a total of 10-minutes of commentary from two people from each respective country.
In Canada, the Province of British Columbia leads the Columbia River Treaty Review in most procedural aspects. Provincial governments have jurisdiction over public lands, including navigable waterways, but the federal government has jurisdiction over treaties and aboriginal affairs. As such, British Columbia and Canada have a Memorandum of Understanding to coordinate consultations with First Nations who have constitutional rights in the Columbia Basin.

Reports and studies conducted by the Columbia River Treaty Review Team are available to the public[2]. Starting in November 2012, the Columbia River Treaty Review Team will participate in public meetings around the basin to present trade-offs associated with alternative scenarios and receive public input on those options. The Review Team will report back to the public how the input was considered in making a recommendation to the Province.

In the United States, the 2014/2024 Review is just entering Phase 2 of a 3-part process. Phase 2 is a full impact assessment of the alternatives developed in Phase 1. Components integrated in the assessment include: flood risk, hydropower, ecosystem, water supply, recreation, navigation, and sediment and toxics. For more details, see Matt Rea's presentation posted on the web[3].

Stakeholder listening sessions for Phase 2 will be held in November and December of 2012. Phase 3 will begin in January 2013. Summaries from the public listening sessions, as well as technical reports, are available at the CRT 2014-2024 Review website[4].

The Columbia River Treaty has a fundamental founding principle of creating and sharing downstream values and benefits between Canada and the United States. The Treaty has worked well for hydropower and flood control, albeit not without a cost, but in the past 50 years, new circumstances and needs have been recognized and developed. The principle of creating and sharing benefits should endure, but the Treaty needs a wider focus.

Formal review of the Columbia River Treaty provides an opportunity to revisit assumptions entrenched within current operations as well as the rights and values excluded in the drafting of the Treaty.

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[2] http://blog.gov.bc.ca/columbiarivertreaty/
[3] http://www.columbiarivergovernance.org/4thAnnualSymposium.html
[4] http://www.crt2014-2024review.gov/Default.aspx

Questions that emerged:

- What recommendations will be made in 2013?
- How can citizens, local governments, Tribes & First Nations continue to be involved and influence Columbia River management?
- Who isn't involved/aware of the Treaty review? How do we reach out and engage these people?

While the formal reviews in both countries have set a deadline of Fall 2013, the clock doesn't strike midnight for the Columbia River Treaty in September of 2014. Assured flood control is the only Treaty component with a firm expiration date. Focus on 2014 and 2024 raises a concern that the reviews lack a "forward looking" element.

Although termination may not be a favored option, an understanding of what termination could mean in an operational sense should not remain unknown and unexplored. Termination and replacement may be a viable option, but this route would have to involve Ottawa and Washington DC.

Roundtable #1

The purpose of the first roundtable was to:

1. Review and become familiar with the existing Statement of Principles
2. Discuss and identify "what is missing, what should be included?"
3. Integrate the information and knowledge presented in the Update.

Comments, questions, and suggested changes to the document included:

- How will the document be used? Tribes and First Nations need to be included in the list of sovereigns who receive the document, if that is how the document will be used.
- Clarify the title. Is this a document of principles? Recommendations? Fundamental statements?
- Observation that some of the principles are overly vague and could use more detail.
    - What is an "equitable and open" process?
    - What does "sustainable solution" mean?
    - Define ecosystem function.
- Ecosystem function must be integrated into process operations; "consideration" is not sufficient.
- More specificity with regard to management goals for resident fish, native species, etc.
- Cultural should be "included", not just "considered."
- Use action words such as develop, improve, expand, etc in shaping the principles.

- Emphasize the expansion of operating entities to include broader representation.
- Universities Consortium on Columbia River Governance should continue to serve as an non-partisan facilitator.

Aboriginal Rights and Interests

This session explained the trust and fiduciary obligations of the federal governments and the Aboriginal rights and title in the Columbia River and its appurtenant resources. The moderators compared and contrasted aboriginal law on both sides of the 49th parallel relative to the Columbia River Treaty, and thereby provided participants with the necessary information for a conversation that explored the possible ways that the interests of the First Nations and Tribes could be met in alternative scenarios.

Tribes in the United States have treaties and Executive Orders that retained their rights both on and off the reservation to hunt, gather, and fish in the usual and accustomed places.

In Canada, First Nations' rights are protected through Section 39 of the Canadian Constitution.

Discussion Questions

1. **What are the primary interests of tribes and First Nations with respect to the Columbia River and the treaty itself?**

   "Interests" should be rephrased as "needs."

   Tribes and First Nations have not been able to self-determine and self-respect their sovereign rights and needs under status-quo Columbia River Treaty operations and governance. Moving forward, Canada and the United states need to recognize the rights and needs of aboriginal people in the governance and management of the Columbia River and basin resources.

   Justice – recognition of past wrongs and for restoration and reconciliation in moving forward.

   Aboriginal people should be included as equals in the review/revision, operation, and governance of the Columbia River Treaty.

   Access, or greater access, depending on the situation, to First Foods, medicines, and increased traditional involvement in working the land and waters.

   Recognition of traditional ecological knowledge and integration of traditional ecological knowledge with best available science in developing operation plans.

Establish ecosystem function as equally important as flood management and hydropower production and implement the Columbia River Treaty in recognition of the entire watershed as a fully functioning system. Salmon recovery and passage are critical components, but a specific species should not be the sole focus.

2. **How will these interests be affected by the alternative scenarios to revise and update the Columbia River Treaty?**

   The Columbia River is finite and tradeoffs are inevitable, but no one can influence the tradeoffs without a formal involvement. In order to have a serious discussion on tradeoffs, Tribes and First Nations need full government-to-government standing in reviewing and reshaping the Columbia River Treaty, as well as on-going management of the Columbia River.

   With mutual respect and cooperation, come mutual obligations and responsibilities. A dialogue on tradeoffs creates space for collaboration, recognition of differing needs, interests, and worldviews, and an opportunity to build respectful relationships across boundaries.

   Tradeoffs don't necessarily need to be monetary, but could also be cultural. There needs to be a full value accounting of monetary and non-monetary benefits and burdens.

   Drawdown and refilling of reservoirs causes erosion and exposes ancestral remains – how can First Nations and Tribes be compensated for this cultural impact?

   Currently cheap power is exported out of the basin and primarily benefits the federal government and private sector. In evaluating the benefits and burdens, it may be in the best interest of the basin to consider taxing that exported power to create more benefits in the basin. A power tax could provide resources for ecosystem function and connectivity, salmon restoration, and flood mitigation. Revenue from the dam operations is an important consideration for First Nations and Tribes.

3. **How could/should the interests and rights of Tribes and First Nations be more effectively integrated into the treaty and the ongoing management of the Columbia River system?**

   Reconnect the river; the people; the natural resources; and the communities on both sides of the 49th parallel. The Entities and regional sovereigns should be directed to engage in transboundary dialogue to identify possibilities for the future of the river, based on the principle of creating shared benefits and burdens within flood control, hydropower, all aspects of ecosystem function, cultural resources, and fish passage.

   All sovereign entities should meet with equal power to collaboratively reshape and implement the updated Columbia River Treaty. This sovereign relationship should:
   - contain clearly defined roles, jurisdictions, operating objectives,

- establish a transparent and clearly defined decision and dispute resolution process;
- create a space for respectful dialogue;
- promote the development of positive relationships;
- acknowledge cultural values and world view differences;
- and as concessions and compromises are made, the results have to create trust.

A solution that everyone strongly agrees on may never exist, but the process needs to include enough discussion to find an outcome that at least satisfies all parties.

Mechanisms for clarifying co-equal relationship between aboriginal people and federal governments could include:

- United Nations Declaration of Human Rights;
- United Nations Declaration on the Rights of Indigenous Peoples;
- Section 35 of the Canadian Constitution;
- draft American Declaration on the Rights of Indigenous Peoples; Rio Declaration on Environment and Development (1992);
- and International Labour Organization Convention No. 169, which deals with the rights of indigenous people.

Columbia River Treaty based aboriginal rights and needs should be unbundled from the broader conversations of rights and needs. The Sovereign Review Technical Team is one model that may be valid and worth emulating. Such a model would create an inclusive process for Tribes and First Nations to assist in developing metrics for assessing performance of river operations and to integrate traditional ecological knowledge into the management decision-making process.

Roundtable #2

During the roundtable discussion, participants were asked to build on the panel discussion on aboriginal rights and interests and generate ideas on:

1. What principles should guide the integration of aboriginal rights and interests in the basin into the Columbia River Treaty operations and governance?

2. Continue weighing the trade-offs among flood control, hydropower generation, and ecosystem values and develop principles as appropriate.

Discussion points that arose from this roundtable session can roughly be divided into two themes: process and content. Management of this basin needs to focus on balancing interests and values, with a realization that <u>all</u> peoples and groups, upstream and downstream, should share burdens and benefits equitably.

Process

1) Utilize a tri-sovereign approach in the review process and future management of the basin.
2) Implement transparency throughout the review process, any potential negotiations, and future management of the basin.
3) Recognize that Tribal and First Nation rights and needs were not seriously considered in drafting and implementing the original Columbia River Treaty.
4) Respect aboriginal rights as defined by the US and Canadian governments.
5) Follow the principles of international law.

Content

1) Recognize that ecosystem functions and values were not considered in the development of the original Columbia River Treaty.
2) Using a whole basin perspective in plans and of management of the river basin, including its waters, resources and peoples.
3) Looking beyond hydropower, flood control and ecosystem function to consider impacts on socio-economic interests (e.g., industry, agriculture, recreation, spirituality, culture).

Ecosystem Values and Services

One of the primary challenges in evaluating future scenarios of the Columbia River Treaty is how to most effectively integrate the objectives flood control, hydropower generation, and ecosystem values and services. While past symposia have addressed this challenge, the purpose of this session was to continue this dialogue – particularly from the perspective of First Nations and Tribes in the Columbia River Basin. The goals of this panel discussion were to promote a common understanding of what we mean by "ecosystem values and services," and to generate options on how to operate the system to satisfy these values and services along with other system-wide objectives – most notably flood control and hydropower production.

After presenting some basic information on the requirements and implementation of federal laws that have been enacted since the Treaty was signed in 1964 -- such as the Endangered Species Act (USA), Northwest Power Act (USA), Clean Water Act (USA), Species At Risk Act (Canada), and activities to reconnect migratory routes for anadromous fish above the Chief Joseph and Grand Coulee dams -- the panel largely addressed the options and implications to incorporate ecosystem values and services into the Columbia River Treaty.

Discussion Questions

1. **What are some of the values (social, cultural, environmental, tangible and intangible, etc.) that are being used, or could be used, as a basis to make decision regarding the operations of the Columbia River Treaty Dams?**

List of values that emerged:

- All things are connected; therefore we should think in terms of ecosystems and basins.
- Adaptive management.
- Return of the salmon and increased fish passage.
- Mimic natural hydrograph and recognize the benefits, to some degree, of floods.
- Increase native species; decrease invasive species.
- Promote riparian area functioning and biodiversity.
- Increase capacity for carbon storage and reduce carbon consumption.
- Water quality.
- Development of a water ethic.

2. **Which ecosystem values, services, or functions that are affected by the operation of the Columbia River Treaty dams and reservoirs are most import to the communities or agencies that you work for?**

   Current priorities include:

   - adaptive management,
   - fish passage, particularly salmon;
   - wildlife migration patterns and habitat re-connectivity;
   - water quality issues such as temperature and nutrient loads; and
   - mitigating affects of climate change and sequestering carbon.

3. **How could the operation of Columbia River Treaty dams be amended to better protect these important ecosystem values, services, or functions? Would these amendments be feasible within the constructs of the current Treaty?**

   The priorities discussed above could be met through recognition of ecosystem function as a primary driver in managing the river. Specific tools for promoting ecosystem function could include:

   - Relax conservative flow management and increase flow at the Dalles.
   - Relax storage requirements.
   - Coordinate flood risk management.
   - Stabilize summer flows.
   - Enhance system to forecast spring runoff.
   - Mimic natural hydrograph while also considering public health and risk-reduction benefits associated with flood control.
   - Manage for salmon throughout the entire Columbia River Basin, even areas where salmon are not currently present.
   - Address water quality issues.

4. **Can you suggest approaches to addressing any potential conflicts between ecosystems, services, or functions on a system-wide basis?**

   Future operation of the Columbia River needs to be based on consensus, building trust, and dialogue to work through tensions between upriver use and downriver needs as well as the cultural conflicts that exist as draining reservoirs uncover sacred areas.

5. **Can you suggest key elements for an overall framework or paradigm for managing Columbia River Treaty dams and reservoirs (or the Columbia River system more broadly) to enhance ecosystem values, services, or functions?**

   Frameworks or principles for enhancing ecosystem function in the Columbia River basin could include:

   - Salmon are a valuable resource and the river should be managed in such a way that does not preclude the possibility of salmon returning to Canada. Studies and flow models are needed to identify target flows and operation goals.
   - Manage use of land and resources with regard to holistic ecosystem needs, as well as salmon needs.
   - Pursue technology that could replace dams.
   - Manage human impacts rather than wildlife.
   - Higher energy costs could be more reflective of true costs (environmental, human health, etc).
   - The Columbia River Treaty does not allow for the adaptability need to address climate change or the protection of ecosystem function. Explore agreements and solutions outside of the framework of the Columbia River Treaty such as an international river commission or watershed board to facilitate on-going transboundary dialogue. The International Joint Commission has suggested an international water board, however, such an idea has not yet been widely embraced.
   - There is a clear desire for the establishment of water quality standards in future management of the basin.
   - A shift toward mimicking a more natural hydrograph will lead to benefits such as improved water quality and healthier riparian areas to meet the needs of salmon and other species. A more natural hydrograph could also result in controlled floods in the flood plains and create an opportunity for a paradigm shift in flood risk management. Such a shift could discourage further development within flood plains and recognize the benefits of non-catastrophic floods.

- Climate change cannot and should not be ignored. Hydrological changes within the basin and increased demand on the river will require adaptive management at a basin-scale, regardless of political boundaries.
- Recognize the definitive connection between human health and ecosystem function. This is especially visible in Tribe and First Nations' communities with high rates of diabetes and diminished access to traditional foods.
- Framing the issue as "ecosystem values" is problematic because it places people outside of the ecosystem rather than as an integral part of it. Ecosystem function is a more appropriate and adequate description.

Field Trip

During the field trip, we encouraged participants to continue discussing the Statement of Principles, and to focus explicitly on:

1. What principles should guide the integration of ecosystem values and services into the Columbia River Treaty operations and governance?

2. Continue weighing the trade-offs among flood control, hydropower generation, and ecosystem values and develop principles as appropriate.

Discussion centered on the need for ecosystem functions to have equal footing with hydropower and flood control benefits, but many questions emerged regarding how to best achieve that goal. Those questions included:

- What is the role of the Entities in managing for ecosystem function?
- Does a new organization/agency need to be added to the US and Canadian Entities?
- What is the relationship between the Treaty and the legal structures (ESA, natural flows, transboundary) in order to protect ecosystem function? How to make this better?
- What is the reality of retrofitting dams for fish passage?
- Is salmon recovery even possible given water temperature and habitat conditions in the Upper Columbia? What about other salmon-like species? Is more research needed on this topic?

Further comments suggested that water quality & monitoring should be included in measuring ecosystem function, and that ecosystem function should be recognized as a benefit, not a cost.

Salmon are not just a key species in the ecosystem, but are also a keystone in the cultural and spiritual identities of Tribes and First Nations. Increased fish passage and salmon recovery (especially above Grand Coulee and Chief Joseph) need to be a central to the

conversation on Columbia River governance, however, this should not be to the exclusion of other species within the Columbia River Basin.

Removal of non-Treaty dams should be kept on the discussion table.

Exploring Legal Options and New Cooperative Arrangements

This session explored the legal flexibility available to make changes to implementation of the Columbia River Treaty and the processes for entering into any new international arrangement. In addition, it explored the flexibility the two countries have to include participation by basin sovereigns and interests in both negotiation of any new arrangement and its implementation. To initiate this conversation, Barb Cosens briefly reviewed a recent study she and Nigel Bankes (University of Calgary) completed under the direction and funding of the Monk Institute for Global Affairs at the University of Toronto on the degree of flexibility under the Columbia River Treaty and Canadian and U. S. domestic law governing international relations.

The study, *The Future of the Columbia River Treaty*, does not advocate a particular result, but rather observes that there may be options beyond continuation or unilateral termination and that the existing Columbia River Treaty offers a large degree of flexibility moving forward. The full report is available to the public[5].

Canada and the United States have different processes for ratifying treaties. In Canada, the Department of Foreign Affairs and International Trade negotiates; and ratification comes with consent of the executive. Given the provincial interests affected by the Columbia River Treaty, that likely means that British Columbia will have a larger role than in other contexts. In the United States, the State Department handles negotiations under the US Constitution (Art.2, § 2, cl. 2). The President may only ratify a treaty once he obtains the advice and consent of the Senate (2/3 vote in favor).

Less formal methods of ratification are increasingly common, as number of international agreements has increased. Sometimes the executive seeks prior or post authorization to conclude international agreement or acts unilaterally. A 1984 study showed 94% of US's international agreements reached between 1946 and 1972 ratified without advice and consent. The State Department has a list of factors used to determine when advice and consent is necessary, but sometimes consultation with key members of Congress or Senate Committee on Foreign Relations is a proxy for full-blown advice and consent. Canada's recent practice is to at least table new agreements in Parliament, despite lack of formal requirement to do so.

[5] http://munkschool.utoronto.ca/research/the-future-of-the-columbia-river-treaty/

Flexibility also exists within the negotiation process. Limitation of the parties involved in does not face any limitations imposed by international law. United States' negotiations are led by the State Department, but may include appointees from other groups.

Likewise in Canada, the executive conducts negotiations, but there is no formal limit on who may be included. The Province will be included because of impact on resources and the Canadian Constitution requires "consultation" with First Nations. Other stakeholders have no formal right to consultation, but Provincial and federal governments are undertaking broader consultation efforts anyway with respect to the Treaty Review.

On both sides of the border, the Columbia River Treaty Entities have, to a large degree, operated independently without consulting higher authorities in implementing the Treaty. Implementation continues to offer room for flexibility, with the caveat that significant deviations from the existing Columbia River Treaty might trigger need to engage the Permanent Engineering Board, which is tasked with settling differences between Entities.

United States' courts will uphold a later-enacted domestic law, such as the Endangered Species Act, over a treaty in the event of a conflict; however, courts go out of their way to interpret the law as consistent with the treaty. Implementation decisions (e.g. Libby Coordination Agreement) can be viewed as effort to avoid such conflict.

Implementation in Canada, on the other hand, presents an authority mismatch because the federal government is bound by the terms of the Treaty, yet the Province leads the implementation under an agreement between Canada and British Columbia.

Discussion Questions

1. How might the goals of basin stakeholders be achieved through the processes available under U.S. and Canadian law?

2. How might basin stakeholders shape their participation in any negotiation or implementation of alternative approaches to international management of the Columbia River?

3. How might basin stakeholders and decision-makers move forward in creating an alternative arrangement to shape, implement, and administer international management of the Columbia River?

Roundtable #3

This roundtable discussion focused explicitly on:

1. What principles should guide efforts to engage sovereign entities and other stakeholders in the process of negotiating and implementing any new cooperative arrangement?

2. Continue weighing the trade-offs among flood control, hydropower generation, and ecosystem values and develop principles as appropriate.

The discussion questions above generated the following comments:

Sovereignty. Tribes have sovereign interests that must be recognized and engaged. These include interests in conserving and perpetuating their cultural, natural, and economic resources.

Sovereigns do not give up sovereignty by listening and engaging non-sovereigns. We need a mechanism to inform sovereigns and to recognize Tribes and First Nations as sovereigns, not as stakeholders.

Benefit sharing. Focus on equitable benefit sharing from headwaters to ocean.

Recognition of the past. Feelings of loss and impacts from Columbia River Treaty projects still fresh in the Canadian portion of the basin.

Basin engagement. The Canadian local government representatives met with counterparts in Bonners Ferry, Libby, and Kalispel and noted a sense of foregone conclusion and lack of say in United States.

Though First Nations declined to participate in the Columbia Basin Trust-led public process, the door remains open.

The Columbia River Treaty should not be a bi-lateral but rather a multi-lateral relationship among Basin sovereigns.

Local control and flexibility is important given current political climate in Washington DC and Ottawa.

Post-recommendation. Termination doesn't seem to be the preferred option for most symposium participants. However, there is a desire for operations and implementation changes, such as:

- recognition of Tribes and First Nations;
- adaptability and flexibility;
- continue coordination on flood control;
- examine the shape of future hydropower benefit sharing;
- recognition of and compensation for past losses;
- desire for local consultation and inclusiveness;
- need for continued access to water supply in the face of climate change; and
- return salmon to the Canadian portion of the basin.

Agreements outside the scope of the Columbia River Treaty. We have an authority dispute over determining the future of the Columbia River Treaty. Authority can be

achieved through power and legal frameworks or you can compel action by building and applying power and authority will follow.

Examples of frameworks or models to compel action:

- The North American Free Trade Agreement (NAFTA) created a permanently funded, joint public advisory committee which advises formal parities on environmental impacts and provides forum for public participation
- The Northwest Power and Conservation Council shifted the management paradigm without the legal authority to compel action through public support generated in a transparent process. As a result, the profile of ecosystem function was elevated in the management goals and Northwest Power and Conservation Council plans provided a solid basis for Bonneville Power Administration operational changes.
- An alternative operating procedure for the Columbia Basin should make Treaty implementation more transparent; include a determination that they are either (a) consistent or (b) not inconsistent with the rights of Tribes and First Nations; and provide an opportunity for First Nations and Tribes to contest the alternative operating procedure and propose modifications.

Local involvement. Create a forum for local governments within the basin to become informed, engage their constituents, and shape the decision-making process.

Some concern was expressed over lack of United States' process for accepting public input. The Army Corps' role is narrow, and we need broader representation and consideration of issues.

Transboundary dialogue. Basin-wide, transparent information sharing is needed, both between governments and with the public. This process should include sovereigns, local governments, government agencies, non-governmental organizations, and other interested parties.

In addition, basin-wide, transparent information gathering is needed, especially in developing an understanding of impacts and adaptations to climate change. Such a framework should provide space for smaller, technical transboundary groups to tackle specific questions and facilitate science and traditional environmental knowledge-based decision-making.

The framework for facilitating on going, transboundary dialogue could be multi-tiered. For example, a transboundary secretariat would have an independent analytical role and the authority and public advisory committees would be regularly convened and provide an educational function. Creation of a transboundary institution or framework would likely become a political issue, so the Senate might get involved even if not strictly necessary.

Creating an inclusive and transparent transboundary dialog is a step toward thinking of the Columbia Basin as one unit and provides an opportunity to make decisions based on what is best for the entire Basin and allow for increased international coordination.

Governance: There is a strong sense that participants see the Treaty continuing, but in a broader scope, perhaps with outside agreements and annexes. Agreements on Columbia River governance (either regards to or separate from the CRT) should be flexible and adaptive in order to respond to changes over time, especially with regard to climate. More than one transboundary agreement may be needed in order to create such a framework. Significant resources will be required to support collection of data, analysis, education, and public participation.

Tribes, First Nations, stakeholders, local governments, and the public should be continually integrated in implementation (or adaptive decision-making).

A conflict resolution mechanism should be included in any agreements.

US Tribes may look to the Endangered Species Act and the Clean Water Act as surrogate frameworks for protecting their treaty rights – if these statutes are followed, Tribes may not need to request textual changes to the Columbia River Treaty.

Tribes seek integration in the operational decision making either as Entities or as part of the Permanent Engineering Board.

Shaping the Future: Common Interests, Benefits, and Trade-offs

The purpose of this panel was to provide an opportunity for representatives from interest groups, business and industry, and government agencies to reflect on the emerging Statement of Principles developed by participants. Realizing that the symposium is not a venue to renegotiate the future of the Treaty, this panel was an opportunity for these individuals to highlight their own visions for the future, including observations on common interests, suggestions on integrating and balancing different interests, clarifying tradeoffs, and sharing benefits.

Discussion Questions

1. What are the most significant "common" interests that have emerged from the dialogue the past couple days?

2. What are the implications of the alternative scenarios to revise and update the treaty to these "common" interests? For example, if the treaty is terminated, what is the likely impact on the interests of tribes and First Nations, ecosystem values and services, and so on?

3. How might the interests within the basin diverge, and how might we most effectively integrate and balance these diverse interests both within the treaty and in terms of

ongoing governance and management?

4. What is the most important message that you believe the emerging Statement of Principles should communicate to decision-makers? What principles should be included and/or emphasized?

Themes from this Panel Discussion can be divided into roughly four overlapping topics: common interests or areas of agreement within the Basin, areas of diverging interests or disagreement, possible solutions for diverging interests or disagreement, and important messages for decision-makers involved in the CRT. Panelists and participants acknowledge that the CRT has limitations and is "necessary but not sufficient" alone in addressing stakeholders' needs, particularly those pertaining to ecosystem functions and cultural values.

Common interests or areas of agreement within the Basin:
The dialogue that needs to occur within the Columbia River Basin is much larger than the scope of the Columbia River Treaty.

Education about the Columbia River Treaty needs to take place at a basin-wide scale and to deliberately identify and reach to out stakeholders, such as state representatives, county commissioners, and economic interests, which are not currently engaged.

The Columbia River Treaty must be managed more cooperatively and transparently than in the past and the long-term economic, cultural, and ecological health of the basin.

All stakeholders desire continued engagement in the review and implementation process.

Ecosystem values and services along with cultural needs and values were not considered in the original Columbia River Treaty and must be addressed moving forward.

Find alternative agreements in order to preserve and create benefits for all.

Diverging interests or areas of disagreement:
Authority - Who should make decisions and how decision-making should operate.

There is a desire to have a conversation on dam removal and fish passage, but more information is needed, such as the feasibility of such actions, as well as the flows and resources required.

Some believe the treaty should be designed around ecosystem functions and needs, others disagree, suggesting that such needs should be met through external agreements.

The degree of flexibility within the existing treaty for modifying and creating annual and daily operating plans, assured flood control, and supplemental agreements.

Water supply and allocation is not within the scope of the Columbia River Treaty; however, it is an issue that should be addressed through basin-wide dialog and domestic agreements. Water supply, especially in dry years, is a significant concern to many water users.

That benefits can be preserved for the region and that the CRT should not be terminated are assumptions made by some but not shared by all.

Possible solutions to diverging interests or disagreement:
Continue and expand the dialogue created by the Universities Consortium on Columbia River Governance.

Learn to manage use of the river by people better, not continue to let people expect more and more from it every year.

Seek a substantive process for communication and consensus building at a basin-wide scale.

Appreciate the merit in creating and sharing value among diverging interests.

Continue to stretch scope the Columbia River Treaty with coordinated supplemental agreements.

Build a platform for a new agreement that includes the capacity to deal with current issues such as ecosystem values and cultural needs and values.

Important messages for decision-makers involved in the CRT:
Right the wrongs of the past by involving the public in developing a plan for the future.

Integrate management of drought, water quality, and invasive species into the Columbia River Treaty. These should be considered under ecosystem functions.

Much has been taken from the river and now people must be asked to give back to the river with gratitude, which is going to mean changing how we view and use the river.
Tribes and First Nations are at a distinct disadvantage financially compared to the other parties involved. They have legal rights and avenues to pursue their needs for fish passage and sovereign engagement in the renegotiation process but prefer a cooperative, holistic approach.

Roundtable #4

Prior to this session, members of the Universities Consortium completed a draft Statement of Principles based on the input and advice presented during the previous two days. Symposium participants had an opportunity to review the document and to:

1. Offer suggestions on how to improve the document (please capture your suggestions by

writing on the document); and

2. Select one suggestion per table on how to improve the Draft Statement of Principles.

During this discussion, the following concepts that could be addressed or included in ongoing discussions on Columbia River governance not explicitly included in the previous sections emerged:

Allocation of Costs/Benefits of Hydropower. Under the Treaty, Canada and the United States share hydropower benefits 50/50. Canada's share, or the Canadian Entitlement, is worth $250-350 million annually. Some of the US benefit share is used to meet ecological obligations; however there are concerns regarding how the hydropower benefits are split between the two countries. For example, how can operations for fish be measured or valued? It is a daunting challenge of weighing intrinsic and monetary values.

The shifting demand for energy to natural gas and coal and changing hydrology due to climate change create uncertainties for predicting hydropower production and calculation of the Entitlement.

Discussion of hydropower costs and benefits should not be limited to the Columbia River Basin. The benefit of very cheap hydropower is exported to California or other domains outside the basin while the costs remain in the basin. As the Basin looks for resources to support information gathering and transboundary dialog, raising the cost of hydropower should not be immediately dismissed.

Flood Control. Flood control post-2024 bears a large degree of uncertainty, however it is important to ensure the ongoing flood risk protection for all residents of the basin and to determine a fair and equitable solution for carrying the cost of ongoing flood protection.

Irrigation: Hydropower, flood control, and ecosystem function often dominate conversations on management of the Columbia River. Functional uses, such as irrigation, are often ignored, however they are still water users benefiting from a finite resource.

Climate Change. Since the Columbia Basin is snowpack dependent, climate change has the potential to have huge positive and negative affects on the hydrology and management of the River.

Questions that emerged from discussion:

- How and where can we best integrate climate change science?
- How do we create a framework that can quickly adapt?

Seven Generations. Develop and implement a holistic, basin-wide (transboundary) collaboration that works towards long-term stewardship of the entire Columbia River Basin.

- The current review process is more than just a review of the Treaty, and is part of a much bigger conversation on clean air, clean water, quality of life, and learning to understand the needs and interests in the basin.
    - Need to empower a basin-wide transboundary process for shaping Columbia basin stewardship that goes beyond 2013/2014.
- Adapting to climate change will require long-term vision, as well as quick responses.
- Include Seven Generations in the Statement of Principles to provide a framework to:
    - recognize the benefits of the dams, but also to learn from mistakes and from the past 60 years of operating the system with dams;
    - to consider values beyond flood control and power and guide the integration of all interests and functions in governing the Columbia River; and
    - develop long-term adaptations to climate change.

Reflections by Tribal and First Nation Leaders

To close the 4th Symposium, leaders from Native American and First Nation communities throughout the basin reflected on what they have heard and their hopes and vision for the future of the Columbia River Basin.

The primary theme from this discussion was sovereignty. First Nations and Tribes are and must be recognized as sovereigns by Canada and the United States in the review of the Columbia River Treaty and in on-going discussions on Columbia River Governance.

Values shared by the Tribal and First Nation leaders included:

- Restoration of salmon;
- Recognition of traditional ecological knowledge;
- Respect for differing world views and the value of including diverse perspectives;
- Education of younger generations to preserve culture and values; and
- Recognition that First Nations and Tribes have rights and needs, rather than interests.

In addition, Tribal and First Nation leaders commended the role of the Universities Consortium on Columbia River Governance in facilitating a transboundary dialogue on Columbia River governance.