



Commissioners

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October 24, 2013

U.S. Entity Coordinators
Columbia River Treaty
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Mr. Stephen R. Oliver
Bonneville Power Administration

Mr. David Ponganis
U.S. Army Corps of Engineers, Northwestern Division

Gentlemen,

Clark Public Utilities appreciates the opportunity to provide comments on the U.S. Entity's September 20, 2013 Draft Recommendation for the future of the Columbia River Treaty (Treaty). Clark Public Utilities is a customer-owned utility providing electric and water service in Clark County, Washington, bordering the Columbia River. We currently provide electric service to more than 184,000 customers and water service to more than 30,000 homes and businesses.

Clark Public Utilities appreciates the U.S. Entity's efforts, since issuing the June 27, 2013 working draft recommendation, to better understand the concerns and interests of Northwest electric customers related to its effort to develop a regional recommendation for the U.S. Department of State (State Department). However, Clark Public Utilities' principal concerns are not adequately addressed in the Draft Recommendation: (1) prioritizing the Canadian Entitlement as the most important issue to address in any renegotiated Treaty; and (2) fully accounting for significant ongoing efforts in the Columbia River and its tributaries for fish and wildlife in any proposal to expand the Treaty to include ecosystem function. Clark Public Utilities urges the U.S. Entity to closely examine and fully address these issues when developing its final recommendation to the State Department.

CANADIAN ENTITLEMENT

The Canadian Entitlement was negotiated a half-century ago. The methodology for calculating this Entitlement no longer reflects current conditions, and it leads to a significantly inequitable result, detrimentally affecting Clark Public Utilities and Northwest electric customers. Accordingly, Clark Public Utilities strongly believes that rebalancing the Canadian Entitlement must be the single most important objective in the U.S. Entity's final recommendation to the State Department. Properly rebalancing the Entitlement in a manner that does not exceed one-

half of the actual incremental power benefit achieved through a coordinated U.S./Canada operation will reduce burdens on Northwest electric customers and expand the availability of clean hydroelectric power in the region. The Entitlement is an inherently international issue, and it can be resolved *only* between the U.S. and Canada. It is also a very important economic issue for this region.

Unfortunately, the Draft Recommendation seems to lose sight of the singular importance of the Canadian Entitlement by promoting Treaty expansion to include ecosystem function. Clark Public Utilities is troubled by the U.S. Entity's proposed shift in Treaty priority. While Clark Public Utilities is proud of its environmental stewardship, fish and wildlife resources are protected and managed through robust federal and state regulatory programs. By contrast, resolution of the Canadian Entitlement is an international issue that must be resolved between the U.S. and Canada. As such, the U.S. Entity—instead of exerting significant resources on domestic ecosystem issues—should be focused intently on analyzing the problems in the current Entitlement methodology, identifying possible solutions for correcting these problems, and developing a recommendation for resolution with Canada at the earliest possible time.

Clark Public Utilities urges the U.S. Entity to clearly promote the rebalancing of the Canadian Entitlement as the paramount priority in its final recommendation to the State Department.

ECOSYSTEM FUNCTION

Clark Public Utilities is concerned that the ecosystem function described in the Draft Recommendation is vague and does not adequately account for the substantial investments of time and resources which Clark Public Utilities and others have undertaken for the protection and management of wildlife and fish resources. The uncertainties associated with ecosystem function, as presented in the Draft recommendation, present significant risk to these important programs and the corresponding investments incurred by electric customers in the Northwest.

Substantial programs have been implemented in the Columbia River and its tributaries to protect and manage fish and wildlife resources at a significant cost to Northwest electric customers. Clark Public Utilities is concerned that any proposal to inject ecosystem functions at the Treaty level could have unintended consequences, interfering with the well-established and ongoing efforts, and detrimentally affecting the very resources that a Treaty-imposed ecosystem function would seek to protect.

For this reason, any final Recommendation to the State Department related to ecosystem function should protect Northwest electric customers' substantial investments in fish and wildlife by carefully accounting for all ongoing efforts in the Basin, and the U.S. Entity should ensure that its Recommendation does not inadvertently conflict with, undermine, or disrupt ongoing programs. Such efforts include the Federal Columbia River Power System Biological Opinion, the Columbia Basin Fish Accords, Habitat Conservation Plans, and requirements of Federal Energy Regulatory Commission hydropower project licenses.

ADDITIONAL ISSUES

Clark Public Utilities also believes the U.S. Entity should consider the following issues as well when developing its final recommendation to the State Department:

- ***Non-treaty storage agreements and ecosystem actions:*** Clark Public Utilities believes there may be benefits for both the U.S. and Canada in bringing existing non-Treaty actions such as storage agreements into a renegotiated framework; however, this may trigger a more formal review and approval process.
- ***Fish passage:*** Clark Public Utilities believes the proposed construction and operation of fish passage facilities at Chief Joseph and Grand Coulee dams is a domestic issue best addressed through domestic laws and regulations. A reconnaissance study regarding fish passage to Canada would require Congressional authorization and appropriations, and should not be included in negotiations.
- ***Flood Risk Management:*** Clark Public Utilities places a high priority on public safety, and we believe a modernized Treaty should maintain flood management similar to current levels. Funding should be consistent with national flood risk policy, with local cost-sharing as appropriate.
- ***Climate Change:*** Clark Public Utilities believes any “adaptive management” or “mitigation” activities, as contemplated in the Draft Recommendation, should respond to scientifically demonstrable adverse changes in ecosystem resources or hydropower production clearly attributable to climate conditions.
- ***Irrigation and Water supply:*** Clark Public Utilities believes a modernized Treaty should not change flows to the detriment of existing water rights established under state or federal law. Additionally, any future decisions pertaining to water supply must include holders of existing rights.
- ***Navigation:*** Clark Public Utilities believes any proposed changes in flows should be studied in detail to determine any potential impact on river navigation, including operational restrictions and river dredging.
- ***Domestic matters:*** Clark Public Utilities believes that Columbia River power producers should be represented in any Domestic Advisory Forum which the State Department creates. Our customers pay for the Canadian Entitlement each year, and will be directly impacted in every subsequent year if the Entitlement is not rebalanced.
- ***Additional areas of discussion for the U.S. and Canada:*** Clark Public Utilities strongly believes that language from the June 27 working draft recommendation regarding “other options” if agreement on key principles is not obtained by next year should be reinserted into the Final Recommendation of the U.S. Entity to the State Department. The Treaty contemplates termination after sixty years, and this option should remain available in engaging with Canada.

CONCLUSION

The Draft Recommendation attempts to address several issues raised by Clark Public Utilities and other stakeholders, in both written comments and in meetings with the U.S. Entity. We appreciate the work which has gone into the revision process. However, Clark Public Utilities believes the Canadian Entitlement must be the highest priority in the U.S. Entity's final recommendation, as this issue can be resolved *only* through negotiations between the U.S. and Canada. Additionally, ongoing fish and wildlife programs should be fully analyzed and protected in any final recommendation to the State Department related to ecosystem function.

Clark Public Utilities appreciates the opportunity to comment on this important matter. We encourage the U.S. Entity and the State Department to continue to work with the Columbia River Treaty Power Group, of which Clark Public Utilities is a member. Clark Public Utilities remains ready to discuss these issues in greater depth, and to work towards reaching a truly regional final recommendation. Please feel free to contact Brenna Moore at 360-992-3088, or bmoore@clarkpud.com if you have any questions regarding the issues raised in this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne W. Nelson", with a long horizontal flourish extending to the right.

Wayne W. Nelson
CEO and General Manager