



August 15, 2013

Dear Elliot Mainzer, Acting Chair, U.S. Entity, Columbia River Treaty
Colonel John Kem, U.S. Army Corps of Engineers Northwest Division Engineer
Matt Rooney, Deputy Assistant Secretary, U.S. Department of State

Dear Gentlemen:

I have studied and written about Columbia River salmon for most of my 35-year professional life. I believe my 2002 book, "Sacrificing the Salmon: A Legal and Policy History of the Decline of Columbia Basin Salmon," is still the leading legal study on the Columbia's signature resource.

The book does include a chapter on the Columbia River Treaty, but the truth is that the current treaty has been more of an impediment to salmon restoration than than a benefit. When the treaty was negotiated a half-century ago, both countries were primarily concerned with hydropower production and flood control, so those are the issues the 1964 treaty addressed. Those issues are clearly no longer the exclusive concerns of the vast majority of people on either side of the border.

The treaty led to significant costs on people displaced by the dams it sanctioned as well as on the ecosystems than supported what once were the largest salmon runs in the world. It is past time that the treaty be amended to reflect the contemporary concerns of native and non-native populations concerning the restoration of endangered salmon runs. Unfortunately, the draft proposal of the United States' negotiating team falls far short in providing the needed changes.

The United States must support ecosystem-based function in the Columbia River Treaty as a third purpose coequal with power production and flood control. As long as only two federal agencies are in control (the Bonneville Power Administration, the voice for hydropower, and the U.S. Army Corps of Engineers, the advocate for flood control), no real change is possible. Witness the current storm over the BPA's evasion of federal hiring requirements--an example of BPA's attachment to favoring old (and illegal) ways of doing business.

In the upcoming negotiations with Canada, and in implementing the new treaty in the decades ahead, the United States must add a federal agency with ecosystem focus and responsibility (such as the U.S. Fish and Wildlife Service), as well as ensure full and equal participation for Columbia Basin tribes that recognizes their sovereignty and their uncompensated losses due to the existing treaty..

A modern treaty must also be flexible and help the Northwest adapt as climate change adversely affects Columbia River flows, salmon and other wildlife, and the people who depend on the river. The river's ecosystems and dependent economies should no longer be held hostage to inappropriate floodplain development. Instead, flood risks should be managed with higher flood triggers after public involvement. To protect already struggling salmon in the face of climate change, no additional water should be diverted from the Columbia River for consumptive uses until the needs of salmon and a healthy river ecosystem are satisfied.

In upcoming negotiations with Canada to modernize the Columbia River Treaty, the United States' position on power production must account for and promote development of non-carbon energy sources in

the Northwest, including conservation, energy efficiencies, and new renewable resources like solar and wind to grow the region's energy supplies. Based on expanded power production model, the United States and Canada must work together to reevaluate the division of surplus power generation between the two nations.

Finally, the United States reverse its decision to withhold long-awaited environmental analysis from the public in order to avoid releasing information to Canada. This failure of transparency in sharing scientific information shuts out the public and helps lock in status quo management of the Columbia River.

Thank you for this opportunity to comment.

Sincerely yours,

A handwritten signature in black ink that reads "Michael C Blumm". The signature is written in a cursive, flowing style.

Michael C. Blumm
Jeffrey Bain Faculty Scholar & Professor of Law
Lewis and Clark Law School
10015 SW Terwilliger Blvd.
Portland, OR 97219