

COLUMBIA RIVER TREATY ENTITY AGREEMENT REGARDING PRE-PLANNED FLOOD RISK MANAGEMENT ARRANGEMENTS DURING THE INTERIM FRM PERIOD

On July 8, 2024, Canada and the United States of America reached an agreement in principle regarding the modernization of the Columbia River Treaty (“Treaty”). The agreement in principle is a milestone in the Treaty modernization process produced in the context of negotiations and is the basis on which the countries are drafting text to amend the Treaty with a view to developing a “Modernized Treaty”. Amendments to the Treaty would be subject to domestic processes, on which the Governments are working as a matter of priority to complete, for approval and entry into force.

The following definitions are adopted for the purpose of this agreement:

- “Interim FRM Period” means the period from and including August 1, 2024, to the earliest of the first July 31 following the entry into force of the Modernized Treaty or July 31, 2027.
- “Modernized Treaty” means the Treaty relating to the Cooperative Development of the Water Resources of the Columbia River Basin (including its Annexes A and B, and the Protocol), as amended by the Parties in accordance with the agreement in principle reached on July 8, 2024.

Whereas:

- a. The Entities agreed to an assured plan of operation for operating year 2024-25 on September 17, 2024 (“AOP25”), which was put into effect by an exchange of notes between Canada and the United States of America on September 20, 2024 (“AOP25 Entity Agreement”).
- b. The AOP25 Entity Agreement provides that the Entities will agree to assured plans of operation for each operating year subsequent to operating year 2024-25, but if by 2400 hours on January 31 of any year the Entities have not agreed in writing to an assured plan of operation in relation to the operating year that starts on the following August 1, the assured plan of operation for that operating year will be the then-applicable assured plan of operation. Under the AOP25 Entity Agreement, the Entities may agree to incorporate into future assured plans of operation upper rule curves associated with the pre-planned flood risk management (“FRM”) operations as contemplated by the agreement in principle reached on July 8, 2024.
- c. Under Article XIV(2)(k) of the Treaty, the Entities are empowered to prepare and implement detailed operating plans that may produce results more advantageous to both countries than those that would arise under assured plans of operation.
- d. As of 2400 hours on September 15, 2024, Article IV(2) of the Treaty is no longer in force, and the flood control operating plan referred to in Article IV(2)(a) (the “2003 FCOP”) is also no longer in force in relation to the operation of Canadian Treaty storage, except as expressly provided for in this Agreement.
- e. The Entities are desirous of obtaining mutual benefits during the Interim FRM Period through the continued provision of, and payment for, pre-planned FRM operations through this Agreement, but recognize that the July 8, 2024 agreement in principle, including Row 7 and accompanying Notes, continues to be the basis on which the

countries are drafting text to amend the Treaty with a view to developing a Modernized Treaty.

- f. The Entities intend that this entity agreement, once it comes into force, will enable them to enter into entity agreements under Article XIV(2)(k), or to update the then-applicable assured plan of operation, to provide for the pre-planned FRM flood risk management operations agreed to in principle on July 8, 2024 and as described below.
- g. The pre-planned FRM operations that are the subject of this Agreement are conditional on annual elections and annual payments by the US Entity as described in this Agreement. The ability of the US Entity to make the elections, and the ability of the U.S. Army Corps of Engineers Northwestern Division (“USACE”) on behalf of the US Entity to make the payments, will be subject in every year to USACE’s receipt of both the authority and the appropriated funds necessary to make both the election and the payment.

THE ENTITIES AGREE AS FOLLOWS:

1. TERM

This Agreement shall come into force on the date that the countries empower and charge the Entities to enter into it through an exchange of notes under Article XIV(4) of the Treaty.

This Agreement shall remain in effect until the earliest of:

- a. 2400 hours on the first July 31 after the entry into force of the Modernized Treaty; and
- b. 2400 hours on July 31, 2027.

If it appears to the Entities that the Modernized Treaty will not enter into force on or before July 31, 2027, the Entities will make good faith efforts to negotiate a new agreement between them in relation to pre-planned FRM operations that continues to reflect the July 8, 2024 agreement in principle.

2. PRE-PLANNED FRM OPERATIONS

In any year in which the US Entity has made the election and corresponding payment as described in Section 3, the Entities will implement the pre-planned FRM operations described in this section of this Agreement.

In relation to every operating year, and before the start of the operating year, the Entities will prepare a detailed operating plan pursuant to Article XIV(2)(k), or update the then-applicable assured plan of operation, or both, through which the Entities will implement the pre-planned FRM operations.

The pre-planned FRM operations will include the evacuation of the Arrow Lakes Reservoir in accordance with upper rule curves derived from the storage reservation diagram corresponding to the table below and shown in Attachment 1 and associated refill operations. The pre-planned FRM operations will be described in a Flood Risk Operating Plan (“FROP”).

If the FROP is not accepted by the Canadian Entity before March 31, 2025, the pre-planned FRM operations for operating year 2024-2025 will be those operations described in this Agreement below in relation to operating year 2024-2025 and in Attachment 1.

For greater certainty:

- a. The table below is substantively identical to the pre-planned FRM operations agreed to in principle on July 8, 2024; and
- b. The storage reservation diagram appended to this Agreement as Attachment 1 corresponds to the table below.

The FROP will be developed by the USACE on behalf of the US Entity, and on behalf of the US Entity the USACE may update the FROP from time to time. The scope of the FROP necessarily includes re-fill operations by the Canadian Entity, but may include other pre-planned FRM operations in Canada or the United States of America. The purpose of the FROP is to prescribe technical criteria and procedures by which the Canadian Entity will operate the 3.6 million acre-feet ("MAF") of pre-planned FRM storage at Arrow Lakes Reservoir in coordination with the operations of Canadian Treaty storage. The FROP (including any updates to it) will not be applicable in relation to the operation of Canadian treaty storage until it has been accepted by the Canadian Entity.

In the event that the pre-planned FRM operations that are the subject of this Agreement are included in one or both of a detailed operating plan or an assured plan of operation applicable to an operating year in relation to which the US Entity has not made a payment as described in Section 3 of this Agreement, none of the provisions of the relevant plan(s) relating to pre-planned FRM operations will be applicable (including, for greater certainty, any of the provisions of the FROP or the provisions applicable to operating year 2024-2025 in effect if the FROP is not accepted by the Canadian Entity before March 31, 2025).

In relation to operating year 2024-2025, the Entities will work to finalize the FROP by March 31, 2025, and then the Entities will operate in accordance with the FROP once accepted by the Canadian Entity. If no FROP is accepted by the Canadian Entity prior to March 31, 2025, then operations during the "Flood Control Refill Period" will be coordinated between the Entities consistent with the FRM operating rules in effect in operating year 2023-2024. In particular:

- a. For purposes of this Agreement "Flood Control Refill Period" has the same meaning as in the 2003 FCOP.
- b. During the "Flood Control Refill Period" the USACE will, on behalf of the US Entity, issue end-of-month maximum FRM space requirements, including proportional refill of storage projects in Canada and the United States of America to manage downstream flows, and with appropriate adjustments to the FRM procedures and criteria to reflect the pre-planned FRM storage volume at Arrow Lakes Reservoir of 3.6 MAF.
- c. During the "Flood Control Refill Period" the USACE, on behalf of the US Entity, may issue a maximum release limit at Arrow Lakes Reservoir.
- d. Canadian local FRM operations requests will be implemented to the extent that they do not impact pre-planned FRM operations in operating year 2024-2025 as defined in this paragraph of this Agreement.

Required End-of-Month Arrow Lakes Reservoir Volume (MAF)

Beginning of Month
Forecast of April to
August Columbia
River Flow at the
Dalles (MAF)

	<i>OCT</i>	<i>NOV</i>	<i>DEC</i>	<i>JAN</i>	<i>FEB</i>	<i>MAR</i>	<i>APR</i>
0	0.25	0.25	0.71	0.71	0.71	0.71	0.71
60	0.25	0.25	0.71	0.71	0.71	0.71	0.71
64	0.25	0.25	0.71	0.71	0.71	0.71	0.71
65	0.25	0.25	0.71	0.78	0.85	0.92	0.92
80	0.25	0.25	0.71	1.67	2.24	3.6	3.6
90	0.25	0.25	0.71	1.67	2.64	3.6	3.6

3. UNITED STATES ENTITY ELECTION AND PAYMENT

The US Entity may elect to cause the Entities to implement the pre-planned FRM operations described in Section 2 of this Agreement by making payment:

- a. in relation to operating year 2024-2025, by December 31, 2024, unless otherwise agreed by the Entities; and
- b. in relation to operating years other than operating year 2024-2025, by September 30, unless otherwise agreed by the Entities.

Payment will equal USD \$37.6 million for operating year 2024-2025. Payment for each subsequent operating year will be the payment for the previous operating year multiplied by the sum of (i) 100% and (ii) the annual change, not seasonally adjusted, and expressed as a percentage, in the “United States CPI”. For purposes of this agreement, “United States CPI” refers to the consumer price index of the United States of America published for August by the United States Bureau of Labor Statistics. For greater certainty, the specific series shall be the “CPI-U, U.S. city average, All Items, Not Seasonally Adjusted” (series ID CUUR0000SA0, or current equivalent series). For greater certainty, the annual change in the “United States CPI” published on September 11, 2024 for the month of August 2024 by the United States Bureau of Labor Statistics, not seasonally adjusted, was 2.5%. In the event this measure of United States CPI is no longer made public in a timely manner, or otherwise impractical to use, the Entities will work in good faith to develop a substitute measure. For greater certainty, the payment in relation to each operating year will be computed in the manner described herein regardless of whether the US Entity made a payment in relation to one or more previous operating years.

Payment for the pre-planned FRM operations for each operating year will be made by the USACE on behalf of the US Entity. The USACE will document the election and delivery of payment in a letter from the Northwestern Division Commander to the Canadian Entity. Upon receipt of payment, the Canadian Entity will confirm receipt in a response letter to the USACE.

Payment in relation to each operating year will be to a bank account identified in a confidential communication from Canada or the Canadian Entity to the United States of America or the US Entity.

4. SAVINGS AND EFFECT OF AGREEMENT

The Entities understand that this Agreement, and the future entity agreements it enables, is separate from and unrelated to operation and compensation pursuant to Articles IV(3) and VI(4) of the Treaty, and is without prejudice to the rights and obligations of the Entities under the Treaty.

In witness thereof, the Entities have caused this Agreement to be executed.

Executed for the United States Entity:

By: Signed by:
John Hairston _____ Date: 11/15/2024
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 John L. Hairston, Chair
 Administrator and Chief Executive Officer
 Bonneville Power Administration

By: _____ Date: November 14, 2024
HANNAN.WILLIAM. Digitally signed by
 CARL.JR.10801366 HANNAN.WILLIAM.CARL.JR.108
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 99 Date: 2024.11.14 12:34:35 -08'00'
 William C. Hannan, Jr., Member
 Brigadier General
 Commander, Northwestern Division
 U.S. Army Corps of Engineers

Executed for the Canadian Entity:

By: DocuSigned by:
Chris O'Riley _____ Date: 11/14/2024
9D059D55649469...
 Chris O'Riley, Chair
 President and Chief Executive Officer
 British Columbia Hydro and Power Authority

