WITHOUT PREJUDICE
FOR DISCUSSION

PROPOSAL TO ADDRESS TRANSBOUNDARY WATER POLLUTION IN THE ELK-KOOTENAI/Y WATERSHED

Mindful of the shared responsible stewardship for ʔa·kxaṁis ḳapi qapsin (All Living Things), which encompasses the interrelated nature of water, land, people, animals, and plants;

Understanding that the Elk-Kootenai/y watershed, referred to herein and geographically known as the Kootenai/y watershed, includes the Kootenai/y River flowing through Canada and the United States to its confluence with the Columbia River downstream in Canada, the Elk Subbasin, Koocanusa Reservoir, and Kootenay Lake;

Understanding that Canada, the United States, and the Ktunaxa Nation[1] have reached consensus on the need for:

(1) collaborative governance to ensure more timely action to reduce and mitigate the impacts of water pollution in the Kootenai/y watershed in order to protect the people and species that depend on this vital river system;

(2) transparent and coordinated transboundary data and knowledge sharing, science, monitoring, and analysis to support a common understanding of pollution within the Kootenai/y watershed; and

(3) transparent reporting on progress; and

Based on discussions between representatives of Canada, the United States, and Ktunaxa, and a review of and respect for the 2023 proposals from Canada, the United States, Ktunaxa, and British Columbia;

Canada and the United States commit to request the International Joint Commission (IJC or Commission) to (1) assist in the establishment of a Governance Body, and (2) convene experts and knowledge holders in a Study Board to report and make recommendations to the Governance Body to reduce and mitigate the impacts of water pollution in the Kootenai/y watershed, consistent with the Joint Statement of President Biden and Prime Minister Trudeau of March 24, 2023.

1. COLLABORATIVE GOVERNANCE AND ACTION PLANNING – GOVERNANCE BODY:

Canada and the United States commit to request the IJC to invite representatives of the federal and Ktunaxa Governments, the Province of British Columbia and the States of Idaho and Montana (hereafter referred to as "the Governments"), to a series of targeted engagements convened and facilitated by the IJC to assist the Governments as the Governments develop the Terms of Reference for a Governance Body. Canada and the United States commit to ask the IJC to (1) convene the Governments and facilitate

[1] ʔakisq̓nuk, ʔaq̓am, Yaqan Nuʔkiy, Yaq̓it ʔa·knuqƛi'it, the Confederated Salish and Kootenai Tribes, and the Kootenai Tribe of Idaho.

conversations, (2) assist to develop a draft Terms of Reference, and (3) provide the Commission's insights and expertise on the Terms of Reference, the structure of a Governance Body, and the possible role of the IJC with regard to the Governance Body.

Canada and the United States commit to ask the IJC to convene these targeted engagements, with the IJC serving as secretariat, as soon as possible. The purpose of the targeted engagement is for the Governments to develop a Terms of Reference to establish a Governance Body by June 30, 2024, with the IJC providing continued assistance and advice for the two years following receipt of the request. Within that time, the Governance Body is expected to consider the possible ongoing role of the IJC with respect to the Governance Body.

The Governance Body would: (1) review reports and recommendations from the Study Board; (2) identify and recommend actions and resources needed to fill priority data, monitoring, research, and reporting needs; (3) identify complementary and non-duplicative opportunities, supported by science and Indigenous knowledge, to reduce and mitigate the impacts of water pollution and protect the people and species in the Kootenai/y watershed; (4) develop an action plan to reduce and mitigate the impacts of water pollution in the Kootenai/y watershed in order to protect the people and species that depend on this vital river system; and (5) report on progress towards implementing these objectives. Canada and the United States expect the Governance Body to respect the respective legal responsibilities and jurisdictions of each Government.

2. IJC STUDY BOARD

Canada and the United States commit to request the IJC to convene experts and knowledge holders in an IJC Study Board to conduct transparent and coordinated transboundary data and knowledge sharing; share, synthesize, and analyze data and information to support a common understanding of pollution within the Kootenai/y watershed and the impacts of that pollution on people and species; and report and recommend in a transparent and publicly available format on the matters described below:

a. The best available observational data, scientific research, and Indigenous knowledge on influences on, sources of, status of, and trends in pollution in water and associated effects on ecosystem health, which could include but is not limited to fish and aquatic life, wildlife, human health, and cultural uses in the Kootenai/y watershed;
b. Data and research gaps, assumptions and uncertainties including any factors affecting data accessibility and comparability, such as data types and collection and reporting methods relevant to improving understanding, measurement, and monitoring of the matters reviewed by the Study Board;
c. Recommendations for strengthening, coordinating, and prioritizing efforts on data sharing and transparency, science, monitoring and research, and incorporation of Indigenous knowledge, and other next steps and recommended actions on the matters reviewed by the Study Board;
d. A synthesis of the available data and scientific information and a resulting understanding of the water quality issues in the Kootenai/y watershed including contaminants of concern, areas, and water and ecological resources affected; and

e. Methods and procedures for ongoing monitoring and data analyses to further define the extent of pollution and identify trends in concentrations of contaminants in the watershed.

Within six months from receipt of the request, the Commission is expected to establish the Study Board. The Study Board will be requested to submit an interim report within one year or earlier and a final report and recommendations, including recommendations of areas for further study, within two years of the Study Board's establishment. The Governance Body is expected to review the Study Board's reports and recommendations to support the Governance Body's responses to improve water quality and ecosystem health in the Kootenai/y watershed.

3. REPORTING AND PUBLIC ENGAGEMENT

The Governance Body is expected to be responsible for providing regular reporting on progress towards implementing its objectives. All agendas, meeting minutes, and reports of the Governance Body are expected to be publicly available, except that matters involving cultural resources or Indigenous knowledge may be kept confidential at the request of the Ktunaxa Nation governments and protected from disclosure to the extent allowable by law. The Study Board is expected to seek opportunities for public engagement, provide regular update reports, and make its reports available in a transparent, publicly available format.

It is understood that Governments will continue their work to consider further actions that can be taken to reduce and mitigate the impacts of water pollution in the Kootenai/y watershed while the Governance Body is being formed and the Study Board is conducting its work.

This proposal does not give rise to or otherwise affect any rights or obligations under international or domestic law.

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