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2. The approval required by this Article shall not be given except upon such conditions, consistent with the Treaty, as the entity or authority considers appropriate.

## ARTICLE XII

### *Kootenai River Development*

1. The United States of America for a period of five years from the ratification date, has the option to commence construction of a dam on the Kootenai River near Libby, Montana, to provide storage to meet flood control and other purposes in the United States of America. The storage reservoir of the dam shall not raise the level of the Kootenai River at the Canada-United States of America boundary above an elevation consistent with a normal full pool elevation at the dam of 2,459 feet, United States Coast and Geodetic Survey datum, 1929 General Adjustment, 1947 International Supplemental Adjustment.

2. All benefits which occur in either country from the construction and operation of the storage accrue to the country in which the benefits occur.

3. The United States of America shall exercise its option by written notice to Canada and shall submit with the notice a schedule of construction which shall include provision for commencement of construction, whether by way of railroad relocation work or otherwise, within five years of the ratification date.

4. If the United States of America exercises its option, Canada in consideration of the benefits accruing to it under paragraph (2) shall prepare and make available for flooding the land in Canada necessary for the storage reservoir of the dam within a period consistent with the construction schedule.

5. If a variation in the operation of the storage is considered by Canada to be of advantage to it the United States of America shall, upon request, consult with Canada. If the United States of America determines that the variation would not be to its disadvantage it shall vary the operation accordingly.

6. The operation of the storage by the United States of America shall be consistent with any order of approval which may be in force from time to time relating to the levels of Kootenay Lake made by the International Joint Commission under the Boundary Waters Treaty, 1909.

7. Any obligation of Canada under this Article ceases if the United States of America, having exercised the option, does not commence construction of the dam in accordance with the construction schedule.

8. If the United States of America exercises the option it shall commence full operation of the storage within seven years of the date fixed in the construction schedule for commencement of construction.

9. If Canada considers that any portion of the land referred to in paragraph (4) is no longer needed for the purpose of this Article Canada and the United States of America, at the request of Canada, shall consider modification of the obligation of Canada in paragraph (4).

10. If the Treaty is terminated before the end of the useful life of the dam Canada shall for the remainder of the useful life of the dam continue to make available for the storage reservoir of the dam any portion of the land made available under paragraph (4) that is not required by Canada for purposes of diversion of the Kootenai River under Article XIII.

## ARTICLE XIII

### *Diversions*

1. Except as provided in this Article neither Canada nor the United States of America shall, without the consent of the other evidenced by an exchange of notes, divert for any use, other than consumptive use,

any water from its natural channel in a way that alters the flow of any water as it crosses the Canada-United States of America boundary within the Columbia River Basin.

2. Canada has the right, after the expiration of twenty years from the ratification date, to divert not more than 1,500,000 acre-feet of water a year from the Kootenay River in the vicinity of Canal Flats, British Columbia, to the headwaters of the Columbia River, provided that the diversion does not reduce the flow of the Kootenay River immediately downstream from the point of diversion below the lesser of 200 cubic feet per second or the natural flow.

3. Canada has the right, exercisable at any time during the period commencing sixty years after the ratification date and expiring one hundred years after the ratification date, to divert to the headwaters of the Columbia River any water which, in its natural channel, would flow in the Kootenay River across the Canada-United States of America boundary, provided that the diversion does not reduce the flow of the Kootenay River at the Canada-United States of America boundary near New-gate, British Columbia, below the lesser of 2500 cubic feet per second or the natural flow.

4. During the last twenty years of the period within which Canada may exercise the right to divert described in paragraph (3) the limitation on diversion is the lesser of 1000 cubic feet per second or the natural flow.

5. Canada has the right:

(a) if the United States of America does not exercise the option in Article XII(1), or

(b) if it is determined that the United States of America, having exercised the option, did not commence construction of the dam referred to in Article XII in accordance therewith or that the United States of America is in breach of the obligation in that Article to commence full operation of the storage,

to divert to the headwaters of the Columbia River any water which, in its natural channel, would flow in the Kootenay River across the Canada-United States of America boundary, provided that the di-ersion does not reduce the flow of the Kootenay River at the Canada-United States of America boundary near Newgate, British Columbia, below the lesser of 1000 cubic feet per second or the natural flow.

6. If a variation in the use of the water diverted under paragraph (2) is considered by the United States of America to be of advantage to it Canada shall, upon request, consult with the United States of America. If Canada determines that the variation would not be to its disadvantage it shall vary the use accordingly.

#### ARTICLE XIV

##### *Arrangements for Implementation*

1. Canada and the United States of America shall each, as soon as possible after the ratification date, designate entities and when so designated the entities are empowered and charged with the duty to formulate and carry out the operating arrangements necessary to implement the Treaty. Either Canada or the United States of America may designate one or more entities. If more than one is designated the powers and duties conferred upon the entities by the Treaty shall be allocated among them in the designation.

2. In addition to the powers and duties dealt with specifically elsewhere in the Treaty the powers and duties of the entities include:

(a) coordination of plans and exchange of information relating to facilities to be used in producing and obtaining the benefits contemplated by the Treaty,