

International Joint Commission  
Canada and United States



Commission mixte internationale  
Canada et États-Unis

May 13, 2022

The Right Honourable Justin Trudeau, P.C., M.P.  
Prime Minister of Canada  
House of Commons  
Ottawa, Ontario K1A 0A6

The President  
The White House  
1600 Pennsylvania Ave. NW  
Washington, D.C. 20500

Dear Prime Minister Trudeau and President Biden,

The International Joint Commission (IJC) was created by the Boundary Waters Treaty of 1909. For 113 years, Canada and the United States have looked to the IJC to prevent and resolve disputes regarding waters along the transboundary.

We write you today to alert you to a concern that is covered by Article IV of the Boundary Waters Treaty that is causing increasing conflict between interested parties and rights holders on both sides of our shared border. This issue is selenium contamination of the Elk River, Lake Kooconusa, and the Kootenai River. The Elk River rises in Canada and flows into the United States at Lake Kooconusa, an impoundment of the Kootenai River which flows through the States of Montana and Idaho, in route back to the Province of British Columbia.

Article IV of the Boundary Waters Treaty of 1909 explicitly states: “It is further agreed that the waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other.” The selenium contamination, first identified more than three decades ago, has continued to worsen, with no significant binational cooperation to protect the water or aquatic and human life. The standard for dissolved selenium concentration established by the States of Idaho and Montana, and approved by the U.S. EPA, is 0.8 ug/L. Measurements of selenium have reached 9.46 ug/L in the Elk River, 4.99 ug/L in Lake Kooconusa, and 1.4 ug/L in the Kootenai River.

We have heard from agencies, stakeholders, and Indigenous communities (including Ktunaxa Nation of Canada, Confederated Salish-Kootenai Tribe of Montana, and the Kootenai Tribe of Idaho, the U.S. Environmental Protection Agency, U.S. Geological Survey, University of Victoria, and a host of NGOs) about their assessments that the problem is growing more critical. Further, we understand the United States government is discussing the merits of a unilateral reference to the IJC on this matter. While we would accept and act on such a reference, as prescribed in the Treaty, we believe it is in the best interests of all concerned if a joint reference were made to the IJC.

Throughout its history, the IJC has successfully listened to the concerns of stakeholders, gathered and shared in a transparent manner important scientific data, reliably monitored conditions, and,

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most importantly, built relationships and trust among the people, communities, and organizations on the ground on both sides of the border.

As always, we are prepared and willing to engage with the appropriate designees of your respective governments on this matter.

Sincerely,



Pierre Béland  
Canadian Chair



Jane Corwin  
U.S. Chair



Merrell-Ann Phare  
Commissioner, Canadian Section



Rob Sisson  
Commissioner, U.S. Section



Henry Lickers  
Commissioner, Canadian Section



Lance Yohe  
Commissioner, U.S. Section

cc: The Honorable Melanie Joly, P.C., M.P, Minister of Global Affairs Canada  
The Honorable Antony Blinken, Secretary of State, United States Department of State