OPTIONS FOR BETTER COLUMBIA RIVER BASIN GOVERNANCE

Matthew McKinney
Center for Natural Resources & Environmental Policy
University of Montana

Universities Consortium on Columbia River Governance
What do we mean by Governance?

- Often used to mean different things
  - Corporate relationships
  - International context

- Often mistaken as a synonym for “government”
  - Government refers to legal mandates & institutional arrangements
Governance refers to ...

- Style or method by which decisions are made
  - Who makes what decisions?
    - Representation
    - Stakeholder participation
  - What are decision-making rules?

- The way in which ...
  - Conflicts are resolved
  - Trade-offs are made

- Authority

- Scientific & public learning

- Civic & political will
Nested System of Governance

Columbia River Treaty
COLUMBIA RIVER TREATY, 1964

Primary Objectives

Manage flood risk

Generate & coordinate hydropower

Share benefits
Nested System of Governance

Other Transboundary Collaborative Initiatives

Columbia River Treaty
TRANSBOUNDARY COLLABORATIVE INITIATIVES: AN INCOMPLETE INVENTORY

- EPA - EC Puget Sound / Georgia Basin MOU on Environmental Cooperation
- BC – WA Environmental Cooperation MOU
- BC – MT MOU on Environmental Protection, Climate Action & Energy
- CANUWEST
- Great Northern Landscape Conservation Cooperative
- North Pacific Landscape Conservation Cooperative
- Crown Managers Partnership
- Roundtable on the Crown of the Continent
- Lake Roosevelt Forum
- Upper Columbia United Tribes (UCUT)
- Columbia River Inter-Tribal Fish Commission (CRITFC)
- Canadian Columbia River Inter-Tribal Fish Commission (CCRIFC)
- Okanagan Nation Alliance (ONA)
- Upper Columbia White Sturgeon Recovery Initiative (UCWSRI)
- Upper Kootenay Ecosystem Enhancement Program (UKEEP)
- International Kootenai/y Ecosystem Restoration Team (IKERT)
- Central Kootenay Invasive Species Society
- Salmon Watershed Streamkeepers Society
- Pacific Northwest Aquatic Monitoring Partnership (PNAMP)
- Pacific Northwest Economic Region (PNWER)
- Pacific Coast Collaborative
KEY FINDINGS
TRANSBOUNDARY COLLABORATIVE INITIATIVES

• Identified **44** transboundary initiatives

• **33** initiatives included in the study

• Primary area of focus
  • **12** on ecosystem function
  • **8** on fish passage & salmon restoration
  • **7** on invasive species and/or toxics
  • **3** on energy
  • **3** on climate change
**Key Observations**

1. **Significant transboundary collaboration**
   - Ecosystem function
   - Fish passage & salmon restoration

2. **Most of the work is sub-basin, focused on specific watersheds or landscapes**
   - Crown of the Continent
   - Lake Roosevelt
   - Columbia River Estuary

3. **Innovative approaches**
   - **Joint Fact Finding**
     - Landscape Conservation Cooperatives
     - Crown Managers’ Partnership
   - **Monitoring Trends**
     - Pacific Northwest Aquatic Monitoring Partnership
     - Kootenai River Recovery Team
     - Pacific Northwest Economic Region
BASIN-WIDE FORUMS:
A REPRESENTATIVE SAMPLE

- Tribes & First Nations
- Lake Roosevelt Forum
- Columbia Basin Trust/NW Power & Conservation Council
- Universities Consortium on Columbia River Governance
- Ethics and Treaty Project
AREAS THAT NEED ATTENTION

• Climate change
• Invasive species
• Environmental indicators
• Water quality monitoring
• Bridging upper and lower basin needs & interests
Nested System of Governance

- Columbia River Treaty
- Other Transboundary Collaborative Initiatives
- Regional Entities
- Nested System of Governance
Nested System of Governance

- Tribes, First Nations, States, Provinces, & Local Governments
- Regional Entities
- Other Transboundary Collaborative Initiatives
- Columbia River Treaty
Montana Watershed Groups

More than 15 groups in Columbia River Basin

Plus ...

- Flathead Basin Commission
- Kootenai River Network
- Clark Fork Basin Task Force
International Joint Commission
1944 Referral/Objectives

- Domestic water supply and sanitation
- Navigation
- Efficient development of water power
- Control of floods
- Needs of irrigation
- Reclamation of wetlands
- Conservation of fish and wildlife
- Other beneficial purposes
FLOOD CRUMBLES VANPORT, HEAVY DEATH TOLL FEARED

Lake Dike Gives Way, 18,500 Made Homeless, Scores Reported Hurt

Men Struggle for Lives as Flood Waters Engulf Great Housing Project

Weather Report

The Oregonian

PORTLAND, OREGON, MONDAY, MAY 19, 1940

CITY EDITION, 52 PAGES, $0.05

525. COLUMBIA RIVER FLOOD 5/31/46 8:30 AM
Overview of OECD Principles on Water Governance

- Capacity
- Data & information
- Financing
- Regulatory Frameworks
- Innovative governance
- WATER GOVERNANCE
- EFFECTIVENESS
- TRUST & ENGAGEMENT
- EFFICIENCY
- Monitoring & Evaluation
- Visibility & Engagement
- Policy coherence
- Clear roles & responsibilities
- Appropriate scales within basin systems
- Trade-offs across users, rural and urban areas, and generations
- Stakeholder engagement
- Integrity & Transparency
A Sacred Responsibility:
Governing the Use of Water and Related Resources
in the International Columbia Basin Through the Prism of Tribes and First Nations

Contents

• Historic role of tribes & First Nations
• Legal framework
• Lessons learned
• Roadmap
Harvesting Lessons

North American Case Studies

- Pacific Salmon Commission
- Mackenzie River Basin Board
- Yukon River Inter-tribal Watershed Council
- Skagit Watershed Council
- Fraser Basin Council
- Great Lakes Water Quality Agreement
- International St. Croix River Watershed Board
- Missouri River Recovery Implementation Committee
- Colorado River Compact
- Comprehensive Everglades Restoration Plan

International Case Studies

- Estonian-Russian Transboundary Waters Commission
- International Commission for the Protection of Lake Constance
- International Commission for the Protection of the Danube River
- Lake Tanganyika Authority
- Lake Victoria Basin Commission
- Mekong River Basin Commission
- Nile Basin Initiative
- Organization of the Amazon Cooperation Treaty
- Trinational Commission of the Trifinio Plan
COMPARATIVE ELEMENTS

• Purpose & function
• Implementation arrangement
• Role of indigenous people
• Stakeholder participation
• Dispute resolution
• Joint fact-finding
• Adaptive management
• Legal basis
KEY FINDING # 1

PURPOSE & FUNCTION

Sharing data and information
  • *International Commission for the Protection of Lake Constance*

Coordinating actions
  • *Mackenzie River Basin Board*
  • *Lake Victoria Basin Commission*
  • *Mekong River Basin Commission*
  • *International Commission for the Protection of the Danube River*

Fostering joint initiatives
  • *Nile Basin Initiative*
  • *Organization of the Amazon Cooperation Treaty*

Advising formal decision-making bodies
  • *Missouri River Recovery Implementation Committee*
**Key Finding # 2**

**Role of Indigenous People**

1. Very few case studies share power and decision-making authority among nations, states, and indigenous people
   - Pacific Salmon Commission
   - Great Lakes Water Quality Agreement

2. Most of the case studies limit the role of indigenous people to providing input and advice
   - They are not involved in decision-making and implementation
INTERNATIONAL TRENDS & EMERGING NORMS

• Agenda 21 or the Rio Declaration on Environment and Development (1992)

• UN Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters (1998), often referred to as the Aarhus Convention.

• UN Declaration on the Rights of Indigenous People (2007)

KEY FINDING # 3
STAKEHOLDERS, DISPUTES, & FACT FINDING

• Many (but not most!) case studies have explicit provisions to involve stakeholders, resolve disputes, and engage in joint fact finding.

• Public participation is relatively weak in transboundary RBOs

• For the most part, RBOs function as intergovernmental organizations
  • Bring together riparian states at the governmental level
  • Public participation is, therefore, most often understood as information sharing only
**Key Finding # 4**

**Legal Basis**

- Ranges from ...
  - Formal treaties among two or more nations
  - To less formal agreements, accords, conventions, and protocols
  - To advisory committees and non-governmental organizations

- Variation suggests that:
  - “Form follows function,” as well as political & civic will
  - It makes sense to start with more informal arrangements and to slowly evolve into more formal organizations as needed
Nested System of Governance

- Watershed Groups
- Tribes, First Nations, States, Provinces, & Local Governments
- Regional Entities
- Other Transboundary Collaborative Initiatives
- Columbia River Treaty
Overview of OECD Principles on Water Governance

EFFECTIVENESS
- Policy coherence
- Appropriate scales within basin systems
- Clear roles & responsibilities

EFFICIENCY
- Data & information
- Financing
- Regulatory Frameworks

INTEGRITY & TRANSPARENCY
- Monitoring & Evaluation
- Trade-offs across users, rural and urban areas, and generations
- Stakeholder engagement

TRUST & ENGAGEMENT
- Trade-offs across users, rural and urban areas, and generations
- Stakeholder engagement
- Integrity & Transparency

WATER GOVERNANCE
- Policy coherence
- Appropriate scales within basin systems
- Clear roles & responsibilities

OECD Principles on Water Governance

Better Policies for Better Lives

Developed for Water Governance and Territorial Development

Welcomed by Ministers at the OECD Ministerial Council Meeting on 4 June 2015
OPTION # 1

TOWARD BETTER GOVERNANCE

• Integrate ecosystem-based function into the Treaty

• A growing consensus throughout the basin ...
  • An historic value of tribes & First Nations
  • Consistent with the 1944 referral to the IJC
  • Complements regional and local efforts
  • Satisfies ESA, CWA, NEPA, and other laws

• Options to achieve this objective
  • Amend the Treaty
  • Negotiate a side agreement
  • Create an Advisory Committee on ecosystem function
Nested System of Governance

- Watershed Groups
- Tribes, First Nations, States, Provinces, & Local Governments
- Regional Entities
- Other Transboundary Collaborative Initiatives
- Columbia River Treaty
OPTION # 2

TOWARD BETTER GOVERNANCE

• Establish an independent, ongoing transboundary forum to:
  
  • Inform, invigorate, and **supplement** other governing arrangements within the basin
  
  • Bridge a gap in governance – the lack of an ongoing, inclusive forum for transboundary dialogue, learning, coordination, and problem-solving
  
  • Not to duplicate other forums or mechanisms for learning, building agreement, solving problems, and making decisions
OPTION # 2

SOME DETAILS …

• **Objectives**
  • Promote and support an integrated, whole-basin approach to governance
  • Supplement other transboundary collaboration efforts
  • Address transboundary issues that are otherwise not being addressed
  • Inform and educate citizens and decision-makers
  • Drive decisions to achieve these objectives

• **Design**
  • Leadership
  • Representation
  • Activities
Other Options for Better Governance

- Yukon River Inter-tribal Watershed Council

- International Joint Commission
  - International Watershed Board

- Other models in A Sacred Responsibility