I must register the strongest objection to the misconception evidenced by your use of the word "given". Article XIII gives Canada nothing! It takes away and surrenders a position which for over 50 years has come to be accepted as a basic right in Canada as it has in the United States since its earliest days. This is a right which was recently re-affirmed and insisted upon by the U. S. in the IJC Waneta Order. In this, perhaps I should mention, you should know that the U. S. enforced Article II of the Boundary Waters Treaty to the extent of maintaining their exclusive control over stored waters on the Flathead, which they could capture at Hungry Horse or elsewhere, by invoking Article IV of the BWT to deny Canada the construction of Waneta by reason of a very minor matter -- the flooding of some 2-2/5 acres of undeveloped, non-productive land in the U. S.

Apart from the time limits imposed in Article XIII, which would delay action in a matter which has now become of immediate importance, may I suggest that in dealing with the United States, a future right and its exercise are two quite distinct matters, as I have learned painfully in a decade of first hand experience. In this case for example, under Article XII (5), you cannot even build Dorr without U. S. consent, and I forecast that the price set on this consent will be so high that any project to do so will be made quite uneconomic. May I observe that Dorr is necessary to exercise the right which you say is given to divert from the Kootenay.

Moreover, under Article XIII (1) you must have U. S. consent to divert "for any use, other than a consumptive use" out of the Columbia River basin. No major project to divert to the Prairies, for example, can be other than a multi-purpose use, in which power generation is a major component. Again I forecast that the price of U. S. consent to the power aspects of a multi-purpose diversion will be prohibitive. I suggest that the U. S. has prepared for the enforcement of this purpose by the provisions of Article XVIII Para (3) by which "Canada and the U. S. shall exercise due diligence to remove the cause of.....any injury, damage or loss occurring in the territory of the other as a result of any act...under the Treaty".

A diversion out of the Columbia basin will, without a doubt, be construed as an injury to the U. S. because of the right given the U. S. under the treaty to build Libby, and such a diversion would cause damage and loss in the U. S. exceeding benefits. So whether or not a right has been given to divert for consumptive use, or any other use, its exercise will be subject to consent, and if this has not been given, the damages could be prohibitive.

In the result, in the practical conditions to be met in the Columbia River basin, this is an iniquitous arrangement under which Canada is to be bound and the U. S. in fact left free. Moreover, it is well that you should recall that under Article XVI, Canada will have agreed to the settlement of disputes by the IJC or otherwise under the code of law provided by the treaty itself, including the intent expressed in the Preamble. Note particularly Para (4) of this article, which provides that decisions of the IJC or other forum shall be accepted as "definitive and binding" and that the parties "shall carry out any decision".