

- (c) Canada's entitlement to one-half the downstream power benefits produced in the United States by Canadian storage is either to be returned to the Canadian border for distribution in Canada or sold in the United States under general conditions agreeable to both countries.
- (d) The United States is given the option of constructing a dam on the Kootenai River at Libby, Montana. Canada must be notified within five years of ratification of the Treaty whether the project is to be constructed and the project must be in full operation within seven years of that notification. The United States will pay the entire cost of the dam and reservoir in the United States and Canada will provide the 13,700 acres of land that will be flooded on its side of the boundary. For that very small contribution, Canada gets major benefits in flood control and increased power production at Canadian generating plants downstream on the river from Libby after the river re-enters Canada. Those benefits are not subject to any sharing with the United States.
- (e) The Treaty contains provisions regarding permissible diversions both for power purposes and for consumptive uses such as irrigation, domestic and municipal uses. Either country may make whatever diversions are required for consumptive uses. However, during the period of the Treaty, only Canada can make diversions for power purposes which will alter the flow of the Columbia River or its tributaries where these cross the international boundary. The diversion rights for power purposes permit diversions into the Columbia River at Canal Flats of about 20 per cent, 75 per cent and 90 per cent of the flow of the Kootenay River before it enters the United States. These diversion rights can be exercised at 20, 60 and 80 years respectively from the date of ratification of the Treaty. If the United States does not build the Libby Dam under the terms of its option, the 90 per cent diversion may be made at any time.
- (f) The Treaty also contains provisions regarding the designation of operating entities, the establishment of a joint Permanent Engineering Board, procedures for settling differences, provisions for restoring the pre-Treaty legal position after the Treaty has been terminated and limitations on liabilities for damages.

2. The Protocol

Following the signing of the Treaty on January 17, 1961, there was the widest opportunity for public discussion concerning the merits of the Treaty. Out of that valuable national concern came proposals for improvements in the Treaty. These improvements were incorporated into a Protocol to the Treaty agreed to on January 22, 1964. Among the