



## UCUT Resolution 2022 Transboundary Mining

**WHEREAS:** the Upper Columbia United Tribes (UCUT) is a duly constituted intertribal commission of the Coeur d'Alene Tribe, Confederated Tribes of the Colville Reservation, Kalispel Tribe of Indians, Kootenai Tribe of Idaho, and the Spokane Tribe of Indians, by authority of the Constitution and By-Laws for the UCUT; and

**WHEREAS:** under the Constitution and By-Laws of the UCUT, the Commission is charged with the duty of protection, preservation, and enhancement of Treaty/Executive Order Rights, sovereignty, culture, fish, water, wildlife, habitat and other interests and issues of common concern; and

**WHEREAS:** headwaters of multiple rivers originate in British Columbia (BC), Canada and flow through BC First Nations territories and into Alaska, Washington State, Idaho and Montana through transboundary territories and lands of U.S. Native Tribes; and

**WHEREAS:** our ancestors relied upon the pristine waters of those territories and lands for survival, sustenance, transportation, health, spiritual wellness, culture, community and economy - just as we do today and as we wish for future generations; and

**WHEREAS:** commercial mining in BC is experiencing unprecedented expansion such that several proposed and operating British Columbia mines, some of the largest in the world, are located in the transboundary watersheds that sustain communities in Alaska, Washington State, Idaho, and Montana; and

**WHEREAS:** there are at least 172 tailings facilities at mines across the province storing billions of cubic meters of toxic tailings behind some of the highest dams in the world, and as many as 42 of these mines are in transboundary watersheds, many with substantial risk of failure including the potential for loss of human life; and

**WHEREAS:** over 30 U.S. Tribes, tribal associations, and communities from Alaska, Washington State, Idaho and Montana, have been and are actively voicing their concerns that BC mining upstream of their traditional lands could place at risk not just downstream economic interests, but also their traditional ways of life and their very culture; and

**WHEREAS:** the Government of Canada and Province of BC have not properly sought consultation with downstream U.S. Tribes from Alaska, Washington State, Idaho, and Montana in relation to ongoing and future likely harm from upstream mining in the province; and

**WHEREAS:** events such as the catastrophic failure of the tailings storage facility at Imperial Metals' Mt. Polley mine in BC, and at two sites in Brazil have raised worldwide awareness of the hazards associated with these facilities impounding saturated tailings, and the persistent concerns raised by BC First Nations, U.S. Tribes and experts regarding the growing legacy of tailings mine waste being stored at mines across the province; and

**WHEREAS:** the Government of Canada and the Province of British Columbia have been resistant to meeting their obligations under the Boundary Waters Treaty of 1909 to prevent disputes regarding the use of transboundary waters and prohibit pollution on one side of the boundary that would cause injury to life or property on the other side.

**NOW, THEREFORE, BE IT RESOLVED** that the Upper Columbia United Tribes who assembled a meeting with U.S. Tribes and BC First Nations in Wenatchee, Washington on September 26-27, 2022, calls upon the Government of British Columbia, as the jurisdiction where mines in the transboundary watersheds are regulated, to act immediately to protect the transboundary watersheds and all who depend on them from the impacts of mining by:

1. Implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), including the principle of Free, Prior, and Informed Consent, in all Indigenous communities and for all Indigenous people, including those in Alaska, Washington State, Idaho, and Montana, and
2. Expediting efforts under the BC Declaration Act to incorporate mining related laws and regulations into conformity with UNDRIP; and
3. Mandating Indigenous and community consent before building, expanding or closing mine waste facilities; prohibiting mine waste dams immediately upstream from communities and sensitive ecosystems as they are at greater risk of failures, especially in high seismic and precipitation areas; prohibiting 'upstream dams' which have a high risk of failure; and establishment of an industry financed pooled fund for unforeseen disasters to mitigate future downstream disasters on both sides of the international border.

**BE IT FURTHER RESOLVED** that the Upper Columbia United Tribes calls on the Government of Canada and the Province of British Columbia to consider the transboundary impacts of current and future mining operations in a comprehensive manner working jointly with U.S. Tribes and the Government of the United States to

evaluate mining impacts on livelihoods and cultural practices, including commercial fisheries, sport fisheries and overall food security; and

**BE IT FURTHER RESOLVED** that the Upper Columbia United Tribes calls upon the Government of Canada to honor its obligations under the Boundary Waters Treaty of 1909, including, as may be necessary, the issuance of a Reference to the International Joint Commission as has been sought by the Government of the United States and currently rejected by the Government of Canada; and

**BE IT FINALLY RESOLVED** that the Government of the United States, at the highest levels, continue to utilize any and all powers under the US-Canada Boundary Waters Treaty of 1909 to ensure that tribal cultural existence and community health are not harmed by upstream development in BC through both international forums for dialogue, scientific study, and the identification of specific actions to secure long-term protections of these shared transboundary watersheds and to obtain adequate financial assurances, including a fund established by the BC government to compensate downstream interests should harm arise.

#### **CERTIFICATION**

The Upper Columbia United Tribes adopted the foregoing RESOLUTION on the 22nd day of November 2022, at Spokane, Washington, with the required quorum present, by a vote of

FOR, 5 AGAINST, 0 ABSTAIN, 0 ABSENT, 0



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Gary Aitken Jr., Chairman, Upper Columbia United Tribes