

# Kootenai Tribe of Idaho



## Idaho State Bar Indian Law Section Jay Treaty and Indigenous Border Crossings

*William Barquin  
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# Kootenai Tribe of Idaho

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*Kootenai elders have passed down the history of creation and the beginning of time, much of it uniquely Kootenai and so sacred that it cannot be shared with outsiders.*

*It can be told, however, that the Kootenai people were created by Quilxka Nupika, the supreme being, and placed on earth to keep the Creator-Spirit's Covenant.*

# The Covenant says:

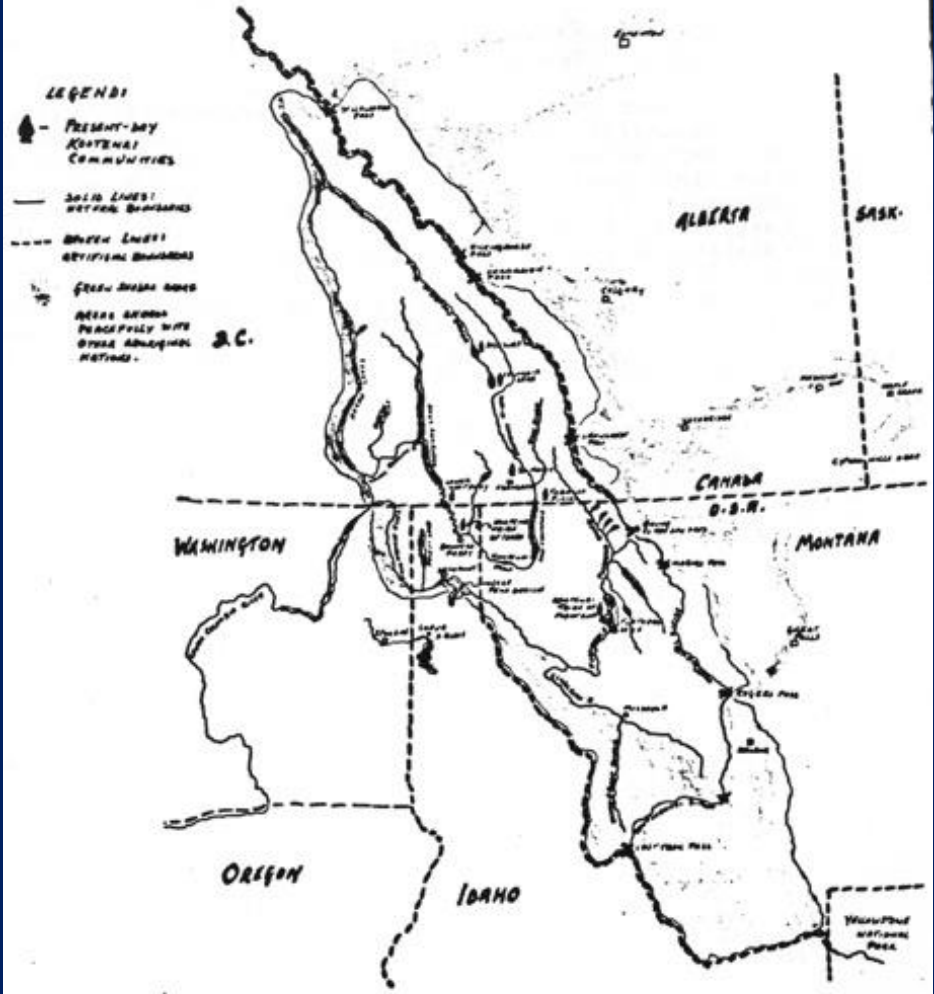
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*“I have created you Kootenai people to look after this beautiful land, to honor and guard and celebrate my creation here in this place. As long as you do that, this land will meet all your needs.*

*Everything necessary for you and your children to live and be happy forever is here, as long as you keep this Covenant with me.”*



# Kootenai Aboriginal Territory



*“When the surveyors came from the International Boundary Commission, we took them and their equipment across the river. We shared our food with them and showed them safe trails to follow. We helped them, and then they drew a line through the middle of our house, and said we couldn’t cross it. You call that line the U.S.-Canada Border.”*

*Century of Survival: A Brief History of the Kootenai Tribe of Idaho  
by Elders of the Kootenai Nation and Members of the Tribe*

# Jay Treaty Border Alliance

Co-Founded and Co-Chaired by the  
Kootenai Tribe of Idaho  
and  
Saint Regis Mohawk Tribe

Includes Tribes and Indigenous Nations along the  
colonial boundary between the U.S. and Canada

# Treaty of Amity, Commerce, And Navigation (Jay Treaty)

## Article 3

It is agreed that it shall at all times be free . . . to the Indians dwelling on either side of the said boundary line, freely to pass and repass by land or inland navigation, into the respective territories and countries of the two parties, on the continent of America . . . and freely to carry on trade and commerce with each other.

<https://www.loc.gov/law/help/us-treaties/bevans/b-gb-ust000012-0013.pdf>

# 8 U.S.C. Section 1359 (formerly INA Section 289)

Nothing in this subchapter shall be construed to affect the right of American Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race.

(June 27, 1952, ch. 477, title II, ch. 9, § 289, 66 Stat. 234.)

<https://www.law.cornell.edu/uscode/text/8/1359>



116<sup>TH</sup> CONGRESS

1st SESSION H. R. 2496

Nothing in this subchapter shall be construed to affect the right of American Indians born in Canada or the United States to pass the borders of the United States, but such right shall extend only to persons who are members, or eligible to be members, of a Federally recognized Indian tribe in the United States or Canada.

# Government of Canada

Minister's Special Representative Report

on

First Nation Border Crossing Issues

<https://www.aadnc-aandc.gc.ca/eng/1506622719017/1506622893512>

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# THANK YOU

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