

The Secretary of State for External Affairs



Secrétaire d'Etat aux Affaires extérieures

Canada

OTTAWA K1A 0G2

October 22, 1975

Dear Mr. Chance,

I have the honour to inform you that the Governments of Canada and the United States of America recognize that the proposed Garrison Diversion Unit of the Pick-Sloan Missouri Basin Program in the State of North Dakota has a potential for causing pollution of waters flowing across the international boundary into Canada.

The Government of Canada has concluded, on the basis of studies conducted by the United States and Canada, including certain studies conducted by the United States in response to questions raised by Canadian officials, that the Garrison Diversion Unit, as currently envisaged, would have adverse effects on the Canadian portions of the Souris, Assiniboine and Red Rivers, and on Lake Winnipeg, which would cause injury to health and property in Canada in contravention of Article IV of the Boundary Waters Treaty of 1909.

The Government of the United States has reached no final conclusion as to whether the Garrison Diversion Unit, as presently envisaged, would be consistent with the rights of the United States and of Canada to the equitable use of waters crossing the boundary, and with Article IV of the Boundary Waters Treaty. The Government of the United States notes that, at present, waters crossing the boundary have wide natural fluctuations in quality and quantity, and that the Garrison Diversion Unit, as presently envisaged, could have both beneficial and adverse impacts on the quality and quantity of these waters. The Government of the United States has assured the Government of Canada that in any development of features of the Garrison Diversion Unit that will affect Canada, specifically works in the Red River Basin and the Souris Loop, the United States will comply with its obligation to Canada.

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not to pollute water crossing the boundary to the injury of health or property within Canada. The Government of the United States has similarly assured the Government of Canada that no construction potentially affecting waters flowing into Canada will be undertaken unless it is clear that this obligation will be met.

In light of the views of governments as expressed above, the Governments of Canada and the United States of America have agreed, pursuant to Article IX of the Boundary Waters Treaty of 1909, to request the International Joint Commission to examine into and to report upon the transboundary implications of the proposed completion and operation of the Garrison Diversion Unit in the State of North Dakota; and to make recommendations as to such measures, including modifications, alterations or adjustments to the Garrison Diversion Unit, as might be taken to assist governments in ensuring that the provisions of Article IV of the Boundary Waters Treaty are honoured.

In doing so, the Commission should examine into and report upon the following and such other matters as the IJC may deem relevant:

(a) the present state of water quality in the Souris and Red Rivers, their tributaries and other downstream waters, with particular reference to the Canadian portions thereof, which may be affected by the proposed completion and operation of the Garrison Diversion Unit. The examination should include the following:

- 1) total dissolved solids,
- 2) sulfate, sodium, chloride, magnesium, calcium and compounds thereof,
- 3) bicarbonates,
- 4) nutrients, including nitrogen, phosphorus and their compounds,
- 5) pesticides and herbicides,
- 6) dissolved oxygen, temperature, sediment and other related parameters affecting aquatic life,
- 7) trace elements, including boron, selenium, lead and other heavy metals;

- (b) the present uses of these waters and those uses which may reasonably be anticipated in the future;
- (c) the effects of present water quality on these uses;
- (d) the nature, extent and location of impacts on the quality and quantity of these waters to be anticipated as a result of the proposed completion and operation of the Garrison Diversion Unit;
- (e) the nature, extent and economic cost of such impacts to be anticipated from the proposed completion and operation of the Garrison Diversion Unit on the present and anticipated future uses of these waters; and
- (f) the nature and extent of the impact on commercial and recreational fisheries in Manitoba, particularly Lake Winnipeg, of the possible introduction from the Missouri River system through the Garrison Diversion Unit of foreign species of fish, fish diseases, and fish parasites.

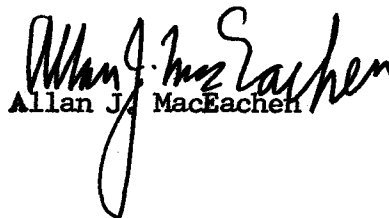
Should the Commission make any recommendations concerning measures which could be taken to avoid or relieve adverse effects on uses in Canada, what would be the approximate cost of such measures?

In the conduct of its investigation and in the preparation of its report, the Commission should make use of information and technical data heretofore available, or which may become available during the course of the investigation. In addition, the Commission should seek the assistance, as required, of specially qualified personnel from both countries.

Both the United States and Canada ascribe particular importance to the views of the Commission on this matter. Accordingly, the Commission is requested to complete its investigation and submit its report in the minimum possible time, consistent with a thorough examination of the subject, but in any case, not later than October 31, 1976.

The Governments shall make available, or as necessary, seek the appropriation of, the funds required to provide the Commission promptly with the resources needed to discharge its obligations fully within the period specified.

A similar request is being transmitted to the International Joint Commission by the Government of the United States.

  
Allan J. MacEachern