

**SUPPLEMENTAL REPORT  
OF THE  
INTERNATIONAL POINT ROBERTS BOARD**

**TO THE  
INTERNATIONAL JOINT COMMISSION  
CANADA AND UNITED STATES**

**SEPTEMBER 15 1974**

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OF THE  
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INTERNATIONAL POINT ROBERTS BOARD

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## INTRODUCTION

On April 21, 1971, the Governments of the United States and Canada requested the International Joint Commission (IJC) to undertake a study of the problems created by the presence and location of the international boundary at Point Roberts, Washington and to make recommendations for the solution of those problems. A number of problems were identified by the two Governments, i.e., the application of customs laws and regulations, employment regulations, the adequacy of medical service for Point Roberts residents, arrangements for the supply of electric power and telephone service and difficulties related to law enforcement on Point Roberts. The Commission was asked to deal with these specific problems and also to examine the total Point Roberts situation, identify any other problems that existed by reason of the international boundary and to make recommendations for the solution of those problems as well.

On November 30, 1971, the IJC established the International Point Roberts Board to undertake, through appropriate agencies and departments in Canada and the United States, the necessary investigations and studies and to advise the Commission on all matters which it must consider in making its report or reports to the two Federal Governments.

The International Point Roberts Board in October 1973 submitted its report to the IJC entitled "Solutions to the

Problems Facing the Residents of Point Roberts". The Board found that there were several problems facing Point Roberts in addition to those identified by the two Governments as outlined above. The Board concluded that the problems initially identified by the two Governments were minor when compared to a number of other more fundamental problems facing the existing population. These fundamental problems can be stated as follows. Point Roberts is both physically removed from the United States mainland and a natural part of a dormitory and recreational suburb of Vancouver. It does not have sufficient natural resources such as water to support the existing population and weekend visitors let alone any future development. The required natural resources must come from outside the Point.

The logical place for these resources to come from is Canada. It is the judgment of the Board that the Canadian Governments involved will agree to supply these resources only if they also have a voice in the questions of land use patterns and population densities on Point Roberts.

From its analysis of the specific problems and the impact that various solutions would have on the Point Roberts region, the Board concluded that the solution which would provide the most favorable long term benefits and at the same time be acceptable to most interests in the area would be one involving cooperation on the part of authorities on both sides of the boundary to achieve common goals. The

Board has concluded that such a solution required a concept of sufficient breadth to justify a marshalling of resources on both sides of the boundary and that such resources would not be forthcoming from either Federal Government unless an institutional framework were created which could provide continuing and enduring benefits to the citizens of both countries.

The Board was fully aware of the desire on the part of Point Roberts residents for more adequate public services as well as the concern on the part of British Columbia officials regarding the future population of Point Roberts. The Board was also fully cognizant of the desire on the part of those living in the Gulf-San Juan Island region to maintain the rural character of the area, to maintain high environmental standards, and to be involved in the process of making decisions which affect their lives. Indeed this point was later established very eloquently at the public hearings held last December.

With the above points in mind, the Board in its October 1973 Report recommended the following:

- (1) the establishment of a conservation and recreation area in the Gulf-San Juan Islands-Point Roberts area. This recommendation took into account the current trend in both the United States and Canada toward recreation that is conservation oriented. The purpose

of this recommendation was two-fold: to obtain the commitment of the two Federal Governments that within this large area conservation of the natural environment should be of paramount importance and, to provide the people within the area a direct link to the process of making decisions which would have an impact on their lives.

- (2) the establishment within this conservation and recreation area of a headquarters area composed of Point Roberts and an equivalent, contiguous area in Canada along Boundary Bay.
- (3) the establishment of a binational forum composed of six members which would have certain specified but different responsibilities in the two areas. It was proposed that these responsibilities be as follows:

- (a) within the larger conservation and recreation area the binational forum should have only the authority to make recommendations to the appropriate governmental authorities on each side of the border. It was anticipated that these recommendations would cover such matters as water quality and land use. The forum would provide an established

mechanism through which people on both sides of the border would have a recognized means of making recommendations to the decision-making authorities in both countries. This forum would not in any way change the existing authorities and responsibilities of governmental bodies in either the United States or Canada.

- (b) within the headquarters area (Point Roberts and an equivalent contiguous area in Canada along Boundary Bay) the binational forum would have the authority to operate and maintain such facilities and services which are deemed necessary to carry out its functions and are defined by a treaty between the United States and Canada, including the authority to approve or disapprove any development located within the headquarters area.
- In addition, it was recommended that it have the authority to acquire either by purchase or gift any property deemed necessary to carry out its responsibilities. It was anticipated that the administrative needs of the forum would involve only

limited acreage within the headquarters area. Thus, housing and other private facilities would continue to exist in the headquarters area. The forum would not have any power of eminent domain. That power would remain exclusively with the appropriate national authorities on both sides of the border.

It should be noted that any powers given the binational forum would have to be set forth in a treaty between the United States and Canada. Any changes in those authorities would require amendment to the treaty. Accordingly, it would not be possible for the binational forum on its own to expand its role in either the headquarters area or the larger conservation and recreation area.

On June 18, 1974, the Commission requested the Board to submit by September 15th a report focusing on solutions to the specific problems affecting Point Roberts within the more limited geographic area of Point Roberts and its immediate environs. The Commission requested the Board to make assumptions as to future population levels. These population levels are as follows:

- (1) the existing population level;
- (2) the maximum population level for which water might be provided from Canada;

- (3) the population level which would accompany large-scale private development of Point Roberts such as that proposed by Pacific and Western Equities, Inc.

The Board was requested to include an analysis of the implications of such levels on the administrative and statutory arrangements that would be required to meet the difficulties now present at Point Roberts.

With regard to the above three population levels, the Board has gathered the following information. First, from Whatcom County officials we have learned that the existing population consists of 800 year-round residents and an additional 2,200 individuals who live at Point Roberts during the summer months.

Second, the Board has sought information from the Province of British Columbia regarding the maximum population level at Point Roberts for which water and other services might be provided from Canada. The Government of British Columbia is not willing to state at the present time what that maximum population level might be. It is the view of the Board that such a population level can only be determined by direct discussions between the appropriate authorities in the Province of British Columbia and the State of Washington.

Third, with regard to the population level that would accompany large-scale private development of Point Roberts,

such as that proposed by Pacific and Western Equities, Inc., the Board has made the following estimates. It is the Board's opinion that the minimum population level that would justify private development on the estimated 1,740 acres which are either owned by or under option to Pacific and Western Equities, Inc., would not be less than 6,000 - 8,000. It could, however, depending upon a variety of factors range up to 15,000 or more. If this particular development takes place, it is our best estimate that there would be additional development on the remaining 1,410 acres of Point Roberts with a corresponding further increase in population. Thus, the total population of Point Roberts resulting from large-scale private development could be as high as 25,000 - 30,000.

SPECIFIC PROBLEMS AFFECTING POINT ROBERTS

(1) The application of the customs laws and regulations of the United States and Canada with respect to the transportation of goods, particularly perishable foodstuffs and equipment used in connection with the trade or business of the person transporting the same into and out of Point Roberts.

In addition to the specific customs problems discussed below, the future population level of Point Roberts will have an impact on the general operation of the United States and Canadian customs stations at Point Roberts. The existing customs houses are adequate for the current population, but if the population were to increase significantly, new buildings and additional personnel would be required to handle the increased number of commuters from Point Roberts to and from their likely place of employment in Canada. A large increase in the population of Point Roberts would also create other customs problems. Under current conditions there is very little that Canadian residents visiting Point Roberts can acquire and bring back to Canada. Consequently, Canadian Customs at Point Roberts have few problems controlling the importation of goods. If the population were to increase significantly, the number of stores and other commercial outlets would also increase, thereby increasing the probability of goods being brought back to Canada by Canadian

visitors. This increase in commercial outlets would also increase the amount of in-transit commercial traffic from the United States mainland to Point Roberts, thereby increasing the workload of both United States and Canadian Customs at both Blaine and Point Roberts.

Many of the difficulties being experienced by residents of Point Roberts regarding the application of United States customs laws and regulations could be eliminated if Point Roberts were to be established as a free zone by the United States Government. Such a status would permit both people and goods to move into and out of Point Roberts without being subject to inspection or control by United States Customs officials. It would not, however, affect the enforcement of United States immigration laws. Nor would it affect the application of Canadian customs laws and regulations. The major benefit of such an arrangement would be to permit residents of Point Roberts to shop freely in British Columbia and to bring their purchases back to Point Roberts without being subject to custom's duties. It should be noted, however, that if such a status were granted to Point Roberts, then persons traveling from Point Roberts to other portions of the United States, whether by air, land or sea, would be treated for United States Custom purposes as though they were traveling from a foreign country and would therefore be required to clear customs upon their arrival.

Although free zones have been established by some countries (Mexico for example), current United States law contains no provision for such an arrangement. Accordingly, if this approach were taken to alleviate some of the customs problems faced by residents of Point Roberts, new federal legislation would be required.

(a) Clarification and liberalization of rules governing transport of goods through Canada.

Canada Customs "in transit" regulations call for the sealing of all goods transported through the country to foreign destinations. Such goods are usually carried by bonded carriers who may be required to list on a manifest all items involved. The practice at Point Roberts and Blaine, Canada, Customs Offices, has been to exempt known residents of the Point from the necessity of both sealing and accounting for purchases that may have been made in Washington State proper. However, where customs officers are suspicious of the circumstances in which goods are proposed to be transported through Canada, they may require that an official manifest be made out. Such a situation could arise where Canadians who are not residents of Point Roberts are passengers in the automobile of someone who lives at the Point. Canadian Customs officials find it at present hard to visualize formal changes to the Canadian Customs Act which would solve the problem in a more effective way than present practices.

These practices appear to work quite well for the existing population of Point Roberts. If the population were to increase to any significant degree, even with the concurrence of Canada, problems associated with transport of goods can be expected to increase. If there is large-scale private development on Point Roberts, it can be anticipated that the current relatively informal procedures will prove increasingly difficult.

(b) Free movement of tradesmen, their tools and supplies from the United States through Canada.

While technically all tradesmen, their tools, and supplies are required by Canadian law to be dealt with as tools "in transit", the practice of Canadian Customs officials has been to exempt the equipment of ordinary repairmen as well as the tools of power company trucks and the like. Bonded commercial truckers, however, must conform to the law at the present time.

The level of population does not appear to have any impact on this aspect of customs regulation. It can be anticipated, however, that an increased population on Point Roberts will make it possible for more workmen to live on the Point. On the other hand, it can also be anticipated that a larger population will result in a more complex community and there will be demands for more diverse and complex services which will remain unavailable on the Point.

Thus, it is likely that the burden on United States and Canadian customs will increase.

(c) Transportation of equipment used in connection with a trade or business from Canada into and out of Point Roberts.

Under current practices such equipment can be registered with customs officials at the time it is brought into the United States. The level of population on Point Roberts has no impact on this procedure. However, if there is large-scale private development on Point Roberts many of the day-to-day current commercial needs will be met by businesses which will be established on the Point. This may reduce the need to bring certain equipment in from Canada. On the other hand, the more complex community that would result from large-scale private development can be expected to have needs for more complex services and equipment than the current population, and it is not likely that such services and equipment could be maintained on the Point itself (e.g. elevator and commercial scale heating and air conditioning equipment.)

If Point Roberts were to be declared a "free zone" by the United States Government as described above, repairmen bringing equipment from Canada into the United States would not be required to register such equipment with United States Customs.

(d) Importation of perishable foodstuffs.

Perishable foodstuffs imported into the United States must meet United States Food and Drug Administration standards which are different from those in Canada. It does not appear likely that United States regulations would be changed to accommodate the specific case of Point Roberts. In addition, from the point of view of Canadian procedures, the income that could be derived from the sale of goods to residents in Point Roberts would not justify the economic and management burden that would be required to meet United States standards.

Under current law, residents of Point Roberts can bring \$10.00 worth of goods per day from Canada into Point Roberts. (See Appendix A.) Perishable foodstuffs for personal use can be brought in under this provision. A change in this \$10.00 limit would require new United States Federal legislation. However, this \$10.00 limit could be eliminated as it applies to Point Roberts if Point Roberts were designated a "free zone" as described above.

The level of population of Point Roberts does not affect any of these procedures. However, it can be said that the "free zone" concept would appear most desirable in situations where the population is too small to support full commercial activity.

(2) The regulations governing employment in  
Canada of residents of Point Roberts and in Point

Roberts of Canadian citizens resident in and  
around Point Roberts.

The Canadian Department of Manpower and Immigration and the United States Department of Labor were consulted regarding this matter.

According to Robert M. Adams, Assistant Deputy Minister for Immigration in the Canadian Department of Manpower and Immigration, there are at the present time no significant restrictions on the employment of permanent residents of Point Roberts from commuting to jobs in Canada, subject to the normal provisions of the Immigration Act relating to good character and health. Such persons must maintain permanent residence in the United States and be proceeding to pre-arranged employment of a continuing nature in Canada. Given this statement of policy, the Board attempted to ascertain the specific facts of cases in which employment is alleged to have been denied. None were found.

With regard to Canadian citizens who seek temporary employment in Point Roberts, the United States Department of Labor has proposed, subject to the approval of the Department of Justice, that labor precertification be granted to permanent residents of Canada living within commuting distance who seek to enter for full-time, temporary (as distinct from intermittent) employment in Point Roberts. The proposal, based upon a Labor Department study of conditions in the

local labor market, would apply to full-time temporary workers, e.g., construction workers, but would not apply to TV repairmen and others who make service calls. The required Justice Department approval has not been received. (See Appendix B.)

The procedures for precertification are not affected by the population level at Point Roberts. However, it would appear that if the population were to increase over a period of time greater commercial activity would be drawn to the Point, thus reducing the need for workers to come from Canada. It should also be noted that if the population were to increase over time, it would be quite difficult for the precertification procedure to operate efficiently since it would be difficult for the appropriate United States officials to determine at any given time which skills were available on the Point and which skills should logically be imported.

(3) Problems of health and medical services  
including the following:

(a) Limitations in governmental health  
insurance programs which operate to deny  
compensation to residents of Point Roberts.

The Government of British Columbia and the United States Department of Health, Education and Welfare were consulted regarding this matter.

According to the British Columbia Medical Services Commission, a person who makes his home in British Columbia

and who spends the greater part of each year there would be considered a resident of the Province and would qualify for benefits under the overall Medical Services Plan. On the other hand, a person who spends the greater part of each year outside British Columbia, whether in Point Roberts or any other place, could not qualify for coverage under the overall Medical Services Plan. This is not a situation caused by the geographic location of Point Roberts.

William Yoffee of the United States Social Security Administration stated that there is nothing that the United States can do to assist Canadian residents of Point Roberts who lose the benefits of their Canadian health insurance programs. Canadian citizens who actually work in the United States are covered when they fall under applicable United States social security programs.

On October 30, 1972, the Social Security Act of the United States was amended to cover in-patient hospital services furnished to an individual entitled to hospital insurance benefits under 42 U.S.C. 426 by a hospital located outside the United States and "the hospital was closer to, or substantially more accessible from the residence of such individual than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury." (42 U.S.C. Sec. 139f, as amended by Public Law 92-603, Title II, Sec. 211.) This arrangement will assist

residents of Point Roberts regardless of the population level of the Point.

(b) Restrictions on the practice of medicine in the State of Washington which forbid Canadian physicians from practicing in Point Roberts.

The State of Washington has recently passed legislation which permits physicians licensed to practice medicine in Canada to practice medicine at Point Roberts to a limited degree. Such Canadian physicians are permitted to respond to emergencies and make house calls. However, they are not permitted to open an office at Point Roberts. (Washington Laws, 1973, 1st Extraordinary Session, Ch. 110.)

This arrangement would appear to be adequate to meet the needs of the current population. Indeed, no changes in the regulations would be required to meet the needs of any future population level. It can be anticipated that if there were a large increase in population, adequate medical services might well follow.

(4) The existing arrangements for supply of electric power and telephone service to Point Roberts by Canadian utilities subject to United States laws and regulations.

(a) Electric power is provided to the residents of Point Roberts by Puget Sound Power and Light Company (Puget Power), a Washington corporation. It

is not presently possible to serve the area directly from Puget Power's electric system. Reasons for this along with present rates and electric power distribution arrangements are described in Appendix C.

(b) Telephone service is provided to Point Roberts by the British Columbia Telephone Company. The Board has received no complaints regarding telephone service or the rates charged for that service.

In view of the above, the Board considers that present arrangements for telephone service in Point Roberts are adequate for the current population. Indeed, these arrangements could well be adequate for any future population level at Point Roberts. However, it can be anticipated that if there were a substantial increase in the population these services could be brought in from the mainland via cable as it becomes economically feasible to do so.

(5) Present and potential problems related to law enforcement in Point Roberts, including transportation of accused persons from Point Roberts to detention facilities in the United States by way of Canada.

According to United States Customs inspectors at Point Roberts, the number of visitors to the Point is increasing annually. Satisfactory handling of the influx depends

primarily upon the experience, intuition, and initiative of individual customs officers. It is, according to these officers, doubtful that drug or other illicit traffic is significant at the present time.

Mr. James F. Greene, Associate Commissioner for Operations in the United States Immigration and Naturalization Service of the Department of Justice, stated that in the event of a legitimate complaint from American citizens on Point Roberts, the United States Border Patrol will respond. However, because of limitations on time and personnel, it is not possible for the Patrol to increase its activities at Point Roberts and still be able to meet its responsibilities elsewhere along the border.

Mr. Greene has also said that it is not within the authority of the Border Patrol to act as an ordinary police force, e.g., on matters of public order. Once a law officer has made an arrest, however, the Border Patrol could assist in transferring the prisoner to the mainland. This is important because of the problems of such transfers. The legal difficulty of transporting accused persons through Canada is twofold. Not only would the United States police officers lose jurisdiction when an accused person enters Canada, but Canadian authorities would not acquire jurisdiction insofar as the alleged crime is concerned. The simplest solution to this problem, which is the current practice, is to transport accused persons, either by air or sea, from

Point Roberts to the United States mainland without entering Canadian territory. Although it may be feasible for the United States and Canada to enter into a treaty which would permit the transport of accused persons from Point Roberts through Canada to the United States mainland, the present practice is satisfactory and would remain so regardless of any increase in the population level of Point Roberts.

In general although there are only a few law enforcement officials on the Point, current needs are being met. If the population does increase, additional law enforcement officials to meet new requirements would be necessary.

In addition to the above problems identified in the terms of reference from the United States and Canadian Governments to the Commission, the Board was asked to identify, investigate, and make recommendations regarding any other problems found to exist on account of the unique situation at Point Roberts. Several such problems were identified by the Board.

- (a) The need for basic services at Point Roberts:  
water, sewage treatment and solid waste disposal.

It became clear at the public hearing held in Point Roberts on December 18, 1971, that the most critical problem facing Point Roberts was the need for an adequate supply of water for both domestic and sanitary purposes. The existing supply is not sufficient to meet the domestic requirements (as defined by Washington State Law) of the existing

population. In addition, there are at this time no sewage treatment facilities on Point Roberts. Waste is disposed of by the use of septic tanks. However, due to the character of soil on the Point, only about forty percent of the land on Point Roberts can sustain a septic tank system. Without a solution to the dual problem of water supply and sewage treatment, any further development of Point Roberts is effectively precluded.

As previously stated, the logical source of water, both for current and any future increased needs of Point Roberts, is Canada. Moreover, the logical long-term solution to the sewage treatment problem at Point Roberts is the development of a coordinated sewage treatment system with the appropriate authorities in British Columbia.

Under Canadian constitutional practice, the export of water is subject to Canadian federal control. However, fresh water within the provinces is provincially owned and controlled. Thus, for Point Roberts to receive water from Canada, it will be necessary to have the cooperation of both the Canadian Federal Government and the Government of the Province of British Columbia. The Board notes that the responsible Minister in the British Columbia Government has stated that in his view "there must be a strong attraction for the British Columbia Government to accommodate Point Roberts needs, before any water supply arrangement could receive consideration." (See Appendix D.)

It is the Board's judgment that before Canadian authorities would give serious consideration to providing water for Point Roberts, they would have to be satisfied that the population of Point Roberts would not drastically increase. An increased population would undoubtedly place a substantial burden on a number of facilities located in Canada and paid for by Canadian taxes. For example, already overburdened Canadian roads would be used by the new Point Roberts residents in commuting to and from their likely place of employment, Vancouver. Also, an additional burden would be placed upon Canadian customs officials at Point Roberts due to both the sheer magnitude of the border crossings and the fact that with increased commercial activity at Point Roberts there would be an increased possibility of smuggling goods into Canada. It is also likely that an increased population on the Point would place a burden on Canadian facilities which are not now affected by Point Roberts. For example, if the population increases significantly in the future, solid waste disposal will become a larger problem for residents of Point Roberts, and it can be foreseen that Canadian authorities will be asked to assist in the solution to this problem. Other similar problems could arise.

In light of the above, if Point Roberts is to obtain water and other essential services from Canada, there will have to be some agreement reached with Canada regarding the future population level of Point Roberts and the degree to

which Canada will be expected to provide services. This was one of the reasons that the Board recommended the establishment of a binational forum composed equally of Americans and Canadians which would have authority to approve or disapprove future development at Point Roberts.

A possible alternative source of water for Point Roberts is the United States mainland, with the water brought in via a pipeline across Boundary Bay. This would be feasible only if there were large-scale private development of the Point sufficient to support the capital cost of the pipeline. Such a development would also have to support the construction of an adequate sewage treatment plant.

However, even if this solution were adopted, Point Roberts could not become a self-sufficient community. The population required to support the construction of a pipeline can be expected to create a wholly new problem for Point Roberts residents, i.e., access into and out of Point Roberts, both for the new residents of the Point and for the services they will require. The international boundary is the essential fact of the Point Roberts situation. The current population does not have a great impact on Canadian facilities or services, but a significantly larger population at the Point would. Canadian officials cannot be expected to welcome this new burden. It is also reasonable to expect some lack of cooperation on their part in certain instances where such cooperation would be helpful if not essential.

(b) Visa restrictions on Canadian residents of Point Roberts.

The Board was informed that problems existed regarding visa restrictions imposed on Canadians who were residents of Point Roberts. The Department of State was consulted regarding this matter.

According to the United States Consulate General in Vancouver, the current waiting period for an immigrant visa is eighteen months, due to the large number of applications and the constraints imposed by annual quotas under the Immigration and Naturalization Act as amended. In the past, United States immigration authorities have overlooked violations by some Canadian residents of Point Roberts, who have moved to the Point before they have actually obtained an immigrant visa. After they have entered the United States, many of these persons have failed to pursue their visa applications and, in fact, have remained in the United States illegally. The Immigration and Naturalization Service is in the process of tightening enforcement of the regulations, since the more lenient policy of the past has been abused. This might well create additional difficulties if private development of the Point involved a large increase in the number of Canadians wishing to live there.

The United States immigration laws and regulations apply equally to all non-United States citizens who wish to live in the United States. It is not likely that these laws

would be changed to accommodate Canadian citizens who wish to live at Point Roberts.

(c) Canadian Pension Rights

The issue of pension rights for Canadians living at Point Roberts was also brought to the attention of the Board. The Canadian Department of National Revenue and the Canadian Department of National Health and Welfare were consulted regarding this matter.

According to the Department of National Revenue, contributors to the Canada Pension Plan are entitled to benefits under the Plan regardless of their country of residence at the time their claims are filed. Eligibility is established by virtue of having contributed under the Plan, benefits being calculated on the amount of pensionable earnings on which contributions have been paid.

To be allowed to contribute under the Plan, however, a person must be employed by an "employer operating in Canada," i.e., one having an establishment in Canada and taxable in Canada and meeting certain other conditions prescribed by law. Non-residents of Canada who work for an employer who does not operate in Canada are not permitted to contribute to the Plan. Furthermore, a self-employed person must be a resident of Canada for purposes of the Income Tax Act to qualify for coverage under the Canada Pension Plan. Persons who work in Point Roberts but who reside in Canada are required to contribute to the Plan.

With respect to another pension plan, The Old Age Security Pension, the eligibility requirements are different. According to the Department of National Health and Welfare, benefits under the Old Age Security program are paid to all persons who qualify on the basis of age (65 or over) and residence in Canada. To establish initial eligibility, the residence requirement may be fulfilled in one of three ways:

- (1) reside in Canada, after the age of 18, for periods which total at least 40 years; or
- (2) reside in Canada for the 10 years immediately before approval of the application; or
- (3) be present in Canada, after the age of 18 and prior to the 10 years mentioned above, for periods which total at least 3 times the length of absences during the 10-year period, and reside in Canada for at least 1 year immediately preceding approval of the application.

Once he has established his eligibility, a pensioner may move outside of Canada and continue to receive payments for an indefinite period, if he has resided in Canada for a total of 25 years after his 21st birthday. If he cannot meet this requirement, his pension may be paid for only six months and then must be suspended until he returns to Canada.

It is not likely that these regulations, which are of general application throughout Canada, would be changed to accommodate Canadians who live in Point Roberts.

## CONCLUSIONS

After prolonged study, the Board has come to the firm conclusion that the only realistic long-term solutions of the problems facing the residents of Point Roberts will necessarily involve cooperative action by both United States and Canadian authorities. From the above discussion, it is apparent that while all of the specific problems - including the water supply problem - could be solved by wholly United States action, the cost would be high. Moreover, such unilateral action by the United States would not alter the fact that the presence of the international boundary would continue to isolate Point Roberts from the mainland in a variety of ways, both foreseeable and unforeseeable. Unless a bridge is built from Point Roberts to the mainland, Point Roberts will have to rely on its northern neighbor for access to both Canada and the United States as well as for many other services. While the Board is convinced that the most durable answers to the problems of Point Roberts can best be found through cooperation between United States and Canadian authorities, it is apparent that many other interested parties are not so convinced.

Since the Board began its study, a great deal of work has been done by other groups to come to grips with the Point Roberts situation. First, a select committee to study and report on the problems of Point Roberts has been established

by the Washington State Legislature. Several hearings have been held and it is the Board's understanding that a report will be issued by the Committee late this year or early next year. It is also the Board's understanding that the major concern of the Committee is that while international cooperation is recognized as essential, it should commence at the local level of government with state, provincial and federal assistance to be provided only if local efforts are not sufficient and then only at the specific request of the local governments. Second, the Government of British Columbia is in the process of establishing an Islands Trust in the Gulf Islands region to assist in the protection of that area in order to coordinate future development.

In addition, there are numerous local groups now studying the problems of Point Roberts and its environs. Notable among these are the authorized agencies of the Government of Whatcom County. Many community groups throughout the area have also devoted a great deal of time and energy to the Point Roberts situation.

The Board's October 1973 report enjoyed the support of the conservation groups who appeared at the public hearings and also of many individual householders who want to retain the rural and recreational nature of the Point. It also enjoyed the support of a number of United States and Canadian governmental authorities. Nevertheless, hostility to the Board's proposals was expressed by a substantial number of

the property owners on Point Roberts and on the Gulf and San Juan Islands. In addition, the Washington State Legislature, in a Senate Joint Memorial dated February 11, 1974, requested that:

"the International Joint Commission discontinue its study of the future of Point Roberts until the authorized county and state agencies complete the land use plan and actions now in process and the Washington State legislature submits any recommendations that may then be deemed appropriate."

When the Select Committee of the State of Washington Legislature completes its investigation, it should become clear to the inhabitants of Point Roberts whether their problems can best be solved by acts of the appropriate United States levels of government alone - or whether the cooperation of the various Canadian levels of government is desirable, if not required.

North of the border, the Islands Trust in time will address itself to such questions as whether there is a need for Canadian-United States cooperation on matters affecting the quality of the water, and its use and abuse, throughout the Gulf and San Juan Islands area.

If it transpires, as the Board believes it will, from the State of Washington Legislature committee study, that the cooperation of Canadian authorities is indeed required with regard to road access to Point Roberts, customs and immigration services, water for both domestic and sanitary purposes, possibly garbage disposal, and perhaps still other

services, then the Board recommends that such cooperation start at the State-Provincial level. Direct talks between the appropriate authorities of British Columbia and Washington State could and should quickly establish what kinds of cooperation would be forthcoming for what level of population of the Point. In the Board's opinion, this is the crucial question having to do with the future of Point Roberts and it can best be resolved by such direct discussions between local and provincial representatives, in the first instance. In this context it is necessary that United States citizens on the Point and local and state legislators should come to recognize that the local and provincial governments in Canada are entitled to have a point of view about the population density at Point Roberts, if Canada is to be expected to provide road access to the Point and other services.

If it also transpires that the Islands Trust finds that it will need a Canada-United States instrument for consultation on questions of conservation and pollution in the inland waters throughout the Island archipelago, then discussions should take place between the State and Provincial governments about the kind of instrument which seems to be needed and the terms of reference which it should be given.

It is quite possible that there need be no connection between the means of cooperation on the specific problems of Point Roberts, and the development of an instrument for

consultation on the preservation of the quality of life in the Island archipelago.

The International Point Roberts Board brought the two problem areas together because in its view the long-term solution to the problems caused by the unique geographic location of Point Roberts required a concept of sufficient breadth to justify a marshalling of resources, including particularly financial resources, on both sides of the boundary. In the Board's judgment such resources would not be forthcoming from either federal government unless an institutional framework were created which could provide continuing and enduring benefits to the citizens of both countries.

At the moment there is little understanding, among those most immediately concerned, of the need for such accommodation and cooperation on both sides of the border. The Board, however, is of the opinion that the deliberations of the State of Washington Legislative committee will result in a recognition of the need for realistic discussions between the State of Washington and the Province of British Columbia to determine the level of population at Point Roberts for which British Columbia would be willing to provide specific, essential services.

It is the Board's belief as well that there will eventually be found to be a need for an instrument for consultation between Canada and the United States regarding

water quality and the protection of the quality of life, in the inland waters and throughout the Island archipelago.

In due course the Governments of British Columbia and the State of Washington will be in a position to state to the IJC their findings as to an optimum population level at Point Roberts and the supporting services which British Columbia would be willing to provide.

It is the considered opinion the International Point Roberts Board that the job it was given cannot be carried further until the various local and regional authorities agree that bi-national cooperation is required. At that time the IJC may wish to have the comments of the Board on the findings and conclusions of the local officials.

The Board is aware that the Commission may wish in the near future to make a report to the two Federal Governments on its findings with regard to the Point Roberts Reference. Because of the opposition to Concept B expressed at a number of public hearings in the area, the Board doubts that it would now be useful for the Commission to recommend its acceptance by the two Federal Governments. It is also the Board's view that the Board should make no further substantive recommendations regarding Point Roberts unless and until the authorities of the State of Washington and the Province of British Columbia conclude that cooperation on the part of the two Federal Governments is required.

Appendix A

Title 19 United States Code.

Sec. 1321. Administrative Exemptions.

(a) The Secretary of the Treasury, in order to avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected, is authorized, under such regulations as he shall prescribe, to-

...

(2) admit articles free of duty and of any tax imposed on or by reason of importation, but the aggregate fair retail value in the country of shipment of articles imported by one person on one day and exempted from the payment of duty shall not exceed-

...

(B) \$10 in the case of articles accompanying, and for the personal or household use of, persons arriving in the United States who are not entitled to any exemption from duty under item 812.25 or 813.31 of section 1202 or this title, or

...

The privilege of this subdivision (2) shall not be grant in any case in which merchandise covered by a single ord or contract is forwarded in separate lots to secure the benefit of this subdivision (2).

...

U.S. DEPARTMENT OF LABOR  
Deputy Assistant Secretary for  
Manpower and Manpower Administration  
Washington, D.C. 20210

Mr. James F. Greene  
Associate Commissioner, Operations  
Immigration and Naturalization Service  
U.S. Department of Justice  
119 D Street, N.E.  
Washington, D. C. 20536

Dear Mr. Greene:

You are familiar with the problems, paperwork, and delays involved in admitting aliens for temporary employment in Point Roberts, Washington.

The enclosed memorandum from our Seattle Regional Office details the situation. Under these circumstances, we must conclude that there can be little or no availability of U.S. workers and labor certification is issued in all or practically all cases. There are certain matters, however, which we in the Department of Labor need to consider in issuing blanket or precertified labor certifications. These include possibilities of charges of discrimination if it were limited to "Canadians," the need to assure that admissions are only for truly temporary full-time employment (TV repairmen, etc., will have to come a different route), and that prevailing wages are paid.

We would like your reaction to a precertification along the following lines (subject to legal phraseology):

"Permanent residents of Canada living within commuting distance of Point Roberts, Washington, who seek to enter for full-time temporary employment in Point Roberts and who otherwise qualify for H-2 petition approval are precertified for a period not to exceed 3 or 6 months contingent upon payment of the wage prevailing in Point Roberts for the occupation as determined by the Bellingham office of the Washington Employment Security Department.

Sincerely,

PAUL J. FASSER, JR.  
Deputy Assistant Secretary  
for Manpower and  
Manpower Administrator

Enclosure

cc: Mr. George Owen, State Dept.

U.S. DEPARTMENT OF LABOR  
MANPOWER ADMINISTRATION  
REGION X

DATE: July 28, 1972

ARCADE PLAZA  
1321 2ND AVENUE  
SEATTLE, WASHINGTON

REPLY  
TO:

ATTN  
OF: 10MGE(INA-1)

SUBJ.: Request for Approval of Blanket Temporary Labor Certification  
for Point Roberts, Washington

TO: Harold O. Buzzell  
Deputy Manpower Administrator (Attn: MG)

There is a very small section of the State of Washington called Point Roberts which is accessible only by leaving the U.S.A. at the border crossing at Blaine, traveling approximately 25 miles through Canada, then entering at another border crossing. Point Roberts is at the tip of a peninsula and is 3 miles square. The total permanent population is about 300, roughly one-half U.S. citizens or immigrant aliens, and the other half Canadian citizens. During the summer, the population increases to approximately 3,500, with about 10% U.S. citizens and the remaining 90% mostly Canadian.

From the population figures above, it may be seen that there is virtually no U.S. labor force in Point Roberts. The permanent residents are mostly retirees and, like the summer residents who are there for a vacation, are not interested in employment. Local residents who are actively seeking work have no difficulty finding work and the Washington State Employment Security Department is on record as stating that there is full employment in the Point Roberts area and that qualified applicants are not available for any temporary employment offered to an alien.

This is further substantiated by the fact that, in searching our records, we could find no instance in which a U.S. resident worker was available for employment for which temporary labor certification was requested.

While the distance between Point Roberts and Blaine, the nearest U.S. point, is only 25 miles, the nearest labor force is in Bellingham, Washington, a distance of 50 miles. Workers commuting from Bellingham to Point Roberts must travel 100 miles round trip and make four border crossings. Consequently, workers are not interested in the kinds of temporary employment for which we are requesting approval of blanket-type labor certification.

2

Requests for labor certification consist primarily of summer help (much of it part-time and weekends only) to meet the increased need caused by the heavy influx of summer residents. There is no central business district. Scattered around the area are such business establishments as two taverns, a gas station-general store combination, small grocery store, theater, two small construction operations, a lumber yard, and two real estate offices. Many of the businesses are Canadian-owned and employers are all well aware of the need to hire U.S. resident workers, if available.

There are several good-sized communities just outside of Point Roberts and the suburbs of Vancouver, British Columbia, Canada, are within 15 to 20 miles. Consequently, there is a large Canadian labor market from which to draw. Types of jobs for which certifications are issued include sales clerks, waiters and waitresses, and theater projectionists. We have also certified numerous occupations in the construction trades. During the building or remodeling of a house, for instance, there are several jobs lasting only for a few days and for which no Bellingham resident has ever been interested due to the distance and border crossings. Incidentally, few, if any, of these certifications would be approved at any other location. These applications are time-consuming at the local, State, and regional offices, and, based on past history, are unnecessary on a case-by-case basis.

Our proposal therefore is for a blanket-type certification for Point Roberts similar to that used for musicians within 50 miles of the Canadian border. Members of my staff and from the State agency have discussed this proposal with representatives from the Immigration and Naturalization Service at Blaine, and there appear to be no major obstacles from the I&NS standpoint.

Our proposal would allow I&NS to give 90-day temporary certifications for all Point Roberts applications. As requested by I&NS, the Bellingham local office would provide occupational wage information to assure that prevailing wages were being met.

This proposal eliminates a sequence of paperwork and staff time required to process certification requests without adding any measurable requirements to the duties of the Immigration officers. Your approval is therefore requested to establish this proposal allowing

3

Immigration officers to certify applications for temporary alien employment up to 90 days for aliens seeking entry in the Point Roberts area.

Please let me know if you have any questions regarding this proposal.

JESS C. RAMKER  
Regional Manpower Administrator

Mr. Paul J. Fasser, Jr.  
Deputy Assistant Secretary  
for Manpower and Manpower Administration  
U.S. Department of Labor  
Washington, D.C. 20210

Dear Mr. Fasser:

Further reference is made to the precertification of certain residents of Canada proceeding temporarily to Point Roberts, Washington to perform temporary services, proposed in your letter of August 25, 1972.

The Service agrees in principle with your proposal. However, the Service would not like to assume the task of corresponding with the Bellingham office of the Washington Employment Security Department to ascertain whether prevailing wages in Point Roberts are being met. Under existing procedures, the burden is placed upon the petitioner, before he files a petition with this Service for an H-2 worker, to apply for a labor certification. It is noted that the blanket certification for musicians along the Canadian border, alluded to by the Regional Manpower Administrator at Seattle in his memorandum of August 2, 1972, covers both "unavailability" and "no adverse effect". Similarly, we believe that precertification should be made with respect to H-2 workers at Point Roberts, only if it will cover both aspects, perhaps on the assumption that the shortage of such workers would insure that prevailing wages would be met.

If you agree to the foregoing and are willing to consider precertification on that basis, the following additional suggestions are submitted for your consideration:

1. Eliminate the reference to "full-time temporary employment". Section 101(a)(15)(H)(ii) of the Immigration and Nationality Act makes no reference

to "full-time" employment, but refers to an alien coming temporarily "to perform temporary services or labor". In our view the TV repairman coming temporarily to make repairs specified in the petition would be eligible for H-2 classification if the petition were supported by a labor certification or if a precertification were made.

2. Instead of referring to "Permanent residents of Canada", substitute the word "Aliens". This suggestion is made because we believe restricting the precertification to permanent residents of Canada would be of doubtful legality.
3. Instead of referring to "commuting distance", specify the distance in miles, e.g., "25 miles".

A copy of this letter has been referred to Mr. Julio Arias, Acting Director, Visa Office, Department of State, as of possible interest to him.

Sincerely,

James F. Greene.  
Associate Commissioner,  
Operations.

cc: Mr. Julio Arias, Acting Director, Visa Office, Department of State.

For your information in accordance with your telephone request of September 5, 1972.

cc: Regional Commissioner, Twin Cities. For your information. Your NW 212.15-C of September 6, 1972 relates.

TC:RBL:hem

## BRITISH COLUMBIA HYDRO AND POWER AUTHORITY

Vancouver 1, B.C.  
Telex 04-50381  
File: - 412.0

29 March 1972

Dr. Geoffrey C. Andrew  
Chairman, Canadian Section  
Canadian-American Board to Advise International  
Joint Commission of Canada and the United  
States on Problems Affecting Point Roberts  
4633 West 13th Avenue  
Vancouver 8, British Columbia

Dear Dr. Andrew:

Following our meeting on 22 March, we have conducted an initial exploration into the problem of electric power supply to Point Roberts. A brief preliminary report covering our findings to this point is attached. Although it is too early to permit coming to any definite conclusions, the report has been prepared to assist you in meeting what are understood to be enquiries by the U.S. Section of your Board.

As you will observe, our initial findings are not particularly encouraging. However, we are prepared to explore the technical aspects of the matter further to resolve some of the uncertainties, if you wish.

Yours truly,

"H. K. Pratt  
Chief Engineer

Attachment

## B.C. HYDRO AND POWER AUTHORITY

PT. ROBERTS - ELECTRICAL POWERPRELIMINARY REPORTExisting Power Supply

Pt. Roberts is now served by the Puget Sound Power and Light Co. (Puget). Puget buy power from B.C. at a rate which provides the first 91,000 KWH/month at 1.59¢/KWH and the balance at 1.26¢/KWH. It is understood that the price per KWH averages about 1.35¢.

Puget sell power to their residential customers in Pt. Roberts at a rate comparable to B.C. Hydro's rate for residential customers and comparable to Puget's regular rate for residential customers in nearby Whatcom County. However, Puget have a special rate for customers using both a range and water heater. This rate is approximately 30% lower than the regular rate, but is not available to residents of Pt. Roberts.

There are approximately 1100 residential customers in Pt. Roberts of which some 200 are understood to be full time residents; the balance are owners of summer cottages. Service to Pt. Roberts for maintenance and repair of the distribution system presents difficulties because of its relative inaccessibility from mainland Washington.

Revenue vs. Expenditures with Existing Rate Structure

In a submission to the International Joint Commission on 18 December 1971, Puget stated that the cost of servicing Pt. Roberts substantially exceeds revenue and cited the following figures.

|   |               |
|---|---------------|
| Annual Revenue  | \$111,372.00  |
| Expenses - power purchase, taxes,<br>licences, depreciation, interest on<br>distribution facilities | \$155,933.00* |

The above expenses do not include Puget's administrative costs which if taken into account would show apparent expenses exceeding revenues by some \$96,000.00.

Possible Alternatives to the Existing Arrangements for Serving Pt. Roberts(1) Review of Rates

The subject of a more favourable wholesale rate to Puget for service to the area has previously been considered by Hydro's management which was opposed to any reduction in the existing rate.

\*It is estimated that 4 to 5 million KWH are purchased annually from B.C. Hydro at a cost of about \$75,000.00.

(2) Wheeling over 500 Kv Intertie

Wheeling Puget power over the 500 Kv intertie is impractical because the Pt. Roberts' demand is so small with respect to the intertie capability that it could not be controlled or even read on the high voltage meters. In addition, it would be inefficient to wheel such a small quantity of power through the various step-down substances.

(3) Wheeling Power on Distribution Lines

It might be possible to wheel power to Pt. Roberts over B.C. Hydro's distribution lines if approximately one mile of new 12 Kv line is constructed to connect with Puget's distribution system in Blaine. The cost of constructing a new line is estimated at about \$25,000.00. In addition a switching station would be needed as a minimum, and if Puget's power supply is not compatible with B.C. Hydro's it may be necessary to provide a substation at the international border at further added cost. Technical difficulties may, however, make it impractical to draw power into the Pt. Roberts area from a distribution voltage intertie which connects to the B.C. Hydro system. These problems would require further analysis to determine whether such a solution is technically practicable.

(4) B.C. Hydro and Puget Delivering Power to Each Others Territory

A possible alternate would be for B.C. Hydro to deliver power to Pt. Roberts in return for Puget delivering power to some area in B.C. Hydro's system near White Rock having a similar load. In this plan both utilities would continue to provide trouble calls and service to their original area. The area at White Rock which Hydro designates to receive power from Puget would have to be isolated from the B.C. Hydro system with switches which would be open at all times when power is being supplied by Puget.

Meters at both border points would be read and if, for example, the White Rock area was larger than Pt. Roberts and used more power then it would presumably be switched back to the Hydro System for part of each year.

A disadvantage to the above proposal is that several switches might have to be installed by B.C. Hydro to isolate a group of customers. Similarly, there would be the cost and inconvenience of service calls to switch back and forth to keep the metered power quantities equal and to switch the isolated customers back onto the Hydro system in the event of any failure in the power supply from Puget. An estimate of \$4,500 per year has been calculated as the cost of servicing the interconnecting line and associated switches in addition to the \$25,000 cost of an interconnecting 12 Kv line and the cost of a substation.

...

(5) "Take Over" of Pt. Roberts by B.C. Hydro

Physically B.C. Hydro could take over the function of supplying power to Pt. Roberts. However, the residents would not achieve rates significantly different than they pay now and B.C. Hydro would suffer a deficit, although probably not as large as incurred by Puget. The magnitude of the deficit would depend to some extent on the price Hydro would have to pay for the Pt. Roberts distribution plant.

At present there are legal problems involved in B.C. Hydro serving the Pt. Roberts area. These concern, among others, B.C. Hydro's authorizing legislation which limits it to serving the Province and the unwillingness of the Authority to provide service which would bring it under the jurisdiction of the U.S. Federal Power Commission and/or state regulation agencies.

The foregoing are preliminary comments which suggest that there are a number of technical and legal problems which would require detailed analysis to determine whether there is a practical way for B.C. Hydro to serve Pt. Roberts. Even if the technical and legal problems are resolved, it appears that Hydro would have to subsidize Pt. Roberts customers at some considerable expense which would be unattractive. In any event, approval of B.C. Hydro Management and probably the B.C. government would be required before any commitment can be made.

Appendix D

VICTORIA

November 30th, 1972

Mr. G. C. Andrew,  
Chairman, Canadian Section,  
International Point Roberts Board,  
4633 West 13th Avenue,  
Vancouver 8, British Columbia.

WITHOUT PREJUDICE

Dear Mr. Andrew:

I have given serious consideration to the matter which you raised at our meeting in Victoria on November 3rd, dealing with the Point Roberts problems which are unique in our relationship with the U.S.A.

Adequate water supply to the Point Roberts area appears to be the principal problem faced by the existing community. I understand that your Board is anxious to undertake a feasibility study into water supply augmentation for Point Roberts from British Columbia sources of supply. I would have no objection if such a study were undertaken by your Board, provided that it is based on the needs of the existing population.

You will, of course, recognize that my willingness to permit exploration of the water supply problems faced by the Point Roberts area does not constitute any commitment. My view is that there must be a strong attraction for the British Columbia Government to accommodate Point Roberts needs, before any water supply arrangement could receive consideration.

Yours very truly,

Robert Williams,  
Minister.