

3-1-2-2 (46)

INTERNATIONAL JOINT COMMISSION

IN THE MATTER OF THE APPLICATION OF THE CITY OF SEATTLE FOR  
AUTHORITY TO RAISE THE WATER LEVEL OF THE SKAGIT RIVER  
APPROXIMATELY 130 FEET AT THE INTERNATIONAL BOUNDARY BETWEEN  
THE UNITED STATES AND CANADA

SUPPLEMENTARY ORDER  
OTTAWA, ONTARIO  
APRIL 28, 1982

WHEREAS the Commission is committed to the provision of the Boundary Waters Treaty calling for the prevention of disputes along the common boundary.

WHEREAS the parties have not, since the Commission's Minute of October 9, 1981, engaged in direct negotiation on the question of an alternative to the High Ross Dam;

WHEREAS a negotiated solution to this matter requires an immediate total commitment, by both parties, to the process of negotiation;

WHEREAS the report of the Special Advisors to the Commission dated April 2, 1982 demonstrates that reasonable alternatives to the raising of High Ross Dam are available;

WHEREAS the Commission cannot pursue further action unless the Governments of the United States and Canada are willing to formally support and be full participants in the process of settling the matter;

WHEREAS the formal participation of Governments is imperative if there is to be any degree of certainty that a negotiated solution will be effected;

WHEREAS the participation of the Governments of the United States and Canada is required in order to facilitate both the planning and completion of domestic regulatory and legislative actions and bilateral arrangements that will be required to implement any negotiated settlement. These actions might include but would not necessarily be limited to: National Energy Board of Canada licencing; Washington State revenue bond legislation; transmission arrangements with U.S. and Canadian utilities, and adjustments related to the Columbia River Treaty;

WHEREAS the Commission determines that the Boundary Waters Treaty of 1909 confers on it continuing jurisdiction in respect of Orders made by it, but that this continuing jurisdiction does not necessarily carry with it the obligation to exercise such jurisdiction;

WHEREAS the Commission has reviewed the Request in the application of the Province of British Columbia dated August 14, 1980;

WHEREAS the Commission has reviewed and considered all arguments and materials filed pursuant to the British Columbia Request in the application;

THEREFORE the Commission is of the view that the British Columbia Request in the application and all arguments and materials presented pursuant to that Request do not constitute sufficient grounds to persuade it to exercise its jurisdiction as requested therein, and accordingly declines to grant the relief sought.

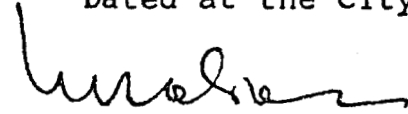
Notwithstanding the Commission's decision above on the Province's Request, the Commission also decides that in light of the views of the Governments of Canada and British Columbia and the Commission's responsibility under the Treaty to prevent disputes, and under present circumstances, the Canadian Skagit Valley should not be flooded beyond its current level provided that appropriate compensation in the form of money, energy or any other means is made to the City for the loss of a valuable and reliable source of electric power which would result if the Ross Dam project is not completed.

THEREFORE the Commission, after careful consideration and in the exercise of its continuing jurisdiction over the matter, decides to take the following extraordinary action:

- (a) Seattle is hereby ordered to maintain the level of the Skagit River at the International Boundary at or below elevation 1602.5' for a period of one year from the date of this Order.
- (b) The Commission will appoint a Special Board composed of two members of the Commission, who shall serve as Co-Chairmen, and two non-governmental experts. The Commission will invite the Government of the United States, the Government of Canada, the City of Seattle, and the Province of British Columbia to each nominate a representative to be a member of the Board. This Board will co-ordinate, facilitate and review on a continuing basis, activities directed to achieving and implementing a negotiated, mutually acceptable agreement between the City and the Province and to provide status reports regarding such progress to the Commission every four months.

The Commission retains jurisdiction over the subject matter of the 1942 Order of Approval, and may make such further Order or Orders relating thereto as may be necessary in the judgment of the Commission.

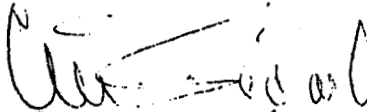
Dated at the City of Ottawa this 28th Day of April, 1982.



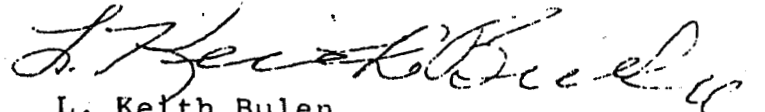
E. Richmond Olson



Robert C. McEwen



Charles M. Bédard



L. Keith Bulen