

THE SECRETARY OF STATE FOR EXTERNAL AFFAIRS
CANADA

Ottawa, April 2, 1962.

Dear Sir,

On May 5, 1961, the Governments of Canada and of the United States of America made a joint Reference to the International Joint Commission, the fourth paragraph of which provided:

"The International Joint Commission is also requested to report whether, without detriment to the scenic beauty of Niagara Falls, the flows over the Falls could be less than those now specified in the Niagara Treaty of 1950 and, if so, what would be the minimum flows of water consistent with the preservation of the scenic beauty of Niagara Falls at all times and seasons and with objectives (a), (b) and (c) of the International Joint Commission's Report to Governments of May 5, 1953."

By letter dated March 8, 1962, from the Provincial Secretary of the Province of Ontario, the Government of Canada was informed that the Hydro-Electric Power Commission of Ontario was withdrawing the request contained in the Joint Brief dated March 15, 1961, submitted by it and the Power Authority of the State of New York, to the Governments of Canada and the United States, as it relates to possible water diversions at Niagara Falls for power generation during the daylight hours of the tourist season in excess of those permitted under the Niagara Treaty of 1950.

The Canadian Government understands that the United States Government was recently informed by the Power Authority of the State of New York that it was withdrawing its request.

In view of these parallel requests, the Governments of Canada and of the United States have agreed to amend the Niagara Reference of May 5, 1961 to read as follows:

" The Governments of Canada and of the United States of America have agreed, in the light of the Conclusions of the International Niagara Board of Control's Report on Construction of Niagara River Remedial Works dated September 30, 1960, to request the International Joint Commission to investigate and report on the measures necessary to permit compliance with the objectives of the International Joint Commission's Report to Governments of May 5, 1953 under the Niagara Reference of October 10, 1950 when full use is being made of the waters available for power purposes under the Niagara Treaty of 1950, having particular regard to Articles III, IV and V of this Treaty.

" The Commission is requested specifically to investigate and determine whether or not such compliance can be achieved through:

- i) the extension of the control structure in the Niagara River which was constructed pursuant to the recommendations of the International Joint Commission's Report of May 5, 1953; and

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- (ii) the construction of other related works if necessary.

" If the Commission determines that the extension of the control structure and the construction of other related works will permit such compliance, the International Joint Commission is requested to make:

- i) recommendations concerning the nature and design of the proposed additional works;
- ii) recommendations concerning the allocation, as between Canada and the United States, of the task of construction of such additional works:
- iii) an estimate of the cost of such works and recommendations concerning the allocation of these costs, taking into consideration Article II of the Treaty:
- iv) an estimate of the advantages accruing from the construction of whatever works are recommended.

" In the conduct of its investigations, and otherwise in the performance of its duties under this Reference, the International Joint Commission may take into account the Joint Brief submitted to the Governments of Canada and the United States by the Power Authority of the State of New York and the Hydro-Electric Power Commission of Ontario on 'proposed extension to Niagara River remedial works and on certain proposed operational procedures' dated March 15, 1961, except as it relates to possible water diversions at Niagara Falls for power generation during the daylight hours of the tourist season in excess of those permitted under the Niagara Treaty of 1950. The International Joint Commission may use the services of engineers and other specially qualified personnel of technical agencies of Canada and the United States, and will, so far as possible, make use of information and technical data which has been acquired by such technical agencies or which may become available during the course of the investigation, thus avoiding duplication of effort and unnecessary expense.

" The International Joint Commission is requested to report on the matters raised in this Reference as soon as possible."

Yours sincerely,

(signed) H.C. Green.