

INTERNATIONAL JOINT COMMISSION

IN THE MATTER OF THE APPLICATIONS OF THE HYDRO-ELECTRIC POWER COMMISSION OF ONTARIO AND THE POWER AUTHORITY OF THE STATE OF NEW YORK FOR APPROVAL OF THE CONSTRUCTION OF CERTAIN REMEDIAL WORKS IN THE NIAGARA RIVER.

ORDER OF APPROVAL

WHEREAS the Governments of Canada and the United States, by References dated 10 October 1950, requested the International Joint Commission (hereinafter referred to as the "Commission") to investigate and make recommendations concerning the nature and design of the remedial works necessary to enhance the beauty of the Falls in the Niagara River by distributing the waters so as to produce an unbroken crestline on the Falls, bearing in mind the provisions for the diversion and apportionment of the waters of the Niagara River agreed by the two Governments in the Niagara Treaty of 27 February 1950; and

WHEREAS, after extensive investigation, the Commission submitted a report to the two Governments, dated 5 May 1953, containing its recommendations concerning the nature and design of the remedial works necessary to preserve and enhance the scenic beauty of the Niagara Falls and River in accordance with the following specific objectives:

(a) A dependable flow of water over the American Falls and in the vicinity of Three Sisters Islands, approximating the satisfactory flow under existing conditions;

(b) A dependable adequate flow over both flanks of the Horseshoe Falls sufficient to provide an unbroken crestline;

(c) Maintenance of the present relationship between the total river flow and the level of the Chippawa-Grass Island Pool; and

(d) Ability to meet promptly the changes in permissible power diversions while assuring flows of either 50,000 or 100,000 cubic feet per second over the Falls; and

WHEREAS the Commission's recommendations were duly approved by the two Governments and the recommended works, consisting of

(a) A Chippawa-Grass Island Pool control structure, extending out from the Canadian shore approximately 1550 feet into the Niagara River, parallel to the existing submerged weir and about 250 feet downstream therefrom;

(b) An excavation in the Horseshoe Cascades lying immediately upstream from the Canadian flank of the Horseshoe Falls and a crest fill on that flank about 100 feet long; and

(c) An excavation in the Horseshoe Cascades lying immediately upstream from the Goat Island flank of the Horseshoe Falls and a crest fill on that flank about 300 feet long,

were constructed by The Hydro-Electric Power Commission of Ontario and the Corps of Engineers of the United States Army, under the supervision of the Commission; and

WHEREAS the International Niagara Board of Control under date of 30 September 1960, submitted to the Commission a Report entitled "Construction of Niagara River Remedial Works" in which it pointed out the need for extension of the control structure to conform to physical and operating conditions that now exist and as revealed by model tests and operating experience with the present structure; and

WHEREAS the Governments of Canada and the United States, by References dated 5 May 1961, requested the Commission to investigate and report, among other things,

on the measures necessary to permit compliance with the objectives of the Commission's Report of 5 May 1953 when full use is being made of the waters available for power purposes under the Niagara Treaty of 1950; and

WHEREAS the Commission submitted to the two Governments an Interim Report dated 23 June 1961 in which it concluded that the following measures would permit such compliance during all seasons of the year and recommended that they be undertaken:

(1) Extension of the control structure by the addition of five sluices identical to those in the existing structure;

(2) Construction of a training wall generally parallel to the Canadian shore, extending from a point about 1700 feet upstream from Pier No. 4 of the control structure to a point about 2000 feet downstream from that pier, together with a concrete weir from the downstream end of the training wall to the Canadian shore; and

(3) Removal of the top of the submerged weir which is located about 250 feet upstream from the control structure to elevation 552.5 feet; and

WHEREAS The Hydro-Electric Power Commission of Ontario and the Power Authority of the State of New York under date of 21 July 1961 have submitted, through Governments, complementary Applications to the Commission for its approval of the construction by The Hydro-Electric Power Commission of Ontario of the works recommended in the Commission's Interim Report dated 23 June 1961; and

WHEREAS notices that the Applications had been filed were published in accordance with the Rules of Procedure of the Commission; and

WHEREAS no Statements in Response to the Applications were filed with the Commission; and

WHEREAS pursuant to published notices, a hearing was held at Niagara Falls, Ontario, on 11 August 1961 at which all persons interested were afforded convenient opportunity of presenting evidence to and being heard before the Commission; and

WHEREAS at the hearing Counsel for the Governments of the United States and Canada stated that the said Governments had no objection to approval of the Applications by the Commission; and

**WHEREAS** the preponderance of testimony presented at the hearing favoured approval of the Applications; and

**WHEREAS** virtually all of the proposed works are to be located in Canadian waters and for practical purposes will be accessible only from the Canadian side of the river; and

**WHEREAS** The Hydro-Electric Power Commission of Ontario and the Power Authority of the State of New York have agreed between themselves on the allocation of the costs of construction, operation and maintenance of the proposed works; and

**WHEREAS** the Commission is satisfied that the construction, operation and maintenance of the proposed works will not impair the scenic beauty of the Niagara River and Falls;

**NOW THEREFORE THIS COMMISSION ORDERS AND DIRECTS** that the construction, maintenance and operation by The Hydro-Electric Power Commission of Ontario of the following remedial works,

(1) An extension of the control structure in the Niagara River, which was constructed pursuant to the recommendations of the Commission's Report of 5 May 1953, by the addition of five sluices identical to those in the existing structure,

(2) A training wall generally parallel to the Canadian shore, extending from a point about 1700 feet upstream from Pier No. 4 of the control structure to a point about 2000 feet downstream from that pier, to provide a high velocity channel for transporting ice past the Sir Adam Beck plant intakes and through the control structure to the Cascades, together with a concrete weir across the said channel at the downstream end of the training wall, and

(3) The removal of the top of the submerged weir which is located about 250 feet upstream from the control structure, to elevation 552.5 feet,

be and the same are hereby approved, subject to the following conditions:

- (a) The design and appearance of the five additional sluices and gates of the control structure shall be substantially the same as the existing structure.

- (b) The training wall shall be as low and unobtrusive as practicable so as not to impair the scenic beauty of the area.
- (c) No single feature of construction shall be undertaken until the corresponding final general arrangement plans, design analysis and schedule of construction have been approved by the International Niagara Board of Control on behalf of the Commission.
- (d) Construction of the said works shall be carried out under the general supervision of the Commission, which will report to the Governments of Canada and the United States when the said works have been satisfactorily completed.
- (e) Operation of the five additional sluices of the control structure shall be under the control and supervision of the International Niagara Board of Control in the same manner and degree as the existing control structure.
- (f) The costs of constructing, maintaining and operating the said works shall be borne by The Hydro-Electric Power Commission of Ontario and the Power Authority of the State of New York and shall be allocated on the basis which has been agreed between them, namely



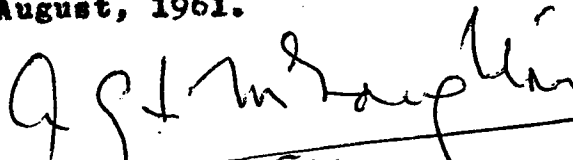
<u>Item</u>	<u>Power Authority of the State of New York</u>	<u>The Hydro-Electric Power Commission of Ontario</u>
(i) Five sluice extension to existing control structure	50%	50%
(ii) Downstream section training wall and end weir	40%	60%
(iii) Upstream section training wall	0	100%
(iv) Removal of rock weir	50%	50%

- (g) The Hydro-Electric Power Commission of Ontario shall be responsible for the disposition of claims for physical injury or damage to persons or property occurring in Canadian territory in connection with the construction, maintenance or operation of any of the works hereby approved, and for the satisfaction of any such claims that are valid.
- (h) The Power Authority of the State of New York shall be responsible for the disposition of claims for physical injury or damage to persons or property occurring in United States territory in connection with the construction, maintenance or operation of any of the works hereby approved, and for the satisfaction of any such claims that are valid.

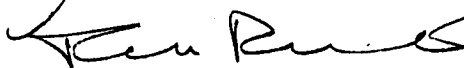
AND IT IS FURTHER ORDERED that the Commission retains jurisdiction over the subject matter of these Applications

and may, after giving such notice and opportunity to all interested parties to make representations as the Commission deems appropriate, make such further Order or Orders relating thereto as may be necessary in the judgment of the Commission.

Signed this 15th day of August, 1961.



A. G. L. McNaughton



Teno Roncalio



D.M. Stephens



E.W. Weber



F.L. Adams