

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.

SUPPLEMENTARY ORDER

WHEREAS in accordance with Article II of the Treaty concerning the Diversion of the Niagara River which was signed on 27 February 1950, certain remedial works necessary to enhance the beauty of the Falls by distributing the waters so as to produce an unbroken crestline on the Falls, recommended by the International Joint Commission on 5 May 1953, were approved by the Governments of the United States and Canada on 21 July 1953 and were constructed under the supervision of the International Joint Commission; and

WHEREAS by an Order dated 15 August 1961, the Commission approved the construction, maintenance and operation by The Hydro-Electric Power Commission of Ontario of additional remedial works on the Canadian side of the International Boundary in the Niagara River designed to improve control of the levels of the Chippawa-Grass Island Pool and to facilitate the passage of ice on the Canadian side; and retained jurisdiction to make such further Order relating to the remedial works as may be necessary in the judgment of the Commission; and

WHEREAS by an Order dated 17 May 1963 the Commission approved construction operations by The Power Authority of the State of New York to reduce the elevation of a shoal, in the Niagara River on the United States side of the International Boundary, which had impeded the passage of ice and had had adverse effects upon the control of levels of the Chippawa-Grass Island Pool; and

WHEREAS the said construction operations included construction of a temporary cofferdam and a rock-filled access ramp extending from the end of the control structure on the Canadian side to Tower Island on the United States side of the International Boundary; and

WHEREAS the elevation of the said shoal has been reduced and the cofferdam has been removed but the said ramp is still in place; and

WHEREAS the Power Authority of the State of New York and The Hydro-Electric Power Commission of Ontario, in similar letters addressed to the Commission, on 7 October 1964 requested amendment of the Commission's Order of 15 August 1961 to permit retaining the said ramp permanently in place; and

WHEREAS the Commission approved the temporary retention of the ramp for the 1964-1965 winter season and requested the Applicants to provide:

- (a) quantitative results, from field measurements, with regard to the ability of the control structure to control levels and flows under the new conditions of control structure extension, shoal reduction and ramp retention; and
- (b) plans for landscaping the said ramp, in the event that the Commission's Order of 15 August 1961 is amended as requested; and

WHEREAS the Power Authority of the State of New York and The Hydro Electric Power Commission of Ontario have informed the Commission that on the basis of experience with the ramp in place, field measurements and hydraulic model tests, permanent retention of the ramp would have the following principal advantages:

- (a) reduced erosion in the vicinity of Tower Island;
- (b) improved carrying capacity of the ice channels on each side of the river;
- (c) safer conditions for the operation of ice-breakers near the gates of the control structure; and
- (d) essential increase in level and flow control capability; and

WHEREAS the Power Authority of the State of New York and The Hydro Electric Power Commission of Ontario have submitted to the Commission a "Proposed Planting Plan for Tower Island" dated September 30, 1964 and revised on October 23, 1964 and November 13, 1964, the plan having been reviewed and approved by the Niagara Frontier State Parks Commission in New York State and the Niagara Parks Commission in Ontario; and

WHEREAS the International Niagara Board of Control has advised the Commission that retention of the said ramp is essential to flow control ability under the new conditions resulting from the extension of the control structure and removal of the shoal; and

WHEREAS in accordance with Rule 12(3) of the Rules of Procedure of the Commission the Government of the United States and the Government of Canada were notified of the request for amendment of the Order of 15 August 1961 and invited to submit their comments thereon; and

WHEREAS the said Governments have informed the Commission by letters dated May 18, 1965, that they have no objection to approval of the Applicants' request; and

WHEREAS in the judgment of the Commission this further Order relating to the said Order of 15 August 1961 is necessary;

NOW THEREFORE THIS COMMISSION ORDERS AND DIRECTS that the construction and maintenance by the Power Authority of the State of New York and The Hydro-Electric Power Commission of Ontario of the existing rock-filled ramp extending from the end of the Chippawa-Grass Island Pool Control Structure to Tower Island in the Niagara River, be and the same are hereby approved, subject to the following conditions:

- (a) The Applicants shall ensure that, as soon as practicable after the issuance of this Order, trees, shrubs and grass are planted on the said ramp and on Tower Island in accordance with the "Proposed Planting Plan for Tower Island", dated September 30, 1964, as revised on October 23, 1964 and November 13, 1964, which is attached hereto as Appendix "A" and, unless otherwise ordered by this Commission, shall maintain the ramp and Tower Island in accordance with Appendix "A";
- (b) The Power Authority of the State of New York shall be responsible for physical injury or damage to persons or property occurring in United States territory in connection with the construction or maintenance of the said ramp and for the satisfaction of any such claims that are valid; and

(c) The Hydro-Electric Power Commission of Ontario shall be responsible for physical injury or damage to persons or property occurring in Canadian territory in connection with the construction or maintenance of the said ramp and for the satisfaction of any such claims that are valid.

SIGNED this 10th day of June, 1965.

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