

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 AND OPERATION ON A TEST BASIS OF A BOOM NEAR THE OUTLET OF LAKE ERIE TO REDUCE THE DISCHARGE OF ICE INTO THE NIAGARA RIVER.

SUPPLEMENTARY ORDER

WHEREAS the International Joint Commission, by an Order of Approval, dated June 9, 1964, approved on a trial basis the construction and operation by The Hydro-Electric Power Commission of Ontario and the Power Authority of the State of New York of a boom near the outlet of Lake Erie to reduce the discharge of ice into the Niagara River; and

WHEREAS under condition (h) of the said Order the approval will terminate on the 15th day of May next unless the Commission, at the request of the Applicants, fixes a later termination date; and

WHEREAS the Applicants have requested approval by the Commission of the installation and operation of the boom during the 1965-1966 winter season; and

WHEREAS the International Niagara Board of Control has recommended extension of the termination date of the Commission's approval, as requested by the Applicants; and

WHEREAS experience during the past winter has indicated that the boom facilitated the formation and stabilization of an ice cover at the foot of Lake Erie, thus reducing the discharge of ice into the Niagara River; and

WHEREAS no complaints alleging damage to riparian or other interests as a result of the boom have come to the attention of the Commission; and

WHEREAS the Commission considers that, for greater clarity, amendment of certain provisions of the said Order of Approval is desirable; and

WHEREAS, in accordance with Rule 12 (3) of the Commission's Rules of Procedure, the Government of Canada and the Government of the United States were notified of the Applicants' request and their comments were invited; and

WHEREAS, by letter dated May 18, 1965, the Acting Secretary of State of the United States informed the Commission that the Government of the United States favoured approval of the Applicant's request; and

WHEREAS, by letter dated May 13, 1965, the Under-Secretary of State for External Affairs of Canada suggested that provision should be made in the Commission's order for a careful examination of the possible effects of the boom on ice conditions in Lake Erie, in the vicinity of Port Colborne; and

WHEREAS the Commission has directed the International Niagara Board of Control in cooperation with the Applicants, to undertake such an examination.

NOW THEREFORE THIS COMMISSION ORDERS AND DIRECTS that the Order of Approval issued by the International Joint Commission on June 9, 1964 be and the same is hereby amended as follows:

1. Condition (e) of the said Order is amended by deleting the words, "The floating boom and the transverse cable shall be removed", in the first sentence and substituting the words, "All sections of the floating boom shall be opened"; and by inserting the words "opening or" before the word "removal" in the second sentence. Condition (e) will then read as follows:

"(e) All sections of the floating boom shall be opened by the first Monday of April and disassembly shall be completed by 15 May, or by such earlier dates respectively as may be communicated to the Applicants by the Commission through the said Board of Control. However, the Commission retains the right to require the opening or removal of all or part of the boom at any time because of the existence of an emergency situation."

2. Condition (g) of the said Order is amended by deleting the words, "as soon as practicable after the formation of a satisfactory ice cover shall," and substituting the words, "as soon as practicable after the formation of an ice cover which in the judgment of the Commission is satisfactory, shall open or". Condition (g) will then read as follows:

"(g) In order to observe the effectiveness of the boom in accelerating the formation of an ice cover that will reduce excessive ice discharge to the river and also to reduce the possibility of the boom breaking due to an accumulation of ice, the Applicants, as soon as practicable after the formation of an ice cover which in the judgment of the Commission is satisfactory, shall open or remove such sections of the floating boom as the Commission may designate through the said Board of Control."

3. Condition (h) of the said Order is amended by deleting the words, "following the commencement of operation of the boom", and substituting the figures, "1966". Condition (h) will then read as follows:

"(h) This approval shall terminate on the 15th day of May, 1966, unless the Commission, at the request of the Applicants, fixes a later termination date."

Signed this 25th day of May, 1965.

A.D.P. Heeney

Eugene W. Weber

D.M. Stephens

Rene Dupuis

Charles R. Ross