

INTERNATIONAL JOINT COMMISSION

IN THE MATTER OF THE APPLICATION OF THE RAISIN REGION CONSERVATION AUTHORITY FOR APPROVAL OF THE DIVERSION OF WATER FROM LAKE ST LAWRENCE IN THE ST LAWRENCE RIVER TO THE RAISIN RIVER WATERSHED IN THE PROVINCE OF ONTARIO.

ORDER OF APPROVAL

WHEREAS

The Raisin River lies just north of the St Lawrence River in the Province of Ontario and flows in an easterly direction, discharging into the St Lawrence River near the Village of Lancaster; in summer its flows are low, sluggish and intermittent;

The Raisin Region Conservation Authority, hereinafter referred to as the Applicant, is a body corporate established under the Conservation Authorities Act of the Province of Ontario (R.S.O. 1960 C. 62, as amended) for the purpose of carrying out conservation programmes in the Raisin River watershed and adjoining areas under its jurisdiction;

The Applicant, in accordance with Article III of the Boundary Waters Treaty which was signed on 11 January, 1909, applied through the Government of Canada to this Commission for approval of the diversion of water from Lake St Lawrence in the St Lawrence River to the Raisin River watershed;

Lake St Lawrence is a boundary water within the meaning of the said Boundary Waters Treaty;

With the consent of the Commission, the Applicant submitted an Amended Application dated June 24, 1968, to the Commission in clarification of and in substitution for the earlier Application;

In the Amended Application approval was requested for the diversion of approximately twenty-five cubic feet per second of water from Lake St Lawrence in the St Lawrence River into the Raisin River watershed for a period of one hundred days to augment the natural low summer flows in the Raisin River, thereby providing a reliable source of water for farms and villages, an improved environment for fish and wildlife and an increase in the recreational and aesthetic values of

the Raisin River; the diversion would be made at two locations on Lake St Lawrence, one near the Town of Long Sault and the other about two and one half miles west of that point; and the diverted water would be returned to the St Lawrence River at the mouth of the Raisin River, near the Village of Lancaster;

Until the diversion of water from the St Lawrence is approved in principle by the Commission, the Applicant is unable to obtain the necessary financial assistance from the Government of Ontario (which prepared the Raisin River Conservation Report, 1966) to obtain detailed designs, plans and specifications of the diversion control structures;

Notice that the Amended Application had been filed was published in accordance with the Rules of Procedure of the Commission and a number of Statements in Response were presented to the Commission by interested persons;

Pursuant to published notices a public hearing was held at Cornwall, Ontario, on 19 November, 1968, at which all persons interested were afforded convenient opportunity of presenting evidence to and being heard before the Commission;

At the hearing, testimony was presented on behalf of the Applicant describing conditions in the Raisin River and a tributary, the South Raisin River, and the purpose of the proposed diversion of water from the St Lawrence River; due to the flatness of the Raisin River watershed, there are no feasible reservoir sites where water might be impounded in the spring for later use to augment the low summer flows;

At the hearing, Counsel for The Hydro-Electric Power Commission of Ontario stated that, in view of all the circumstances of the present application, The Hydro-Electric Power Commission of Ontario was agreeable to the proposed diversion, provided it was compensated for the value of the hydro-electric power that the diverted water would have generated had it not by-passed the Robert H. Saunders Generating Station downstream on the St Lawrence River; payment of appropriate compensation for this purpose had been agreed between the Applicant and The Hydro-Electric Power Commission of Ontario; and appropriate arrangements would be made between The Hydro-Electric Power Commission of Ontario and the Power Authority of the State of New York so that the latter would suffer no loss of power as a result of the proposed diversion of water;

At the hearing, the Power Authority of the State of New York stated its opposition to the proposed diversion or to any other diversion of St Lawrence or Great Lakes waters, not specifically authorized by the said Boundary Waters Treaty, which would have the effect of decreasing hydro-electric generation;

At the hearing, the Commission's International St Lawrence River Board of Control testified that the proposed diversion of water would have no measurable effect on the water levels of Lake Ontario or the St Lawrence River or on water velocities in the St Lawrence, that the proposed diversion would not prevent compliance with this Commission's Orders of Approval relating to water levels and the regulation of flows through the International Rapids Section of the St Lawrence River, and that no interests on Lake St Francis or downstream thereof would be affected by such diversion;

At the hearing, Counsel for the Government of the United States stated that, on the assumption that the Power Authority of the State of New York would not suffer any loss of power as a result of the proposed diversion, the Government of the United States did not oppose the application; also that, since the only interest known to be adversely affected by the diversion had agreed on appropriate compensation and the proposed diversion was so limited in terms of quantity, duration and area involved, approval of the present application should not be regarded as establishing either a precedent or general principles with regard to the diversion of water from the Great Lakes or the St Lawrence River;

At the hearing, Counsel for the Government of Canada stated that, in view of the arrangements proposed for compensating The Hydro-Electric Power Commission of Ontario and for ensuring that the Power Authority of the State of New York would suffer no power loss as a result of the diversion, and in view also of the particular circumstances present in this case, the Government of Canada supported the application and urged its approval;

The preponderance of testimony presented at the hearing was in support of approval of the application;

The Applicant has agreed, if the Commission grants approval of the proposed diversion of water, to have detailed plans of the diversion control structures prepared and submitted to the Commission for approval prior to the commencement of construction of such structures; and

WHEREAS the Commission, after consideration of the Amended Application, the Statements in Response filed and the testimony presented at the hearing, has determined that the proposed diversion of water from Lake St Lawrence in the St Lawrence River to the Raisin River watershed for the purposes stated in the Amended Application should be approved pursuant to the said treaty, subject to the conditions hereinafter set forth.

NOW THEREFORE THIS COMMISSION ORDERS AND DIRECTS that the diversion of water from Lake St Lawrence in the St Lawrence River to the Raisin River watershed and the construction, maintenance and operation of the diversion control structures by the Raisin Region Conservation Authority be and the same are hereby approved, subject to the following conditions:

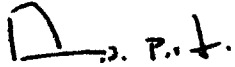
1. Water will be diverted from Lake St Lawrence at two locations, one near the mouth of Hoople Creek and the other near the Village of Long Sault, both in the Province of Ontario.
2. Diversions of water at the locations referred to above shall not exceed at any time a total of 25 cubic feet per second.
3. The said diversions shall be made only as required during the periods of natural low summer flow and, except with the prior approval of this Commission, within a period of one hundred days in any year.
4. The Applicant shall install and maintain suitable flow measuring devices at the said points of diversion from Lake St Lawrence and shall report each month to the International St Lawrence River Board of Control, for the information of this Commission, the rate and quantities of water thus diverted to the Raisin River watershed during the previous month.
5. Before commencing construction of the said diversion control structures, the Applicant shall submit for this Commission's approval detailed plans acceptable to the Commission and approved by the Ontario Department of Energy and Resources Management for the said diversion control structures.

6. The Applicant shall maintain the said diversion control structures in such condition that at all times they can perform their intended functions; and shall permit duly authorized representatives of the Commission or of the said Board of Control to inspect these structures at any reasonable time.
7. The Applicant shall compensate The Hydro-Electric Power Commission of Ontario for loss of power generation at the latter's Robert H. Saunders Generating Station by reason of the diversion of water herein approved, at the rate which has been agreed between the Applicant and the said Power Commission or at such other rate as may be hereafter agreed between them.
8. The Hydro-Electric Power Commission of Ontario will make arrangements with the Power Authority of the State of New York so that the Power Authority will suffer no loss of power by reason of the water diversion herein approved.
9. The Applicant shall be responsible for the disposition of claims for physical injury or damage to persons or property occurring in United States or Canadian territory in connection with the said diversion of water or the construction, maintenance and operation of the said diversion control structures and for the satisfaction of any such claims as are valid.
10. This approval shall terminate:
 - (a) on the 31st day of December, 1969, unless before that date the Applicant has informed the Commission in writing that it accepts all of the conditions set forth herein;
 - (b) on the 31st day of December, 1973, unless before that date construction of the said diversion control structures has been substantially completed.

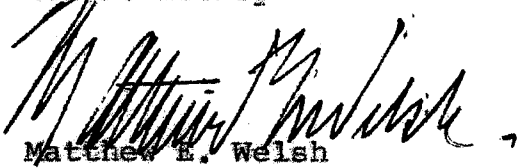
AND IT IS FURTHER ORDERED that the Commission retains jurisdiction over the subject matter of this application and, after giving such notice and opportunity to all

interested parties to make representations as the Commission deems appropriate, may make further order or orders relating thereto as may be necessary in the judgment of the Commission.

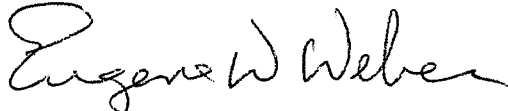
Signed this 31st day of December, 1968.



A.D.P. Heeney



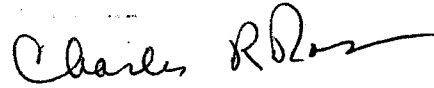
Matthew E. Welsh



Eugene W. Weber



René Dupuis



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