

GARRISON DIVERSION

The Garrison Diversion is a North Dakota project designed to irrigate land in the northern, central and southeastern parts of the State. As currently designed and as authorized by the U.S. Congress, the project includes plans to transfer water from the U.S. Missouri River Basin into the Canadian Hudson Bay Basin. This inter-basin transfer of water would cause the introduction into Canadian waters of biota (e.g. fish species, parasites and diseases that are foreign to those waters). The consequent damage to the multi-million dollar fisheries industry in the Province of Manitoba would be severe and irreversible.

Canada has firmly opposed the Garrison Diversion Project since the commencement of construction in the late 1960's because as designed, the project contains features which are likely to cause injury to Canada. Under the terms of the 1909 Boundary Waters Treaty, Canada and the United States agreed that "... waters flowing across the boundary shall not be polluted on either side to the injury of health or property of the other". In response to the expression of Canadian concerns, the United States has provided assurances on a number of occasions that it will meet its obligation under the Treaty.

In 1975, the Governments of the two countries asked the International Joint Commission (IJC) to undertake an impartial, binational investigation of the transboundary implications of the project. In 1977, the IJC submitted its Report, which confirmed Canadian concerns and stated that the project as planned would cause pollution to Canada in violation of the Boundary Waters Treaty. The Commission was especially concerned about the serious and irreversible impact which the transfer of biota would have on Manitoba fisheries. It recommended that the project not go forward until this question was resolved.

While the Commission was in the process of investigating the matter, the U.S. also provided a commitment not to proceed with construction of the Lonetree Dam, which would connect with waters flowing into Canada, until consultations were held on the IJC Report. These consultations did not take place immediately after submission of the IJC Report as it was understood by Canada that the U.S. Department of Interior was preparing a modified Garrison plan which would take into consideration both the expressed Canadian concerns and the recommendations of the IJC. Additionally, some U.S. domestic opposition, including court challenges, created uncertainty as to the project's status. Bilateral consultations at that time therefore were not opportune.