

PRESS RELEASE



COMMUNIQUÉ

DEPARTMENT OF EXTERNAL AFFAIRS

CANADA

MINISTÈRE DES AFFAIRES EXTÉRIEURES

No. 2

FOR IMMEDIATE RELEASE
MONDAY, JANUARY 15, 1962

The Secretary of State for External Affairs, the Honourable Howard Green today released the text of a Note delivered by the Canadian Ambassador in Washington on November 2, 1961 on the subject of proposals to divert water out of the Great Lakes at Chicago. The Note reads as follows:

No. 782

WASHINGTON, D.C.
November 2, 1961

Sir,

On instructions from my Government, I have the honour to refer to cases now before the Supreme Court of the United States, October term 1959, Nos. 2, 3 and 4 between the States of Wisconsin, Minnesota, Ohio, Pennsylvania, Michigan and New York as complainants and the State of Illinois and the Sanitary District of Chicago as defendants; and case No. 12 original between the State of Illinois as complainant and the States of Michigan, Ohio, Pennsylvania, New York and Wisconsin as defendants.

It is noted that in cases Nos. 2, 3 and 4, the complainants ask that the defendants be restrained from discharging any of the treated effluents emanating from the Sanitary District's sewage and industrial treatment facilities into the Chicago Sanitary and Ship Canal, and that the said defendants be required to return all of said effluent to the Great Lakes Basin from which it originally came in the form of "domestic pumpage"; and alternatively that a Permanent Master be appointed for the purpose of determining whether measures other than the return to Lake Michigan of the Chicago domestic pumpage effluent can be put into effect so that such measures will either reduce the direct diversion or limit the Chicago domestic pumpage, to the end that the total amount of diversion from the Great Lakes at Chicago will be reduced or restricted.

It is further noted that in case No. 12 original the complainant asks the Court to declare that the State of Illinois and its instrumentality, the Elmhurst - Villa Park - Lombard Water Commission, are entitled to proceed with a programme for the construction of a water supply system and the withdrawal of water from Lake Michigan, and further asks the Court to restrain the defendants from interfering with such construction and withdrawal.

It is a matter of satisfaction to my Government that the United States of America, in applying for Leave to Intervene in cases 2, 3 4 and 12 original in order to protect its interest, included among those interests the "maintenance of friendly relations with Canada". It will be recalled that representations have been made to the Government of the United States of America on numerous occasions during a period of many years with respect to a variety of proposals concerning the diversion of water from Lake Michigan out of the Great Lakes watershed at Chicago; that the Canadian Government has never

consented to any such diversion; and that it has repeatedly expressed its unalterable opposition to such unilateral diversions which, in its view, are in violation of Canada's rights under many agreements and understandings between the United States of America and Canada. Because of the importance to Canada of the questions under consideration in the cases referred to above, the Government of Canada, while fully reserving its rights, believes that it is timely to re-examine the considerations which it regards as relevant and material to any proposals involving diversions of water out of the Great Lakes watershed.

Furthermore, the Government of Canada, while not submitting in any way or for any purposes to the jurisdiction of the Supreme Court of the United States in these cases, considers that its views should be reiterated at this time so as to avoid any possible misunderstanding as to the nature and extent of Canada's rights and interests in the outcome of the cases referred to above. I have accordingly been instructed to bring the following considerations to your attention.

Every diversion of water out of the Great Lakes watershed at Chicago inevitably decreases the volume of water remaining in the Great Lakes Basin for all purposes. Any lowering of the water levels has measurably adverse effects upon Canadian navigation in the Great Lakes and the St. Lawrence River. Similarly, any decrease in the outflow of Lake Erie and Lake Ontario causes a proportionate reduction of the power potential of the Niagara and St. Lawrence Rivers. Consequently, diversions such as that under consideration in case No. 12 original would impair Canada's legitimate interests. Conversely, any restriction upon presently existing diversions not previously consented to by Canada such as is under consideration in cases No. 2, 3 and 4 would be consistent with Canada's legitimate interest.

The causal relationship between diversions out of the Great Lakes Basin and the resultant adverse effects upon Canadian and United States of America navigation and/or power interest is recognized in the following treaties and agreements:

Treaty between Canada and the United States of America relating to uses of waters of the Niagara River, signed at Washington, February 27, 1950. CTS 1950/3;

Treaty between Great Britain and the United States of America relating to Boundary Waters and Questions arising along the boundary between Canada and the United States, signed at Washington, January 11, 1909. CUS 1927/312;

Exchange of Notes between Canada and the United States of America concerning the construction of the St. Lawrence Seaway, signed at Washington, June 30, 1952 and January 11, 1952, CTS 1952/30;

Exchange of Notes between Canada and the United States of America modifying the Exchange of Notes of June 30, 1952 concerning the construction of the St. Lawrence Seaway, signed at Ottawa, August 17, 1954. CTS 1954/14;

Exchange of Notes between Canada and the United States of America relating to the Great Lakes - St. Lawrence Basin (Niagara Falls - Long Lac Ojoki Works - Albany River Basin), signed at Washington, October 14 and 31 and November 7, 1940. CTS 1940/11.

In accordance with the aforementioned treaties and agreements various hydro-electric power installations and navigation channels, including those of the St. Lawrence Seaway, have been constructed. Such projects would be jeopardized by diversions of the kind under consideration in case No. 12 original. Moreover, apart from damage immediately attributable thereto, such a diversion would establish an extremely undesirable precedent with serious implications for Canada.

For the foregoing reasons, and bearing in mind the importance attached by the United States of America and Canada to the honouring of international undertakings in letter and in spirit, I have been instructed to convey the Government of Canada's serious concern at the prospect of any action being taken which would impair the legitimate interests of Canada, including Canada's rights under agreements and undertakings between our two countries relating to the Great Lakes Basin, and would constitute an irritant to good relations between Canada and the United States of America.

Accept, Sir, the renewed assurances of my highest consideration.

"A.D.P. Heeney"

The Honourable Dean Rusk,
Secretary of State of the United States,
WASHINGTON, D.C.