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No. 15

NOT FOR PUBLICATION
BEFORE 14:00 HOURS
MARCH 1, 1977

NOTE FROM THE UNITED STATES DEPARTMENT OF STATE
ON THE GARRISON DIVERSION UNIT

DEPARTMENT OF EXTERNAL AFFAIRS
MINISTÈRE DES AFFAIRES EXTÉRIEURES

The Secretary of State, the Honourable Don Jamieson, tabled in the House of Commons today the text of a Note, received February 18 from the United States Department of State, which deals with the Garrison Diversion irrigation project in North Dakota. The U.S. Note replies to the Canadian Note of 12 October 1976, which requested that construction and decisions on construction of the Lonetree Reservoir be deferred until the International Joint Commission had had an opportunity to report the findings of its studies on Garrison and the two governments had had a chance to consult on the Commission's recommendations. Attached are the text of the U.S. Note and our Communiqué No. 125 of November 15, 1976, containing the text of the Canadian Note.

U.S. Department of State's Note to Canadian Embassy,
Washington, February 18, 1977

Garrison Diversion Unit

The Department of State refers to the Canadian Embassy's Note No. 495 covering the construction of the Garrison Diversion Unit of the Pick Sloan Missouri Basin program and requesting that further construction and decisions on construction of the Lonetree Reservoir be deferred, in view of potential transfer of biota from the Missouri River Basin into Canadian waters, until such time as the report of the International Joint Commission on the Transboundary aspects of the Garrison Diversion Unit has been received and been the subject of bilateral consultations.

The Department of State has been informed by the Department of the Interior that the construction of the Lonetree Reservoir would not be completed under the present construction schedule until August 1979. Filling of the reservoir with waters from the Missouri River system is not scheduled to begin until after the construction has been completed, i.e., until May 1981 at the earliest. Thus a considerable period of time would elapse between the scheduled publication in June 1977 of the International Joint Commission report on the Transboundary impacts of the Garrison Diversion Unit and the 1981 date for the commencement of filling of the Lonetree Reservoir with Missouri River Basin waters.

Nonetheless, in order to meet the concerns expressed in the Embassy's Note regarding the potential transfer of foreign biota from the Missouri River into waters flowing into Canada, the United States Government wishes to advise the Government of Canada that a contract for the construction of the Lonetree Dam will not be let until after the report to Governments of the International Joint Commission has been received and subsequent consultations between the two governments have taken place.

The Embassy will recall that the joint reference from Governments to the International Joint Commission specifically calls upon the Commission to examine the issue of the potential transmission of foreign biota from the area of the Garrison Diversion Unit into Canada.

The United States Government reiterates its commitment of February 5, 1974, to undertake no construction of works in the Garrison Diversion Unit potentially affecting waters flowing into Canada until it is clear that its obligations under the Boundary Waters Treaty of 1909 will be met.

These undertakings are in keeping with the spirit of mutual understanding and forbearance which has characterized and will continue to characterize the efforts of the two governments in addressing transfrontier pollution matters.

The United States Government looks forward to early discussions with the Government of Canada following the report to Governments of the International Joint Commission.

Department of State Washington, February 18, 1977



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No. 125

FOR IMMEDIATE RELEASE

NOVEMBER 15, 1976

GARRISON DIVERSION

DEPARTMENT OF EXTERNAL AFFAIRS
MINISTÈRE DES AFFAIRES EXTÉRIEURES

The Secretary of State for External Affairs, the Honourable Don Jamieson, tabled in the House today the text of a diplomatic Note concerning the Garrison Diversion project in North Dakota, which was transmitted on October 12, 1976 to the United States State Department in Washington. Following is the text of the Note.

" The Embassy of Canada presents its compliments to the Department of State and has the honour to refer to the ongoing consultations between the Governments of Canada and the United States of America on the subject of the Garrison Diversion Unit under construction in the State of North Dakota. In particular, the Embassy refers to the Reference on this subject made to the International Joint Commission by letters of 22 October 1975 from both Governments, and to the United States Government's assurances of 5 February 1974, reiterated most recently in the Joint Communiqué of 16 August 1976, that ' no construction on the Garrison Diversion Unit potentially affecting water flowing into Canada will be undertaken until it is clear that this obligation (under Article IV of the Boundary Waters Treaty of 1909) will be met '.

The Department will recall that the International Joint Commission indicated by letter of 5 August 1976 that its report on the above-mentioned Reference would not, as anticipated, be completed by 31 October 1976, but would rather be delayed until June 1977. While recognizing the Commission's reasons for this decision, the Government of Canada has become increasingly concerned as to the implications of the delay. It is the understanding of the Embassy that important budgetary decisions relating to the Garrison Diversion Project, including final authorization for substantial additional construction on the Lonetree Reservoir, are to be taken by United States authorities well prior to June 1977. It was originally anticipated that those involved in the United States budgetary process would have had the guidance of the Commission's report regarding the potential effects on Canadian waters of the proposed works. With the delay, however, any decisions on further construction and funding would not be based on a full knowledge of these potential effects.

The Canadian Government is particularly concerned that, while actual construction of the Lonetree Reservoir may not, in itself, affect waters flowing into Canada, filling or operation of the Reservoir could have such an effect, as flows from the Reservoir would enter the Cheyenne River and thus the Red River even in the absence of completed irrigation canals. This in turn would mean that foreign biota would pass into the Red River-Lake Winnipeg Basin, a matter of considerable concern, given our conclusion that the introduction of such biota has the potential for injury to fisheries in Canada.

While the Government of Canada is aware that the operation of the Reservoir is not scheduled to begin until 1978, it is also aware that advanced or completed construction of such projects naturally forms a powerful argument for their operation. Account should therefore be taken of the serious problems that could be expected to arise should the Commission report, after further expenditure and construction had taken place on the Reservoir, that the Reservoir's filling and operation would indeed injure health and property in Canada.

As the Department will recall, the Embassy in November 1975 transmitted for the information of the United States Congress a 'Canadian Position on the Garrison Diversion Unit' which stated, inter alia, that 'a report from the Commission should be received and studied... before any firm commitments are made in the United States for construction potentially affecting waters flowing into Canada, since such construction could be substantially affected by the outcome of the reference'. In view of the delay in the Commission's reporting schedule and the potential impact on Canada of the filling and operation of the Lonetree Reservoir, the Canadian Government wishes to make clear that this position applies to further construction of the Reservoir. With the understanding that the Commission will report on its findings in the near future, the Embassy has therefore been instructed to request, as a logical extension of the United States Government's assurances of February 1974, that further construction and decisions on construction of the Lonetree Reservoir be deferred until after the Commission's report has been received and subsequent consultations between the two Governments have taken place.

The Embassy of Canada avails itself of this opportunity to renew to the Department of State the assurances of its highest consideration."