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CANADIAN REACTION TO THE REVISED GARRISON DIVERSION PLAN

Following recent discussions between federal and Manitoba environmental officials, it was agreed to forward to the United States Department of State a letter containing Canada's views on the draft revised plan for the Garrison Diversion Unit.

This draft plan was made public on February 2, 1978 by the U. S. Department of the Interior. The text of the letter from the Canadian Embassy, delivered to the U. S. State Department April 3, 1978, is attached.

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TEXT OF LETTER FROM CANADIAN EMBASSY, WASHINGTON, D.C.
TO U.S. DEPARTMENT OF STATE
DELIVERED 3 APRIL 1978, REGARDING GARRISON DIVERSION UNIT

"On February 2 the State Department kindly provided us with copies of recently-released documents relating to a draft revised plan for the Garrison Diversion project in North Dakota. It is understood that this draft plan, prepared by the Department of the Interior, will undergo additional consideration before the Administration adopts a position regarding continued construction of the Garrison project.

"We welcome the State Department's intention to discuss any revised Garrison plan with the Canadian Government, in the context of the specific concerns which Canada has raised over a period of years regarding the potential adverse impact on Canada of the Garrison project. These concerns were based on Canadian and U.S. technical studies related to the potential transboundary effects of the Garrison project, which led us to conclude there would be injury to health and property in Canada if the project went forward as then envisaged. We appreciate in this regard the State Department's assurance of February 5, 1974, that in any development of features of the Garrison Diversion Unit that will affect Canada, specifically works in the Red River Basin and the Souris Loop, the U.S. will comply with its obligation not to pollute water crossing the boundary to the injury of health or property within Canada, and that no construction potentially affecting waters flowing into Canada will be undertaken until it is clear that this obligation will be met. We also recall the discussions on Garrison between President Carter and Prime Minister Trudeau on the occasion of the latter's visit to Washington in February, 1977, during which the Prime Minister reiterated Canadian concerns over the potential transboundary effects of the project.

"As you know, the two Governments, recognizing that the Garrison Diversion project as originally designed had a potential for causing pollution of waters flowing across the international boundary into Canada, asked the International Joint Commission in October 1975 to examine into and report on the transboundary implications of the proposed completion and operation of the project. The Commission was also asked to make recommendations as to measures which might be taken to assist Governments in ensuring that the provisions of Article IV of the Boundary Waters Treaty would be honoured. The Governments identified in their

Reference a number of areas of potential concern in the project, including effects on water quality and water quantity and the possible interbasin transfer of harmful fish and other biota.

"As you are also aware, the Commission's final report, provided to Governments in September 1977, concluded that construction and operation of the Garrison Diversion project as envisaged when the study began would cause significant injury to health and property in Canada as a result of adverse impacts on water quality and adverse and irreversible impacts on some of the more important biological resources in Manitoba. It also noted adverse impacts on Manitoba waterfowl resources, as well as other problems. The Commission recommended inter alia that those portions of the project which could affect waters flowing into Canada not be built at this time in view of the severe and irreversible damage which would be caused by biota and disease transfer.

"The State Department has expressed an interest in receiving Canadian comments on the draft revised Garrison plan. Canadian federal and Manitoba officials have examined the draft plan in the context of its potential transboundary effects, and in particular of the report of the International Joint Commission, which we consider to be the primary basis for evaluating the impacts on Canada of any such revision. We have noted that the draft plan relates to the review of the proposed project being undertaken by the Administration in compliance with the stipulation entered into and approved by the U.S. Federal District Court in May 1977 which stayed the suit of the Audubon Society against the Department of the Interior. As such it does not appear specifically to consider the transboundary effects of the project which were detailed by the International Joint Commission. Therefore, as currently drafted, it does not address substantive Canadian concerns.

"We have further concluded that the information provided in these documents is not sufficient to allow a precise determination of the effects of the draft plan on Canada. At this time, therefore, we are able to offer only general comments. It would seem that the reduction of lands to be irrigated within the Hudson Bay drainage basin and, in particular, the elimination of the Souris Loop from the project should reduce some of the project's potential adverse impacts on Canada in areas such as water quality and flood potential. It would appear, however, that portions of the draft plan could still be expected to result in significant adverse impact on Canada. For example, the continued inclusion of irrigated lands in the Red River drainage system carries with it the continued possibility of adverse water quality effects. Similarly, while the proposed mitigation plan of the United States Fish and Wildlife Service, if implemented, could reduce waterfowl losses in Manitoba, it would not eliminate them.

"Our most important concern, however, is that the risk of transfer of foreign biota to the Hudson Bay drainage basin has not been eliminated or significantly reduced by the draft revised plan. The plan indeed anticipates the transfer of such biota to the Red River via the Sheyenne River. The Commission in its report under the Reference characterized the need to prevent biota transfer as 'over-riding everything else' and examined and rejected the contentions that precautions such as the McClusky Canal fish screen or a 'closed system' of irrigation would 'with any certainty prevent biota and disease transfers which would cause severe and irreversible damage to the ecosystem, and in particular to the commercial and sport fisheries of Canada'.

"We would be grateful if these observations could be passed to those United States agencies participating in the Administration's review of the Department of the Interior's draft revised Garrison plan, and trust that the international aspects of the project will be fully considered in this process. We would also recall in this context concerns regarding international effects of the Garrison Diversion Unit expressed in the United States Congress during past consideration of the project, and would accordingly request that this letter also be passed to those committees of the Congress which are or will be charged with examining the draft revised plan or any subsequent revisions.

"We would welcome the opportunity to enter into consultations regarding the international implications of any revised Garrison plan at such time as you are in a position to discuss a specific proposal in terms of its potential transboundary effects and, in particular, of the report of the International Joint Commission. Such consultations were of course envisaged in our Note of October 12, 1976, and your reply of February 18, 1977. We would be grateful in due course to receive full details of your Government's eventual proposal, so that we can study it before entering into formal discussions. We would be interested in the meantime to be informed of any reaction you might have to these, our preliminary comments, and would also welcome any indication you may be able to provide of the proposed timetable for consideration of the current draft revised plan by the U.S. Administration and Congress.

"We deeply appreciate the cooperation extended by the United States Government in dealing with this important issue in environmental relations along our common boundary, and look forward to the achievement of a mutually satisfactory outcome."