

Exchange of notes constituting an agreement between the United States of America and Canada for the temporary diversion for power purposes of the water normally flowing over the American Falls at Niagara.

Department of State Washington

March 21,1969

Excellency,

I have the honor to refer to an exchange of notes between the Government of Canada and the Government of the United States, dated March 21,1969, authorizing the construction of a temporary cofferdam to divert water away from the American Falls at Niagara, so as to Permit the on-site investigation of measures that might be taken to preserve or enhance the beauty of the American Falls.

It appears advantageous to make use of the additional energy resource thus made available, by authorizing the temporary additional diversion for power purposes of the water normally flowing over the American Falls.

Accordingly, I have the honor to propose that during the period in 1969 when the cofferdam is in place, the following arrangements shall be put into effect:

1. The minimum flows over the Falls stipulated in Article IV of the Niagara River Treaty of 1950 shall be reduced from 100,000 c.f.s. and 50,000 c.d.s., respectively, to 92,000 c.f.s. and 41,000 c.f.s., respectively, during the hours designated in that Article. Any water in excess of these new temporary minimums may be diverted for power purposes; provided that when the 41,000 c.f.s. minimum applies at least 9,000 c.f.s. of the waters thus diverted shall be either passed through the lowhead plants or released to the Horseshoe Falls so as to maintain a minimum flow of 50,000 c.f.s. into the Maid-of -the Mist Pool at all times.

2. Entitlement to the power benefits deriving from this temporary additional diversion shall be divided equally between the Power Authority of the State of New York and the Hydro-Electric Power Commission of Ontario, upon the agreement of each such power entity to:

(A) Contribute in each or in services to the cost of the cofferdam and ensuing investigations, the value of \$385,500 in its national currency, if the additional diversion is permitted during the entire period from April 30,1969 to December 31,1969, or a portion of said contribution corresponding to any shorter period during which the additional diversion is permitted, such portion to be determined on the same basis as was the \$385,500 by the International Joint Commission in consultation with the power entities; and

(B) Assume responsibility for the disposition of claims for physical injury or damage to persons or property occurring in the lower Niagara River on its side of the international boundary line, caused by the resulting temporary alteration of water levels in the lower river below that normally experienced at flows of 100,000 c.f.s. and 50,000 c.f.s., and for the satisfaction of any such claims that valid.

3. The temporary additional diversions permitted by these arrangements shall not be considered as creating any vested right or interest in the use of such additional amounts of water.

If the foregoing proposed arrangements are acceptable to the Government of Canada, I have the honor to propose that your reply to that effect and the present Note shall constitute an agreement between the Government of the United States and the Government of Canada which will enter into force upon notification that it has been approved by the Senate of the United States of America.

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

For the Secretary of State:  
Martin J. HILLENBRAND

His Excellency A.Edgard Ritchie,  
Ambassador of Canada

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Canadian Embassy  
Washington, D.C.  
March 21, 1969

Sir,

I have the honour to refer to your Note of March 21, 1969, concerning the proposed temporary additional diversion of Niagara water for power purpose.

I wish to advise that the Government of Canada accepts the proposals set forth in your Note and agrees that your Note, together with this reply, which is authentic in English and French, shall constitute an agreement between our two Governments which will enter into force upon notification by you that it has been approved by the Senate of the United States.

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

A.E.RITCHIE  
Ambassador  
The Honourable William P.Rogers  
Secretary of State

Washington, D.C.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND CANADA FOR THE TEMPORARY DIVERSION FOR POWER PURPOSES OF THE WATER NORMALLY FLOWING OVER THE AMERICAN FALLS AT NIAGARA

DEPARTMENT OF STATE

WASHINGTON March 21, 1969 :xceliency,

I have the honor to refer to an exchange of notes between the Government of Canada and the Government of the United States, dated March 21, 1969, authorizing the construction of a temporary cofferdam to divert water away from the American Falls at Niagara, so as to permit the on-site investigation of measures that might be taken to preserve or enhance the beauty of the American Falls. It appears advantageous to make use of the additional energy resource

made available, by the Act of May 1969, upon notification to the Government of Canada that it has been approved by the Senate of the United States, in accordance with the provisions of the said notes.

See 1). 247 of this volume. TREATY BETWEEN THE UNITED STATES OF AMERICA AND CANADA CONCERNING THE TEMPORARY DIVERSION OF WATER FROM THE AMERICAN FALLS AT NIAGARA, ON THE CANADIAN SIDE, FOR THE PURPOSES OF PRODUCTION OF ENERGY

[TRANSLATION - TRANSLATION]

DEPARTMENT OF STATE

WASHINGTON

Le 21 mars 1969 Monsieur l'Ambassadeur, J'ai l'honneur de me référer au échange de notes entre le Gouvernement canadien et le Gouvernement des États-Unis en date du 21 mars 1969, autorisant la construction d'un barrage destiné à détourner les eaux se versant par les chutes