

Exchange of notes (October 4, 1965) between the Government of Canada and the Government of the United States of America relating to the establishment of directions to be followed by the permanent engineering board established under article XV of the Columbia River Treaty in relation to its administration and procedures

The Canadian Ambassador to the United States of America to the Secretary of State of the United States of America

CANADIAN EMBASSY

Washington, D.C., October 4, 1965.

No. 385

SIR,

I have the honour to refer to discussions which have been held between representatives of the Government of Canada and the Government of the United States of America regarding Section (4) of Article XV of the Treaty between Canada and the United States of America relating to Co-operative Development of the Water Resources of the Columbia River Basin signed at Washington on January 17, 1961 which was brought into force through an exchange of instruments of ratification on September 16, 1964.

Section (4) of that Article provides that the Permanent Engineering Board, established under the terms of Section (1) of the same Article, shall comply with directions relating to its administration and procedures, agreed upon by Canada and the United States of America as evidenced by an exchange of notes. On the basis of the foregoing discussions the Government of Canada understands that the two Governments have agreed that the Permanent Engineering Board shall be guided by the directions relating to its administration and procedures set out in the annex to this note.

I should like to propose that, if agreeable to your Government this note, together with its annex and your reply, shall constitute an agreement between our two Governments relating to the carrying out of the provisions of the Treaty with effect from the date of your reply.

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

[FROM:]

C.S.A. RITCHIE
Ambassador

[TO:]

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

Annex

Columbia River Treaty Permanent Engineering Board

Administration and Procedures

1. Authority. The four-man Permanent Engineering Board was created, and its general duties outlined, by the "Treaty Between Canada and the United States of America Relating to Co-operative Development of the Water Resources of the Columbia River Basin" signed at Washington, D.C. on January 17, 1961, and the Annex to an Exchange of Notes dated January 22, 1964." The United States Section of the Board was provided for by Presidential Executive Order No. 11177 dated September 16, 1964. The Canadian Section of the Board was established by Order-in-Council P.C. 1964-1671 dated October 29, 1964 as amended by P.C. 1964-1976 dated December 17, 1964.

2. Composition of the Board. In conformance with Article 6(2) of the Canada-British Columbia Agreement of July 8, 1963 relating to the Treaty, and Order-in-Council 1964-1671, the Canadian Section of the Permanent Engineering Board shall consist of one member to be nominated and appointed by the Government of Canada who shall be Chairman of the Canadian Section, and one member to be nominated by the Province of British Columbia and appointed by the Government of Canada. In accordance with Order-in-Council P.C. 1964-1976 each member shall designate an alternate to serve for and in the member's absence.

In accordance with Presidential Executive Order No. 11177 the United States Section of the Permanent Engineering Board shall consist of one member designated by the Secretary of the Army who shall be Chairman of the United States Section, and one member designated by the Secretary of the Interior. In accordance with that same Order each member shall have a designated alternate to serve for and in the member's absence.

3. Chairman. The Chairman of each Section of the Board shall preside as Chairman of the Board as a whole at all meetings of the Board held in his country. In the event the Chairman of either Section of the Board is absent the chairmanship of that Section and, if appropriate, of the Board itself shall be assumed by the other member of that Section, or if that member is also absent, by the alternate to the Chairman of that Section.

4. General Duties of the Board. As set forth in the Columbia River Treaty and related documents the general duties of the Board include:

(a) assembling records of the flows of the Columbia River and the Kootenay River at the Canada-United States of America boundary;

(b) reporting to Canada and the United States of America whenever there is substantial deviation from the hydro-electric and flood control operating plans and if appropriate including in the report recommendations for remedial action and compensatory

adjustments;

(c) assisting in reconciling differences concerning technical or operational matters that may arise between the entities;

(d) making periodic inspections and requiring reports as necessary from the entities with a view to ensuring that the objectives of the Treaty are being met;

(e) making reports to Canada and the United States of America at least once a year of the results being achieved under the Treaty and making special reports concerning any matter which it considers should be brought to their attention;

(f) investigating and reporting with respect to any other matter coming within the scope of the Treaty at the request of either Canada or the United States of America;

(g) consulting with the entities in the establishment and operation of a hydrometeorological system as required by Annex A of the Treaty.

5. Meetings. The Board shall meet at such times and places as the Chairmen of the two Sections consider necessary or desirable to properly discharge the responsibilities of the Board. A quorum shall require each member of the Board to be present or represented by an alternate acting on his behalf.

6. Minutes of Board Meetings. The Chairman of each Section shall appoint a Secretary. The Secretary shall be the official recorder of the Board minutes when the Chairman of his Section is presiding. Each Secretary shall exchange and preserve an authentic copy of the minutes approved by the Board. A draft copy of the minutes will, within fifteen days after the meeting, be sent by the recording Secretary to each member of the Board for review and comments, and the comments shall be received by the Secretary within the next thirty days unless otherwise specified and agreed to by the Board. The minutes will be considered for adoption at the next Board meeting. Copies of approved minutes will be supplied to all Board members by the recording Secretary.

7. Engineering Committees. The Board may designate special Engineering Committees to assist in the performance of the Board's functions. Except as otherwise agreed by the Board, these committees will have an equal number of members from each country. The members will be qualified individuals in their respective fields and they need not necessarily be officers or employees of the Governments of the two countries. Members of the committees will be designated by the Chairman of each Section and will serve for such periods as he may determine.

8. Technical and Administrative Assistance. The respective Sections of the Board shall be provided with the technical and administrative assistance they require through:

(a) the provision of Board staff,

(b) the utilization of services available from departments or agencies of their respective Governments, and

(c) the retention of consulting engineering services.

9. Reports. As required by Article XV of the Treaty the Board will make reports to the Governments of Canada and the United States at least once a year. Reports to the Governments shall be made through the Minister of Northern Affairs and National Resources for Canada and the Secretary of State for the United States. The initial report by the Board will be submitted by December 31, 1965.

10. Expenses. Except as otherwise agreed by the Board each Government shall, in accordance with the usual budgetary practices, bear the expenses authorized by its own Section of the Board and incurred by or on behalf of that Section in carrying out its duties.

11. Communication with the Entities. Communication between the Board and the entities of the two countries will be through the offices of the respective Chairmen.

12. Rules and Regulations. The Board is empowered to make only such supplementary rules and regulations as are consistent with the procedures defined herein in order to carry out its duties and responsibilities as set forth in the Treaty.

The Secretary of State of the United States of America to the Canadian Ambassador to the United States of America

DEPARTMENT OF STATE
Washington, October 4, 1965.

EXCELLENCY:

I have the honor to refer to your Note dated October 4, 1965 together with the Annex thereto regarding the Treaty between Canada and the United States of America relating to Co-operative Development of the Water Resources of the Columbia River Basin signed at Washington on January 17, 1961 which came into force through an exchange of instruments of ratification on September 16, 1964. The Note concerns in particular the establishment of directions to be followed by the Permanent Engineering Board established under the provisions of Article XV of the Treaty in relation to its administration and procedures.

I wish to advise you that the Government of the United States of America agrees that your Note with the Annex thereto, together with this reply, shall constitute an agreement between our two Governments relating to the carrying out of the provisions of the Treaty with effect from the date of this reply.

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

[FROM:]

For the Secretary of State:
RICHARD D. KEARNEY

[TO:]

His Excellency
C.S.A. Ritchie,
Ambassador of Canada