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26TH DISTRICT, NEW YORK

COMMITTEE ON WAYS AND MEANS
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ASSISTANT WHIP

Congress of the United States
House of Representatives
Washington, DC 20515–3226

May 20, 2021

Hon. Kirsten Hillman
Ambassador of Canada to the United States
501 Pennsylvania Avenue, NW
Washington, DC 20001

Re: Canada's closure of the Welland Canal to U.S. recreational boaters in contravention of the Boundary Waters Treaty of 1909.

Dear Ambassador Hillman:

I write to ask that the Government of Canada reverse its policy of closing the Welland Canal to U.S. recreational boaters.

The Government of Canada has adopted a policy (*Minimizing the Risk of Exposure to COVID-19 in Canada Order in Council*, as implemented) which, in salient part, effectively bans U.S. recreational boaters from using the Welland Canal. It is our understanding that for most of last year's boating season the Government of Canada allowed one of more work-arounds to permit U.S. recreational boaters access to the canal, but that these have been deemed no longer permissible by Canada's government.

In the Boundary Waters Treaty of 1909, our nations committed to allow vessels from the other nation to use each others' boundary waters, including connecting canals like the Welland Canal. Tolls and restrictions were permitted, but each nation committed to impose no restrictions on the citizens of the other that it did not impose on its own, with respect to the use of these waterways.[1]

When the St. Lawrence Seaway was constructed, there was debate at the time as to whether either nation would build a complete set of facilities on its own side or whether the Seaway should be built in such a way that each nation was dependent on the other. The decision was made to proceed in a bi-lateral, interdependent manner. This was partly a strategic consideration; proceeding in an

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[1] *The High Contracting Parties agree that the navigation of all navigable boundary waters shall forever continue free and open for the purposes of commerce to the inhabitants and to the ships, vessels, and boats of both countries equally, subject, however, to any laws and regulations of either country, within its own territory, not inconsistent with such privilege of free navigation and applying equally and without discrimination to the inhabitants, ships, vessels, and boats of both countries. It is further agreed that so long as this treaty shall remain in force, this same right of navigation shall extend to the waters of Lake Michigan and to all canals connecting boundary waters, and now existing or which may hereafter be constructed on either side of the line. Either of the High Contracting Parties may adopt rules and regulations governing the use of such canals within its own territory and may charge tolls for the use thereof, but all such rules and regulations and all tolls charged shall apply alike to the subjects or citizens of the High Contracting Parties and the ships, vessels, and boats of both of the High Contracting Parties, and they shall be placed on terms of equality in the use thereof.*
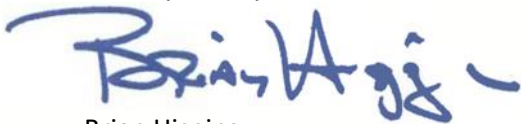
interdependent manner disincentivizes subsequent unilateral action by either party that would disadvantage the other.[2]

Just as the Welland Canal is the only means by which U.S. vessels with certain characteristics can travel between U.S. ports on Lake Ontario and U.S. ports in Lake Erie and the upper Great Lakes, the U.S. owned-and-operated Wiley-Dondero Canal and its Eisenhower and Snell locks on the St. Lawrence River are the only way that Canadian vessels with certain characteristics can travel between Montreal and Toronto. Last year, Canadian recreational boaters made 1,031 passages through these U.S. owned-and-operated canals and locks.

As the co-chair of the U.S. House of Representatives' Northern Border Caucus and the U.S. Co-Chair of the Canada-United States Inter-Parliamentary Group, I have generally been and will remain an advocate for open and free-flowing commerce along our nation's northern border to the greatest extent possible. My constituency benefits significantly from economic and cultural exchange with our friends and neighbors in Canada. Recreational boating on the Great Lakes supports more than 60,000 jobs and has an economic impact exceeding $4 billion.

As such, I write to ask that the Government of Canada reverse its policy of closing the Welland Canal to U.S. recreational boaters, consistent with the provisions of the Boundary Waters Treaty of 1909.

Thank you very much.

Brian Higgins
Member of Congress

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[2] E.g., Letter from U.S. President Harry S. Truman to Hon. Tom Connally, Chairman of the U.S. Senate Committee on Foreign Relations, and the Hon. Charles A. Buckley, Chairman of the U.S. House of Representatives' Committee on Public Works, April 19, 1952: *As I informed the Congress in January, the question before the Congress now is not whether the seaway should be built, but whether the United States should share in its construction, operation, and control. The Canadian Government is ready and willing to build a seaway from Montreal to Lake Erie on the Canadian side of the boundary, if the Congress does not authorize the United States Government to participate in building the joint Canadian-U.S. seaway agreed to in 1941. It would be extremely unwise and unrealistic for the Congress voluntarily to abandon the opportunity for the United States to jointly control a waterway so vital to our security, our commerce and industry, and our relations with our Canadian neighbors. And yet, if the Congress does not act soon on the legislation before it, that will be the result, for we cannot ask the Canadians to delay much longer.*