

31-1-5:2

IN THE MATTER OF THE APPLICATION OF THE MADAWASKA  
COMPANY FOR THE APPOINTMENT OF A THIRD ENGINEER  
UNDER THE AGREEMENT DATED 24th JUNE, 1926, BETWEEN  
SAINT JOHN RIVER POWER COMPANY AND MADAWASKA COMPANY

ORDER

Ottawa

February 7, 1939

IN THE MATTER OF THE APPLICATION OF THE MADAWASKA COMPANY FOR THE APPOINTMENT OF A THIRD ENGINEER UNDER THE AGREEMENT DATED 24th JUNE, 1926, BETWEEN SAINT JOHN RIVER POWER COMPANY AND MADAWASKA COMPANY.

O R D E R

WHEREAS under the terms of Section 2 of the Agreement dated June 24, 1926, between Saint John River Power Company and Madawaska Company, which Agreement is referred to in the Order of Approval of the International Joint Commission in the matter of the Application of the Saint John River Power Company, dated June 28, 1926, it is provided as follows:

1. The Power Company agrees that it will pay the Madawaska Company all damages which it shall suffer of whatsoever name, nature and description due to the raising and maintaining of the level of the Saint John River to the mean level (430) as shown on the plans filed with the International Joint Commission with the above mentioned application, said damages to include but not to be limited to damages to, and expenditures to remedy or prevent injury to, mill and appurtenances, piling grounds, holding grounds, booming facilities, and piers, also extra expense of maintaining hot pond, bringing of logs from the upper part of holding grounds to the mill slip, etc.

2. In case the Power Company and the Madawaska Company are unable to agree upon the amount of any said damages the same shall be ascertained in the following manner: The Madawaska Company shall within a reasonable time appoint an engineer and notify the Power Company of the engineer so chosen. Within forty-five days after receipt of such notification the Power



Company shall appoint an engineer and notify the Madawaska Company of the engineer so chosen. The two engineers so chosen shall proceed with all reasonable expedition to determine the damages to the Madawaska Company. If they are unable to agree within a period of forty-five days after the appointment of the second engineer, a third engineer shall be chosen by the Power Company and the Madawaska Company as umpire, their decision to be final, conclusive and binding. In case the two engineers chosen hereunder fail to agree within the forty-five day period aforesaid and the Power Company and the Madawaska Company are unable to agree within a further period of thirty days on the choice of a third engineer, the third engineer shall be chosen by the American and Canadian Chairmen of the International Joint Commission,

and

WHEREAS Madawaska Company in its Application dated January 3, 1939, represented that, under the provisions of the Agreement of June 24, 1926, two engineers were appointed, one by the Madawaska Company and the other by the Gatineau Power Company, successors to Saint John River Power Company, that these engineers were unable to agree upon the amount of damage and injury caused to the Madawaska Company, and that the said Companies were unable to agree upon the appointment of a third engineer as umpire, and requested the Chairmen of the International Joint Commission to appoint the third engineer, as provided for in the Agreement of June 24, 1926; and

WHEREAS the Chairmen met in the offices of the Commission in Ottawa on Monday, February 6th, 1939, at three o'clock p.m. and considered the representations set forth in the Application of Madawaska Company as aforesaid;

NOW THEREFORE THIS COMMISSION THROUGH ITS CHAIRMEN ORDERS AND DIRECTS that the third engineer to act with the engineers appointed by Madawaska Company and Gatineau Power Company shall be Mr H.K. Barrows of the staff of the Massachusetts Institute of Technology in Boston, who is hereby named as umpire under the terms of the Agreement of June 24, 1926.

Dated at Ottawa this seventh day of February, 1939.

*Chas Stewart*  
Chairman for Canada

*A. Stanley*  
Chairman for United States

