

DOCKET 34

31-2-1

INTERNATIONAL JOINT COMMISSION

IN THE MATTER OF THE APPLICATION OF PETER CHARLES BRUNER FOR THE APPROVAL OF THE RECLAMATION OF CERTAIN FLOODED LANDS ON THE WEST BANK OF THE KOOTENAY RIVER BETWEEN THE INTERNATIONAL BOUNDARY AND KOOTENAY LAKE IN THE PROVINCE OF BRITISH COLUMBIA.

ORDER OF APPROVAL

WHEREAS the Kootenay river is a river flowing across the boundary between the Dominion of Canada and the United States of America within the meaning of Article IV of the Treaty between the said United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, signed the eleventh day of January, 1909; and

WHEREAS Peter Charles Bruner has presented to and filed with this Commission, appointed under said Treaty, an Application for permission to construct works for the purpose of reclaiming approximately 3,440 acres of flooded lands along the west shore of Kootenay River near Creston in the Province of British Columbia in the Dominion of Canada, in the manner particularly set forth in the specifications embodied in said Application and shown on three plans referred to in said Application and filed therewith as a part thereof; and

WHEREAS said Application came on for hearing at the City of Nelson in the said Province of British Columbia on the 15th day of May, 1936, after due notice to all parties interested in both countries of the filing of said Application and of the time and place of said hearing, when evidence was adduced, exhibits filed and all parties so desiring were heard; and

WHEREAS the following parties appeared before the Commission on said hearing, namely:

I.W.McArdle, Calgary, Alberta, Solicitor for the Applicant

Peter Charles Bruner, Calgary, the Applicant

Walter Myers, Nelson, British Columbia, Engineer for the Applicant

J.E.Read, K.C., Ottawa, Legal Adviser, Department of External Affairs of Canada

J.T.Johnston, Director, Dominion Water Power and Hydrometric Bureau, Department of the Interior, and also representing the Department of Indian Affairs of Canada

O.E.Webb, Vancouver, British Columbia, District Engineer of the Dominion Water Power and Hydrometric Bureau, Department of the Interior of Canada

A.C.Whitehouse, Vancouver, British Columbia, Assistant Hydraulic Engineer of the Dominion Water Power and Hydrometric Bureau, Department of the Interior of Canada

T.M.Patterson, Ottawa, Dominion Water Power and Hydrometric Bureau, Department of the Interior of Canada

J.P.Forde, New Westminster, British Columbia, District Engineer, Department of Public Works of Canada

R.W.Davenport, Washington, D.C., Hydraulic Engineer, United States Geological Survey

Thomas R. Newell, Boise, Idaho, District Engineer, United States Geological Survey

L. T. Jessup, Yakima, Washington, United States Department of Agriculture

J. C. McDonald, Vancouver, British Columbia, Comptroller of Water Rights of British Columbia

Bert H. Miller, Boise, Idaho, Attorney General of the State of Idaho

Guy C. McGee, Bonners Ferry, Idaho, Assistant Commissioner of Reclamation of the State of Idaho

R. C. Crowe, Trail, British Columbia, Counsel for the West Kootenay Power and Light Company, Limited

Lorne A. Campbell, Trail, British Columbia, Vice-President and General Manager, West Kootenay Power and Light Company, Limited

W. J. Tindale, South Slokan, British Columbia, Hydraulic Engineer, West Kootenay Power and Light Company, Limited

A. C. Wragge, Nelson, British Columbia, Alberta and British Columbia Exploration Company and G. L. Salter, of Vancouver, British Columbia

Frank Staples, Creston, British Columbia, Creston Reclamation Company; and

WHEREAS upon the said Application coming on for hearing at the time and place aforesaid the said Applicant requested leave to amend same by limiting the lands to be reclaimed by the proposed works to the following, that is to say: to an area of some 2,053 acres of Nick's island extending from the

northern boundary of Indian Reserve No.1 c northward to the southern boundary and westward extension of the northern boundary of Indian Reserve No.4 and having its western extremity along the east bank of French's or Big Slough northward from Indian Reserve No.1 c to the junction of the slough with Summit creek and along the east bank of this creek to meet the northern extremity at a point opposite the northern boundary of Indian Reserve No.4 and having its eastern extremity along the west boundary of Indian Reserve No.4 and the west bank of Kootenay river from Indian Reserve No.4 to Indian Reserve No.1 c; which said lands are particularly shown on the amended plan hereto annexed marked Amended Plan, Exhibit No.1, with the addition of 217 acres of adjacent lands in Indian Reserve No.4, Lot 10,002, lying to the north-east of the land above described, providing said applicant secures proper license and authority with respect thereto from the Department of Indian Affairs of Canada, which said 217 acres of land are shown on said plan hereto annexed marked Amended Plan, Exhibit No.1, and more particularly described as follows: all those lands on the west side of the Kootenay River within the confines of Indian Reserve No.4, Lot 10,002, bounded on the north and east by the Kootenay River and on the south and west by the lands hereinbefore described; and

WHEREAS no objection was produced or raised by any person at said hearing to the granting of the authority asked for by the Applicant under said Application as amended as aforesaid; and

WHEREAS the members of this Commission acting under the authority conferred upon them by said Treaty, after having read said Application and the amendment thereto proposed by the Applicant, and having heard the evidence adduced, and having read the exhibits filed and what was alleged by all parties appearing before them and desiring to be heard as aforesaid, and having considered the matters above recited, have determined that the works provided for by said Application, amended as aforesaid, should be approved of and authority given for the construction thereof pursuant to said Treaty.

1. NOW THEREFORE THIS COMMISSION DOETH ORDER AND DIRECT that the said plans and specifications referred to in said Application presented to and filed with it as aforesaid, as amended by said Applicant at said hearing, as shown by the amended plan hereto annexed marked "Amended Plan, Exhibit No 1", (copies of which Application, plans and amended plan are annexed hereto and made a part of this Order) be, and the same are hereby, approved of, and the construction and maintenance of works in accordance with such Application and plans as amended as aforesaid be, and the same are hereby, authorized under the provisions of the said Treaty.

2. THIS ORDER is subject to the provision that the applicant procure all necessary and proper licenses, permits, authorities and conveyances in connection with said works and the lands to be reclaimed thereby from the Dominion of Canada and Province of British Columbia.

Dated at the City of Nelson, this fifteenth day of May, 1936.

(Signed) Chas. Stewart
A.O. Stanley
W.H. Hearst
John H. Bartlett
George W. Kyte
Eugene Lorton