INTERNATIONAL JOINT COMMISSION

IN THE MATTER OF THE APPLICATION OF THE FOREST SERVICE OF THE UNITED STATES DEPARTMENT OF AGRICULTURE, FOR PERMISSION TO ERECT AND MAINTAIN A DAM AT PRAIRIE PORTAGE AT THE OUTLET OF SUCKER LAKE, IN THE STATE OF MINNESOTA, AND IN THE PROVINCE OF ONTARIO.

ORDER OF APPROVAL

June 13, 1939
INTERNATIONAL JOINT COMMISSION

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ORDER OF APPROVAL

In this Order whenever the word "Treaty" is used it shall mean and include the Treaty entered into between the 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, dated the 11th day of January, 1909; and whenever the word "Commission" is used it shall mean and include the International Joint Commission appointed under the Treaty.

WHEREAS the outlet of Sucker Lake is a boundary water within the meaning of the Preliminary Article of the Treaty, and flows northwesterly along the international boundary between the United States and Canada; and

WHEREAS in about the year 1905 there was erected a timber dam at Prairie Portage at the outlet of Sucker Lake where it discharges into Basswood Lake, for the purpose of maintaining levels in Sucker,
Birch, Newfound and Moose Lakes, all of which form an interconnected waterway; and

WHEREAS, for a number of years after the construction of the timber dam, the waters of the above-named lakes were maintained at a level of 1337.5 feet above sea level, which was the desired and contemplated level by means of the dam so erected; and

WHEREAS the said dam in establishing a level of 1337.5 caused considerable lands to be overflowed and established a new shore line for all of the above-mentioned lakes; and also interconnected the lakes in one continuous waterway; and

WHEREAS on the 22nd day of September, 1936, Messrs Benson and Peterson of St Peters, Minnesota, on behalf of Mr George B. Myrum, addressed a letter to the Commission requesting permission to repair the timber dam; and

WHEREAS on the 7th day of October, 1936, the Commission adopted an Order granting permission to Messrs Benson and Peterson to repair the timber dam, upon certain conditions; and

WHEREAS the repairs for which approval was granted have not been made and the said timber dam has deteriorated to such an extent that repairs are now impracticable, and the level of the said lakes is being gradually lowered; and

WHEREAS the original request for the repair of the timber dam
has been superseded by an Application by the Forest Service of the United States Department of Agriculture (hereinafter called the Applicant), dated January 16th, 1939; and

WHEREAS the Applicant proposes to erect and maintain a dam at the outlet of Sucker Lake for the purpose of maintaining the level of Sucker, Birch, Newfound and Moose Lakes at elevation 1337.5, the new dam to be constructed of concrete and stone masonry on a solid rock foundation, having a concrete overflow section the full width of the channel with adequate weir capacity to safely pass the flood flow without causing the elevation of the said lakes to exceed the recorded high water mark; and

WHEREAS the Applicant has submitted to the Commission detailed maps, plans and specifications for the construction of the said new dam; and

WHEREAS this Application came on for hearing at the City of Duluth, in the State of Minnesota, on the 13th day of June, 1939, after due notice to all parties interested in both countries of the filing of the Application, and of the time and place of the hearing, when evidence was adduced, and all parties desiring were heard; and

WHEREAS the construction and maintenance of the proposed dam will not have an injurious effect on any interests of the United States of America, the State of Minnesota, the Dominion of Canada or the Provinces of Ontario and Manitoba; and
WHEREAS the Applicant has secured all requisite and proper authority and/or licences on both sides of the boundary for the construction of said new dam; and

WHEREAS the owners of approximately ninety-five (95) per cent of the United States lands bordering on the shores of said lakes have expressed a desire to have the level maintained at elevation 1337.5; and

WHEREAS the Commission is of the opinion that the proposed new dam is properly designed both as to the matter of stability and adequacy to maintain the desired level on the said lakes, and to safely pass the flood flow without causing the level of the said lakes to rise above the maximum high water mark, elevation 1340.3 sea level datum; and

WHEREAS the Commission is of the opinion that the dam in question, with its operation as hereinafter provided, should be of substantial and lasting benefit to the owners of lands bordering on the shores of the said lakes on both sides of the boundary, and should provide the desired water level; and

WHEREAS the Commission acting under the authority conferred upon it by the Treaty, after reading the Application, the statements filed on behalf of the Applicant, the Government of the State of Minnesota, the Department of Conservation of the State of Minnesota, Lake County, Minnesota, the Quetico-Superior Council, the Commercial Club of Ely, Minnesota, property owners around Moose, Newfound, Sucker and Birch Lakes, the Government of the
Dominion of Canada, the Government of the Province of Ontario, the Hydro-Electric Power Commission of Ontario, the Government of the Province of Manitoba, and having heard the evidence adduced and what was alleged by parties appearing before the Commission to be heard, and having considered the matter above referred to and other matters, statements and documents brought to its attention, have determined that the dam provided for in the Application and plans should be approved and authority given for its construction pursuant to the Treaty, and subject to the conditions and regulations hereinafter particularly set forth.

NOW, THEREFORE, THIS COMMISSION DOETH ORDER AND DIRECT:

1. That the Application for permission to construct and maintain a concrete and masonry dam at a place known as Prairie Portage at the outlet of Sucker Lake on the international boundary, for the purpose of maintaining the previously established level on Sucker, Birch, Newfound and Moose Lakes, and the maps, plans, and specifications for such dam, copies of all of which are filed in the offices of the Commission in Washington and Ottawa and made a part of this Order, be, and the same are hereby, approved, and the construction and operation of said dam authorized, under the provisions of the Treaty, subject to the conditions and regulations hereafter set forth.

2. That the dam shall be constructed of concrete according to plans Numbers D39-01, D39-02, D39-03 and specifications filed with the Commission by the Applicant under date of January 16th, 1939.
3. That all cofferdams and portions of the old timber dam and of the stone-filled timber crib now in place above the old timber dam shall be entirely removed from the outlet of Sucker Lake.

4. That the dam shall be operated and maintained at the cost of the Applicant.

5. That the stop-logs shall be removed from the waste sluice of the dam at the end of the open water season in each year and shall not be replaced until the spring freshet has passed in each year.

6. That the Applicant shall install and maintain a staff gauge at a location to be chosen by the International Board of Engineers hereinafter provided for, and that the records of such gauge shall be regularly made available to and filed with the Board.

7. That the construction of the dam in accordance with plans and specifications submitted to the Commission by the Applicant and referred to in paragraph 2 above, and its maintenance and operation in accordance with the terms of this Order, shall be subject to the supervision and the control of an International Board of Engineers to be appointed by the Commission.
Dated in the City of Duluth, Minnesota, this thirteenth day of June, 1939.

[Signatures]

Chas. Steward
John H. Bartlett

[Additional Signatures]