

INTERNATIONAL JOINT COMMISSION

Order Approving Application of the City of Minot, North Dakota, for Permission to Divert Water from the Souris River for Domestic and Other Municipal Purposes.

WHEREAS, the City of Minot on the Souris River in the County of Ward, State of North Dakota, filed an application dated 23 March, 1951 with the International Joint Commission requesting permission to divert 6,700 acre feet of water annually from the Souris River for domestic and other municipal purposes, the maximum rate of diversion to be 9.25 cubic feet per second; and

WHEREAS, the Souris River rises in the Province of Saskatchewan, flows southeasterly across the international boundary into the State of North Dakota and, after making a large counter-clockwise loop in that state, flows in a general northerly direction and re-enters Canada in the province of Manitoba. The flow varies widely and at times the river has been known to be dry or practically dry; and

WHEREAS, under date of 15 January 1940 the Governments of the United States and Canada submitted a Reference to the International Joint Commission requesting inter alia advice as to what apportionment should be made of the waters

of the Souris River and its tributaries to the province of Saskatchewan, the State of North Dakota, and the Province of Manitoba, and what interim measures should be adopted to secure the specific objectives; and

WHEREAS, on 2 October 1940 the Commission submitted an interim report to the Governments of the United States and Canada recommending inter alia as interim measures, pending permanent settlement of the questions presented in the Reference, that the Province of Saskatchewan be permitted to continue the use then being made of waters of the Souris River and, in addition, to impound 4,000 acre feet of water for the purpose of providing an adequate water supply for the Town of Weyburn and the mental hospital at Weyburn; that the State of North Dakota be permitted to continue the use it was then making of the waters of the Souris River and, in addition, to impound 200 acre feet of water to provide an adequate water supply for the Town of Crosby, North Dakota; and that a regulated flow of not less than 10 cubic feet per second (later increased to 20 cubic feet per second) be released from the State of North Dakota to the Province of Manitoba during the months of June, July, August, September and October of each year; and

WHEREAS, the Commission further recommended in its interim report of 2 October 1940 that in the event the State of North Dakota or the province of Saskatchewan should desire, pending permanent settlement of the questions presented in the Reference, to construct any additional storage works, or otherwise make additional use of the waters of the Souris River Basin, "application shall be made to the International Joint Commission for authority to construct the **desired storage works or** otherwise to make use of additional waters"; and

WHEREAS, the recommendations in the Commission's interim report of 2 October 1940 were approved by the Governments of the United States and Canada on 23 March 1941 and 25 April 1941, respectively; and

WHEREAS, when the Reference of 15 January 1940 was submitted to the Commission and for several years thereafter records of the flow of the Souris River were inadequate for the purpose of apportioning the waters thereof, and it was therefore necessary that the Commission cause satisfactory streamflow records to be obtained; and

WHEREAS, on 9 October 1952 the Commission submitted a second interim report to the Governments of the United

States and Canada under the Reference of 15 January 1940, with special reference to the said application of the City of Minot, North Dakota, and therein noted that:

The proposed diversion is for domestic water supply, a use of the highest priority;

The rate and timing of the diversion will be such as to reduce the average annual diversion to an amount very much less than 6,700 acre feet;

A high percentage of the water diverted will be returned to the river together with some of the water pumped from wells by the City of Minot, with the result that the list effect downstream will be moderate³

The Commission's first interim report dated 2 October 1940 contemplated that applications of the type submitted by the City of Minot should be considered by the Commission and acted upon in the interim prior to formulation of the complete recommendations with respect to the questions in the Souris River Reference.

And the Commission therein concluded that the application should be approved, subject to appropriate conditions to safeguard established requirements and rights; and

WHEREAS, in its second interim report dated 9 October 1952 the Commission recommended that:

"(a) The Commission be authorized by the governments of the United States and Canada to adopt an Order approving the Application of the city of @not, North Dakota; provided, that the diversion so permitted shall be taken into consideration by the Commission in its ultimate recommendations for apportionment of the waters of the Souris River.

"(b) The pending application of the city of Minot and any future applications for diversion of water from the Souris River, other than for water supply dugouts, small stockwatering pools, and small irrigation projects, which the State of North Dakota or the Province of Saskatchewan may specify, be considered outside of the one thousand (1,000) acre-foot limitation specified in the Commission's resolution of 26 May, 1945";

and

WHEREAS, the above recommendations were approved, in the identical form submitted, by the Government of the United States on 16 April 1954; and

WHEREAS, the Government of Canada, on 7 March 1955 approved the second interim report of the Commission dated 9 October 1952 and the recommendations contained therein, provided that Recommendation (a) be amended by adding at the end thereof the following clarifying clause: "and shall be deemed to have been made subsequent to the said apportionment.;" and

WHEREAS, the Government of the United States on 6 April 1955 agreed to the amendment of the said Recommendation (a), as proposed by the Government of Canada; and

WHEREAS, by Resolution dated 6 April 1955 the Commission amended Recommendation (a) of the said Interim Report dated 9 October 1952 by adding the clarifying clause proposed by the Government of Canada.

NOW THEREFORE THIS COMMISSION DOTH ORDER AND DIRECT that the application of the City of Minot, North Dakota, for permission to divert water from the Souris River for domestic and other municipal purposes, at a rate not exceeding 9.25 cubic feet per second, and not exceeding 6,700 acre-feet per year, with return flows to the river to be substantially as contemplated in the Application, be and the same is hereby approved as an interim measure, subject to the following conditions;

(a) The diversion hereby permitted shall be taken into consideration by the Commission in its ultimate recommendations to the Governments of the United States and Canada for apportionment of the waters of the Souris River and, in order to safeguard established requirements and rights, shall be deemed to have been made subsequent to the said apportionment;

(b) The diversion hereby permitted shall be considered by the Commission outside of the one thousand (1,000) acre-foot limitation specified in the Commission's resolution of 26 May 1943;

(c) The City of Minot shall furnish to the Commission, through the International Souris River Board of Control, such data as the Commission may require as to the amounts of water actually diverted from the Souris River, together with estimates of the return flow.

Signed at Toronto, Ontario, this 26th day of January, 1956.

I. G. Thompson
Gen. Gerdon
~~*J. D. Bissell*~~
~~*Robert J. McWhorter*~~
~~*James G. Sargent*~~
P. M. (J.) Weber