

INTERNATIONAL JOINT COMMISSION

In the matter of the Application of the Northern States Power Company, a corporation, for permission to erect a dam on the Souris (Mouse) River near Minot, North Dakota.

ORDER OF APPROVAL

WHEREAS, the Governments of the United States and Canada by reference of date January 15, 1940, under the provision of Article IX of the Boundary Waters Treaty, 1909, submitted to this Commission for investigation and report the following questions, viz:

"Question 1.

In order to secure the interests of the inhabitants of Canada and the United States in the Souris (Mouse) River drainage basin, what apportionment should be made of the waters of the Souris (Mouse) River and its tributaries, the waters of which cross the international boundary, to the Province of Saskatchewan, the State of North Dakota, and the Province of Manitoba?

"Question 2.

What methods of control and operation would be feasible and desirable in order to regulate the use and flow of the waters of the Souris (Mouse) River and of the tributaries, the waters of which cross the international boundary, in accordance with the apportionment recommended in the answer to Question 1?" And,

WHEREAS, by amendment on the 1st of March 1941 to its report dated the 2nd of October, 1940, this Commission, among other things, made the following recommendation:

"4. In the event that the State of North Dakota or the Province of Saskatchewan should desire 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 water." And,

WHEREAS, the Government of the United States on the 28th of March, 1941, and the Government of Canada on the 25th of April, 1941, approved the Commission's recommendations of October 2, 1940, and have accepted the amendment of March 1, 1941 to the recommendations, and,

WHEREAS, in substitution of a similar resolution of March 1, 1941 this Commission on May 26, 1943, adopted the following resolution:

"It was also decided that the Province of Saskatchewan and the State of North Dakota should be informed that the words 'storage works, or otherwise make additional use of the waters of the Souris River basin' are intended to include dugouts and small domestic stock-watering dams or other projects approved by the appropriate Provincial or State authorities; and that the Province of Saskatchewan and the State of North Dakota may at any time make application for approval of dugouts and small domestic stock-watering dams or other projects approved by the appropriate Provincial or State authorities, of a total capacity in Saskatchewan and a similar capacity in North Dakota, of 1000 acre feet annually, and that as a matter of convenience such applications should cover substantial groups." And,

WHEREAS, The Northern States Power Company, a corporation of the State of North Dakota, on November 20, 1947, duly made application to this Commission as provided for in the Commission's

recommendation of October 2, 1940, for permission to erect a dam on the Souris (Mouse) River near Minot, North Dakota, and,

WHEREAS, the proposed dam will use approximately 430 acre-feet of water annually, an amount less than the number of acre-feet contemplated for allotment to the State of North Dakota in the Commission's resolution of May 26, 1943, and,

WHEREAS, The Northern States Power Company, a corporation of the State of North Dakota, on May 28, 1948, filed an application for a permit to divert and appropriate water of the State of North Dakota, which permit was approved on September 14, 1948 by the duly authorized authority of the State of North Dakota, viz: - The State Water Conservation Commission, and,

WHEREAS, the application to this Commission came on for hearing at the City of Minot, North Dakota on May 27, 1948, after due notice to all parties interested in both countries of the filing of the application and of the time and place of hearing, and,

WHEREAS, it appears from the evidence and hearings in the case that the construction of this dam is essential to the generation of additional electrical energy of which the City of Minot is in dire need and that it is not practicable, if possible, to obtain this electrical power from any other source. It further appears that no appreciable damage will be suffered by riparian owners or others by reason of this construction since the pond of this dam will be within the banks of the channel and the dam is to be so constructed with removable portions

such that there will be no decrease in the channel carrying capacity during floods.

It further appears that the required appropriation of some 0.6 cubic feet per second of water during maximum use will not preclude the prior appropriation of 20 cubic feet per second previously allotted to the Province of Manitoba and will in no way affect previously existing natural levels in the Province of Saskatchewan.

NOW THEREFORE THIS COMMISSION DOETH ORDER AND DIRECT:

1. That the Application of the Northern States Power Company for permission to erect a dam in the Souris (Mouse) River at Minot, North Dakota, and the plans for such works, copies of all of which are filed in the offices of the Commission in Ottawa and Washington and made a part of this Order, be, and the same are hereby approved, and the construction and operation of such works authorized, subject to the conditions hereinafter set forth.

2. That the dam be so constructed and, when completed, be so operated as to conform to the following:

(1) The dam shall be constructed in general to the elevations indicated on the plan numbered AA-49539 which was submitted to the Commission by letter of October 2, 1948 from the Applicant.

(2) The dam shall be so constructed as to result in no decrease in channel capacity at the

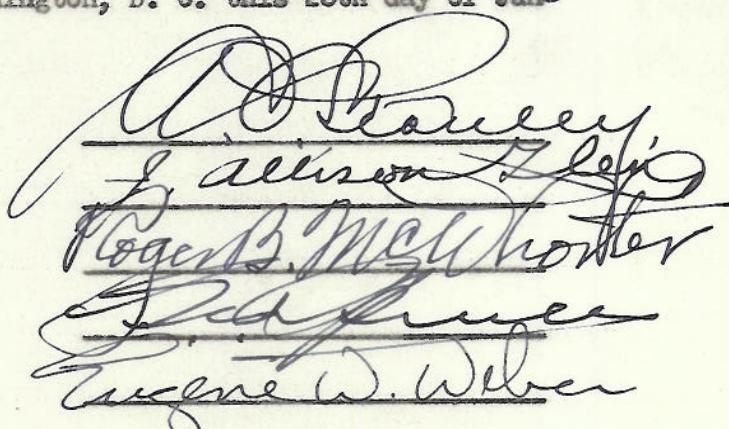
dam site during floods and as to permit the passage of 2,500 cubic feet per second of water without increasing river levels above the dam beyond the levels that would result at that discharge under conditions existing prior to construction of the dam.

(3) Whenever the river flow shall be such that over-topping of the banks of the natural channel upstream is threatened, the channel capacity at the dam shall be increased, as required, up to the full capacity of the works, so as to prevent over-topping of the banks or increasing the levels upstream beyond the levels that would result under conditions existing prior to construction of the dam.

(4) The consumptive use of water shall not be more than 430 acre-feet annually.

(5) The applicant shall be liable for all damages occasioned to the property of others by the construction, maintenance, or operation of the proposed works and in no event shall the United States be liable therefor.

Dated in the City of Washington, D. C. this 26th day of January, 1949, A. D.



A. D. Bearey
G. Allison
Roger B. McWhorter
G. D. Bruce
Eugene W. Weber

