



DEPARTMENT OF
Inland Fisheries and Game

STATE OF MAINE

AUGUSTA

To the International Joint Commission,

Washington, D. C.

Honorable Sirs:

The undersigned, Willis E. Parsons, Commissioner of inland fisheries and Game for the State of Maine, would respectfully represent, that as such Commissioner he has jurisdiction over the construction and maintenance of all fishways in the rivers and streams of said state.

That the St. Croix river on the easterly border of said state is a part of the international boundary between said State of Maine and New Brunswick, a Province of the Dominion of Canada, and that fishways permitting the passage of migratory fish have been constructed on the dams on said river and maintained for more than a generation, or since 1867, and that the two lower fishways, to wit, the one which existed at the first dam or tide water now owned or occupied by the St. Croix Gas Light Company, and the second dam owned by the Canadian Cottons, Limited, have fallen into decay and become useless, in fact, wholly obliterated, so that it now becomes necessary to construct a new fishway at each of said dams.

And further, that the said State of Maine through its said Commissioner and the Canadian Government at Ottawa by its legal representative have approved plans for the construction of

such fishways and are ready to proceed with such construction on the assumption that the amount of water used for a fishway is negligible and not a material "diversion" of boundary waters on the other side of the line, as contemplated in Article lll of the Treaty between the United States of America and His Majesty, the King of the United Kingdom of Great Britian, dated the 11th day of January, 1909, or if it should be found to be a technical diversion, that it would be a "diversion heretofore permitted," as referred to in said Article lll and not "further or other use" as would be affected by said treaty.

If, however, your honorable body shall find and determine that new construction of said fishways, or the repairs of any of the said fishways on said dams above referred to on said international waters of however long standing, which repairs are necessary frequently on short notice, is under the jurisdiction of your honorable Commission.

Application is hereby made to said international Joint Commission to grant consent and authority to all dam owners on said St. Croix river, to wit, International boundary, to erect such fishways as may be approved by said Commissioner for Maine and the legal representative of the Canadian Government as aforesaid, granting your consent and approval to such construction of new fishways and future repairs of existing fishways, as may be approved as aforesaid by the State of Maine and the Canadian Government by their legal representatives as aforesaid and in accordance with plans jointly approved by them.

And to do, make and perform such other acts and decrees by your Honorable Joint Commission as shall enable the said

Commissioner of Maine and legal representatives of said Canadian Government in case of emergency, or otherwise, from time to time, as it may become necessary, on proper notice to dam owners as provided by the laws of Maine and of Canada, to direct and require of any or all of said dam owners on said St. Croix river such construction or repairs on any fishway for their respective dams as in the judgment of said Maine and Canadian officials may be deemed necessary for the proper passage of migratory fish, as contemplated by the laws of the Canadian Government and of the State of Maine, such authority being for the mutual advantage and benefit of both countries, the Dominion of Canada and the State of Maine, as an integral part of the United States of America.

Dated May 24, 1923.

Willis E. Parsons,

Commissioner of Inland Fisheries
and Game for the State of Maine.

IN RE THE APPLICATION OF THE COMMISSIONER OF INLAND
FISHERIES AND GAME FOR THE STATE OF MAINE FOR THE
ERECTION AND REPAIR OF FISHWAYS IN THE ST. CROIX RIVER.

ORDER.

Whereas, the Commissioner of Inland Fisheries and Game for the State of Maine, filed with the International Joint Commission an application to "grant consent and authority to all dam owners on the St. Croix River, including the owners of the dams of the St. Croix Gas Light Company and Canadian Cottons. Limited, to erect and repair fishways in the said dams as might be approved by the said Commissioner of Inland Fisheries and Game for the State of Maine and the authorized representatives of the Government of Canada," and

Whereas, the Government of the United States has referred said application to the International Joint Commission for appropriate action in respect of the two dams designated as the St. Croix Gas Light dam and the Canadian Cottons. Limited. dam and

Whereas, by Order-in-Council dated the 24th day of July, A. D. 1923, the Commission was informed that the Government of Canada has no objection to approval being given to the application and plans for permission to construct and maintain fishways in the two dams specifically enumerated, namely, those of the St. Croix Gas Light Company and of the Canadian Cottons. Limited, and

Whereas, the said application so referred as aforesaid came on for hearing at the town of St. Andrews, in the Province of New Brunswick, in the Dominion of Canada, on the 3rd day of August, A. D. 1923, and notice of the filing of the said application and of the time and place of the said hearing having been given to all parties interested in both countries, and the Commission having heard the evidence adduced by all parties interested with respect thereto, and also having heard counsel on behalf of all parties concerned, and having taken time to consider its judgment in the matter, and

Whereas, it has been made to appear to the Commission that a certain dam for power purposes was constructed across the St. Croix River, a boundary stream between the Province of New

Brunswick in the Dominion of Canada, and the State of Maine in the United States of America, at a point above the town of St. Stephen by the St. Croix Gas Light Company known as the St. Croix Gas Light Company's dam, and that at a point above the town of St. Stephen on said river a dam was constructed for power purposes, which said dam is now owned and operated by the Canadian Cottons, Limited, and that in the construction of said dams practicable and efficient fishways were provided for the passage of fish up the said stream; and that by disuse and reconstruction of said dams the said fishways have become inefficient or totally obliterated.

Now, therefore, it is hereby ordered, that the Commission approves of the construction and repair of the said two mentioned fishways in accordance with the plans heretofore agreed upon between the Commissioner of Inland Fisheries and Game for the State of Maine and the Department of Marine and Fisheries of Canada, or in accordance with such modifications of the said plans, or in accordance with such other plans as may be agreed upon between the said Commissioner of Inland Fisheries and Game and the said Department of Marine and Fisheries and submitted to and approved by the Commission: such amended plans or other plans to be filed with the Commission within sixty days of the date hereof.

It is recommended that the said fishways should be operated under an International Board of Control.

Dated at Ottawa, Canada, this 3rd day of October, 1923.

C. D. CLARK.

C. A. MAGRATH.

M. A. SMITH.

W. H. HEARST.

CHAS. E. TOWNSEND.

HENRY A. POWELL.

APPLICATION.

To the INTERNATIONAL JOINT COMMISSION.

Washington, D. C.

HONORABLE SIRS: The undersigned, Willis E. Parsons, Commissioner of Inland Fisheries and Game for the State of Maine, would respectfully represent that as such Commissioner he has jurisdiction over the construction and maintenance of all fishways in the rivers and streams of said State.

That the St. Croix River on the easterly border of said State is a part of the International boundary between said State of Maine and

New Brunswick, a Province of the Dominion of Canada, and that fishways permitting the passage of migratory fish have been constructed on the dams on said river and maintained for more than a generation, or since 1867, and that the two lower fishways, to wit, the one which existed at the first dam or tide water now owned or occupied by the St. Croix Gas Light Company, and the second dam owned by the Canadian Cottons, Limited, have fallen into decay and become useless, in fact, wholly obliterated, so that it now becomes necessary to construct a new fishway at each of said dams.

And further, that the said State of Maine through its said Commissioner and the Canadian Government at Ottawa by its legal representative have approved plans for the construction of such fishways and are ready to proceed with such construction on the assumption that the amount of water used for a fishway is negligible and not a material "diversion" of boundary waters on the other side of the line, as contemplated in Article III of the Treaty between the United States of America and His Majesty, the King of the United Kingdom of Great Britain, dated the 11th day of January, 1909, or if it should be found to be a technical diversion, that it would be a "diversion heretofore permitted," as referred to in said Article III and not "further or other use" as would be affected by said treaty.

If, however, your Honorable Body shall find and determine that new construction of said fishways, or the repairs of any of the said fishways on said dams above referred to on said international waters of however long standing, which repairs are necessary frequently on short notice, is under the jurisdiction of your Honorable Commission.

Application is hereby made to said International Joint Commission to grant consent and authority to all dam owners on said St. Croix River, to wit, international boundary, to erect such fishways as may be approved by said Commissioner for Maine and the legal representative of the Canadian Government as aforesaid, granting your consent and approval to such construction of new fishways and future repairs of existing fishways, as may be approved as aforesaid by the State of Maine and the Canadian Government by their legal representatives as aforesaid and in accordance with plans jointly approved by them.

And to do, make and perform such other acts and decrees by your Honorable Joint Commission as shall enable the said Commissioner of Maine and Legal representatives of said Canadian Government in case of emergency, or otherwise, from time to time, as it may become necessary, on proper notice to dam owners as provided by the laws of Maine and of Canada, to direct and require of any or all of said dam owners on said St. Croix River such construction or repairs on

any fishway for their respective dams as in the judgment of said Maine and Canadian officials may be deemed necessary for the proper passage of migratory fish, as contemplated by the laws of the Canadian Government and of the State of Maine, such authority being for the mutual advantage and benefit of both countries, the Dominion of Canada and the State of Maine, as an integral part of the United States of America.

Dated May 24, 1923.

(Signed) WILLIS E. PARSONS,
*Commissioner of Inland Fisheries and Game,
for the State of Maine.*