

28-1-1-1

DEPARTMENT OF STATE

Washington

May 25, 1931

The International Joint Commission,
United States and Canada,
Washington, D.C. and Ottawa, Canada

Sirs:

I have the honour to transmit herewith for appropriate action by the International Joint Commission an application of the St Croix Water Power Company for the obstruction of waters of the St Croix River, dated May 4, 1931.

The attorneys for the applicant advised this Department that upon receipt of notice that this application has been transmitted to the Commission, they will file in accordance with Rule 7 of the International Joint Commission a duplicate original and twenty-five copies of the application with each of the Secretaries of the Commission.

Very truly yours,

Henry L. Stimson

Enclosure:
Application of
St Croix Water Power Company

28-1-1:1

Telephoned to Mr. Tilley.
May 19, 1931.

Applications to the International Joint Commission under Article III of the Treaty, should be addressed to the Commission and sent to the Secretary of State for External Affairs. The Secretary of State for External Affairs will transmit the Application to the Commission. 50 printed copies of the Application (printed the same size as the Rules of Procedure) are required. Two of these copies must be signed on behalf of the Applicants.

E m S.

May 19, 1931.

28-1-1-1

Duplicate Original

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(تکثیر شده)

INTERNATIONAL JOINT COMMISSION

**Application of the Sprague's Falls Manufacturing
Company, Limited for the Obstruction of
the Waters of the St. Croix River**

W. N. TILLEY
Counsel for
The Sprague's Falls Manufacturing
Company, Limited

INTERNATIONAL JOINT COMMISSION.

THE HONOURABLE THE INTERNATIONAL JOINT COMMISSION,
Ottawa,

AND

THE HONOURABLE THE INTERNATIONAL JOINT COMMISSION,
Washington.

APPLICATION OF THE SPRAGUE'S FALLS MANUFACTURING COMPANY, LIMITED, FOR THE OBSTRUCTION OF THE WATERS OF THE ST. CROIX RIVER.

The undersigned, as counsel for The Sprague's Falls Manufacturing Company, Limited (hereinafter called the Company) respectfully represents:

(1) The Company is a corporation duly incorporated by Act of Parliament of Canada, 2 Edw. VII, chapter 103, with power inter alia to—

“Section 6. The Company may purchase or otherwise acquire any business within the objects of the Company, and any lands, property, privileges, water powers, rights, contracts and liabilities appertaining thereto, and may let or sub-let any property of the Company, and may sell or otherwise dispose of the business property or undertaking of the Company, or any part thereof, for such consideration as the Company thinks fit, and in particular for shares, debentures or securities of any other Company having objects altogether or in part similar to those of the Company.

“Section 7. The Company may locate, erect and maintain at or near Sprague's Falls, in the St. Croix River, in the County of Charlotte, in the Province of New Brunswick, dams; with the right of flowage, for the purpose of holding reserves of water in the said

river, and the storing and holding of timber, logs or other lumber; provided that in the construction of such dams an opening or openings with the necessary slides and gates sufficient for the safe transmission of square timber, saw-logs or loose lumber shall be maintained free of charge for the use of all persons who may desire to transmit square timber, saw-logs or loose lumber, and the Company shall be liable to pay any damages to any owners of property injured by any overflowing of the waters of the said river caused by the said dams.

“2. The Company shall be liable to pay to any persons injured, compensation for any loss, damage, expense, detention, obstruction or unnecessary delay caused by the said dams, or the piers or booms hereinafter mentioned, or by the erection or maintenance of the said dams, piers or booms in the driving or floating down the said river of any such square timber, sawlogs or loose lumber.

“3. The Company shall, without delay build and maintain in the said dams such fishways, and of such design as may be prescribed by law.

“Section 8. The Company may locate, erect and maintain in the Saint Croix River piers, booms, shear booms, wharves, slips or other works necessary for operating saw or pulp mills or other manufactories; such side booms and piers and shear booms to be extended from the said dams at or near Sprague's Falls, or other dams hereinafter provided for, up river to such a distance as is necessary for the purpose of holding, collecting, separating, driving and sorting out logs, pulpwood and other lumber coming down the Saint Croix River, belonging to the Company or to any other person, and the logs, pulpwood or other lumber of any person which comes into the Company's booms, shall, without unnecessary delay, be separated by the Company from its own, and shall, at the cost and expense of the Company be driven out of the booms and into the river.

“2. The St. Croix Log Driving Company may place one or more men at the said booms, and at the expense

of the Company hereby incorporated, to see that the logs of any person, other than the last mentioned Company are all and properly passed by, and if not passed by to the satisfaction of the said log driving Company, then the said log driving Company may themselves take charge and pass the logs by at the expense of the Company hereby incorporated.”

“Section 11. The Company may locate, erect and maintain in the Saint Croix River above Sprague’s Falls at or near Grand Falls and Chipetnicook Falls on the said river, auxiliary dams, which shall be erected and maintained with the same requirements and under like conditions as required by section 7 respecting the dams at Sprague’s Falls, and may use the power created by the said dams directly or locally, or may transmit the said power by electricity or otherwise, to tide waters on the said river, or to points on the said river below the said dams, and for such purpose may erect poles, and do all other things necessary therefor, but paying all damage caused by reason thereof.”

“Section 14. Lands actually required for the construction, maintenance and operation of the Company’s mills, dams, piers, roads and tramways, may be taken and acquired by the Company; and to this end, after a plan of such lands has been approved of by the Governor-in-Council, all the provisions of the Railway Act which are applicable to such taking and acquisition shall, so far as they are applicable thereto, apply as if they were included in this act; and all the provisions of the Railway Act which are applicable, shall, in like manner, apply to the ascertainment and the payment of the compensation for, or damages to lands arising out of such taking and acquisition, or the construction or maintenance of the works of the Company, or the exercise of any of the powers of the Company under this section.”

“Section 16. The Company may purchase, lease and acquire timber and other lands, including the property of the incorporators or any of them, and the whole or any of the good-will, stock in trade, assets and property, real and personal, movable and immovable of the incorporators or other persons in connection with the

said business, subject to the obligations, if any, affecting the same, and may pay the price thereof wholly in cash or wholly or partly in fully paid up or partly paid up shares of stock of the Company, or wholly or partly in debentures of the Company or otherwise, and may mortgage, sell, or otherwise dispose thereof."

(2) The said St. Croix River forms a portion of the international boundary line between the United States and Canada, or between the State of Maine and the Province of New Brunswick, and is a boundary water within the meaning of the Treaty between the United States and Great Britain relating to boundary waters and questions arising between the United States and Canada.

(3) The St. Croix Water Power Company is a corporation incorporated by statute of the State of Maine entitled "An Act to incorporate the St. Croix Water power Company," made and passed on the second day of March A.D. 1899, for the purpose of making such improvements in the St. Croix River as will enable the said Corporation to store water for the purpose of increasing the volume of water in the St. Croix River in times of drought, either in summer or winter, by owning or building dams, flowing said rivers, lakes, ponds and streams, and deepening the water channels connected therewith, and it was provided by said act of incorporation as follows:

"Section 2. Said Corporation is authorized to hold such amount of real and personal estate as may be necessary for the purpose of its incorporation.

"Section 3. All dams and other structures authorized herein, shall be so constructed with the proper rollways, sluiceways, gates or other contrivances as to facilitate and not impede or interfere with the floating or driving of logs; and nothing herein shall abridge, impair or interfere with the chartered rights of the Saint Croix Log Driving Company, nor with the free use of said waters so far as needed for driving logs or lumber.

"Section 4. Said Corporation shall have the power to purchase, own and erect dams in the waters aforesaid, with suitable gates, sluice-ways, rollways or other

contrivances for the passage of logs and lumber, with the right to clear and deepen the channels of said waters, and to remove obstructions therefrom.

“Section 5. Said Corporation is hereby empowered to transmit electric power from its said dams, for lease or sale to such points as may be feasible, in such manner as may be expedient, and, subject to the general laws of the State regulating the erection of posts and lines for the purpose of electricity, it may erect and maintain all posts, wires and fixtures necessary therefor.”

(4) The stockholders in the Company and in the St. Croix Water Power Company, are the same individuals, and the two companies have worked, and are working in unison, for the purpose of carrying on and completing the undertaking hereinafter mentioned, the approval of which by the Honourable the International Joint Commission is hereby sought.

(5) Under date of the twenty-eighth day of September A.D. 1914, the Company and the St. Croix Water Power Company, made application to the Honourable the International Joint Commission, Ottawa, and to the Honourable the International Joint Commission, Washington, for the approval of a dam and power canal and obstruction, diversion, and use of waters of the St. Croix River at Grand Falls in the State of Maine and the Province of New Brunswick, to which said petition reference is hereby made, and the same is herein incorporated by said reference.

(6) Under date of November 9, 1915, by Order of Approval of the Honourable the International Joint Commission, said application was approved and order made that the maintenance and operation of the dam aforesaid and the diversion and use of the waters of said river for the purpose of generating power supplied to the pulp and paper mill now owned by the St. Croix Paper Company at Woodland, in the State of Maine, be approved upon and subject to the following conditions inter alia:

“(3) All the sluices, log sluices, flashboards, by-passes, power plant, and storage reservoirs shall be so

operated as to prevent the level of the water at the dam rising above 202 (mean sea-level datum). For this purpose the operation of all the said works, canals, headgates, sluices, and log sluices of all kinds, dams, and bypasses shall be under the direct control of the board hereinafter designated."

"(6) An officer to be appointed by the Governor-General in council of Canada and one to be appointed by the Secretary of War of the United States shall form a board whose duty it shall be to formulate rules under which the sluice gates, log sluices, power works, and storage dams are to be operated to prevent as nearly as possible a higher level than 202 (mean sea-level datum) and to secure to the users of water below Grand Falls the flow of water to which they are entitled. It shall be the further duty of this board to see that any rules or regulations now or hereafter made by proper authority are duly obeyed."

(7) Reference is hereby made to said Order of Approval of the Honourable the International Joint Commission, dated November 9, 1915, and the same is hereby herein incorporated by said reference.

(8) The Company is the owner of the riparian rights on the Canadian side of the international boundary (St. Croix River) above said dam to and including the level 205.71 (mean sea-level datum), and the St. Croix Water Power Company is the owner of the riparian rights on the United States side of the international boundary (St. Croix River) to the level 204.31 (mean sea-level datum).

(9) During the year 1930 the average level of the water at said dam was maintained at 202.17, with a maximum of 203.1 (mean sea-level datum), and under date of April 6, 1931, the Company was notified by the International St. Croix River Board of Control that said elevation had been raised to a higher elevation than obtained at the time of the Commissions' approval. Said level had been maintained by the Company's agent through ignorance that the level was limited to 202.

(10) In order to efficiently carry out the purposes for which said dam was constructed and to maintain proper

storage and flowage facilities for properties below said dam, it is desirable and necessary to increase the permitted level of 202 to 203.5 (mean sea-level datum), and no structural change in said dam (other than the placing of flashboards in the brackets) is necessary in order to so increase the permitted level.

(11) The Company therefore hereby applies to the Honourable the International Joint Commission, Ottawa, and Washington for the proposed increase of the permitted level from 202 to 203.5 (mean sea-level datum), and that it be permitted to so operate all the sluices, log sluices, flashboards, bypasses, power-plant and storage reservoirs as to prevent the level of the water at the dam rising above 203.5 (mean sea-level datum).

Respectfully submitted, and dated this 27th day of May, A.D. 1931.



Counsel for The Sprague's Falls
Manufacturing Company, Limited.