



Ottawa, April 13, 1940.

Sir:

I have the honour to transmit to you the application of the Creston Reclamation Company Limited and the Creston Dyking District in respect of three reclamation projects in the Kootenay Flats in the Province of British Columbia. This Application is being transmitted to the International Joint Commission, in accordance with the provisions of Article 4 of the Boundary Waters Treaty of 1909, for appropriate action.

In transmitting the application, the Canadian Government reserves its right to question, at the appropriate time, the jurisdiction of the Commission to grant any or all of the orders requested by the applicants and the jurisdiction of the Commission to deal with the matters raised in the application.

Our purpose in transmitting the application is to afford the applicants an opportunity to present their case, in order that the Commission may dispose of such parts of the application as it may properly deal with.

As navigable waters are involved, it is possible that the applicants will require approval under the Navigable Waters Protection Act. I venture to suggest,

The Secretary,
International Joint Commission,
O t t a w a.

therefore, that, in communicating with the applicants,
you might inform them that they should take the matter
up with the Department of Public Works.

I have the honour to be,

Sir,

Your obedient servant,



Under-Secretary of State
for External Affairs.

INTERNATIONAL JOINT COMMISSION.

in the matter of the Application
of

CRESTON RECLAMATION COMPANY LIMITED
and / or
CRESTON DYKING DISTRICT

for the issue of certain orders
for the adjustment of certain
differences now existing between
the Drainage Districts of the
Kootenay Flats in British Columbia,
Canada, and arising out of certain
Orders of Approval to construct
certain works granted by the
International Joint Commission
to the said Districts.

A P P L I C A T I O N .

Creston Reclamation Company Limited
Frank V Staples. Mgr Director

Creston Dyking District.
Guy Constable, Frank Putnam M.P.P.,
Elias Uri, Trustees.

February 26th 1940.

APPLICATION OF THE CRESTON RECLAMATION COMPANY
LIMITED AND/OR CRESTON DYKING DISTRICT

to

THE INTERNATIONAL JOINT COMMISSION

for the issue of certain Orders for the adjustment of certain differences now existing between the Drainage Districts of the Kootenay Flats in British Columbia, Canada, and arising out of certain Orders of Approval to construct certain works granted by the International Joint Commission to the said Districts.

TO THE HONOURABLE INTERNATIONAL JOINT COMMISSION.

Application made by the Creston Reclamation Company Limited and/or the Creston Dyking District,

RESPECTFULLY SHEWETH:

1. STATUS OF THE APPLICANTS.

The Creston Reclamation Company Limited is a Company incorporated under the Companies Act of the Province of British Columbia, Canada, a copy of the Certificate of Incorporation, Memorandum of Association, and Authority to commence business being on file with the Honourable Commission. The Head Office of the Company is at Creston, in the Province of British Columbia, Canada. The objects of the Company are as set forth in the said Memorandum, and more particularly to undertake, construct and maintain upon any land owned or leased by the Company, or in which the Company has any interest, operations for the purpose of reclaiming and bringing under cultivation such land or part thereof.

The Directors of the Company are Frank V. Staples, R. B. Staples, Frank H. Putnam, S. A. Speers, H. S. McCreath.

The Capital Stock of the Company is \$100,000, divided into 100,000 shares, of which 98,052 have been issued and paid for.

The Creston Dyking District is incorporated as an Improvement District under the provisions of the Water Act of the Province of British Columbia, Canada. The Improvement District comprises all those certain tracts of land described as Lots 9999, 10000, 10001, 13566, 13567 and 14357, Kootenay District, Province of British Columbia, Canada. The Letters Patent incorporating the said lands as an improvement district under the name and title of "Creston Dyking District" bear date the fourteenth day of April, 1937, and a copy of the same is attached hereto.

The Trustees of the Creston Dyking District are Guy Constable, Chairman, Frank H. Putnam, Elias Uri.

2. HISTORY of the Drainage Districts.

Creston Dyking District, being Unit No. 1 of the Creston Reclamation Company Limited, was reclaimed by works constructed in 1935-36 substantially in accordance with the plans and specifications on file with the Honourable Commission, and under the authority of the Order of Approval granted on the 3rd day of April, 1928. The Approval authorised the construction of reclamation works only as particularly shown and mentioned in the plans and specifications for Unit No. 1, and was subject to the terms of the Indemnity Clause of Article VII of the International Waterways Treaty, and the reservation to the Applicant and all parties having claims for injury in respect of such works, for such further order, direction, or action with reference to such claim as the Commission might deem proper.

The Works consist of a dyke or levee surrounding the reclaimed area on the South, West and North, tying in with the foothill of the Valley on the Eastern boundary, together with a diversion of the Goat River into the Kootenay River, all substantially as specified in the plans approved of and as shown on the accompanying Blue Print.

With the completion of the works as aforesaid and with the sale, occupation and agricultural development of the reclaimed area, the Landowners formed themselves into an Improvement District under the Water Act of the Province of British Columbia, as provided for in the agreement with the Government of the Province for the Crown Grant of the lands so reclaimed. All power and authority in the Improvement District by virtue of the Letters Patent and the provisions of the Water Act is vested in the Ratepayers, and through them in a Board of three Trustees. The Creston Reclamation Company is now with respect to this District a holding company only as to its equities therein.

Following the flood damages of 1938, the works aforesaid were re-habilitated in 1938-39, and re-inforcements, betterments and improvements to the works of the District are continuing at this time.

KOOTENAY FARM PROJECT of Kootenay Reclamation Farm, being that tract of land described as Lot 774, Kootenay District, Province of British Columbia, Canada.

The works for reclaiming this area were constructed originally prior to the ratification of the International Waterways Treaty. The original works in part were re-habilitated in 1929-30 by the Kootenay Valley Power & Development Company Limited under agreement with the original owners of the tract, and in 1931 were damaged by flood leading the following year to an assignment of the Company in Bankruptcy, and the vesting of the lands and works in a Trustee in Bankruptcy.

KOOTENAY FARM PROJECT - Cont'd.

The Trustee in Bankruptcy by an application dated Sept. 23rd, 1932, to this Honourable Commission for permission to rehabilitate certain of the aforesaid works and to construct certain new works in and adjacent to Boundary Creek, received the temporary Approval of the Honourable Commission August 26th, 1933, and proceeded to reconstruct and repair the works originally and heretofore constructed, and to construct new works, all substantially in accordance with the plans and specifications on file with this Honourable Commission.

The Temporary Order was subject to such reservations, qualifications and conditions as the Honourable Commission might deem proper to embody in its formal Order, one of which conditions was to be that the permission and order should in no way affect or prejudice the rights and remedies of adjoining owners, or of any person who might be injured by the construction of the said works. The final Order of Approval was granted on October 3rd, 1933, without reservation other than to one C. C. French with respect to any injury or damage or loss he might sustain by reason of the said works, or otherwise howsoever.

Following the flood damages of 1938 the works aforesaid were repaired and reinforced in part, and new works constructed. The District is administered by the Trustee in Bankruptcy acting on the advice of the Inspectors to the Estate. A Committee of the Landholders exercise a restricted authority.

The Bruner Project.

The District lies to the West of the Kootenay River and North of the Kootenay Farm Project, and was reclaimed in 1936-37 under the authority of the Order of Approval granted May 15th, 1936, substantially in accordance with the plans and specifications on file with the Honourable Commission, as amended by the Applicant on the objection of the State of Idaho and the Districts in Canada heretofore receiving the Approval of this Honourable Commission.

The works consist substantially of the enclosure of the area by a dyke or levee following along the West bank of the Kootenay River on the eastern boundary, the East bank of French's or Nick's Slough on the Western boundary, with cross dykes or levees at the Northern and Southern extremities.

The works have been reinforced and repaired in the years following their construction, and have successfully withstood all floods to date.

The District is not incorporated under any Statute of the Dominion or the Province of British Columbia, and the respective farmer-owner interests therein administer the area by mutual consent.

3. The Nature of the Differences.

The Differences between the Districts arise out of the Orders of Approval granted by the Honourable Commission as follows-

<u>Creston Reclamation Co. Ltd.</u>	<u>April 3rd, 1928</u>
<u>G. L. Salter, Trustee in Bankruptcy Kootenay Farm Estate</u>	<u>Oct. 3rd, 1933</u>
<u>Peter Charles Bruner</u>	<u>May 15th, 1936</u>

- and are listed hereunder,

1. G. L. Salter, Trustee in Bankruptcy of the Kootenay Valley Power & Development Company Limited, and Peter Charles Bruner et al (Bruner District),
versus
Creston Reclamation Company Limited and/or
Creston Dyking District.
2. Creston Reclamation Company Limited and/or
Creston Dyking District,
versus
G. L. Salter, Trustee in Bankruptcy of the Kootenay Valley Power & Development Company Limited.
3. Creston Reclamation Company Limited and/or
Creston Dyking District,
versus
Peter Charles Bruner et al (Bruner District).

The precise nature of these differences or disputes is as follows, taken in their order above:

1. COMPLAINT BY PETER CHARLES BRUNER.

The complaint by Peter Charles Bruner is that the discharge through the Goat River diversion of the Creston Dyking District has caused erosion to the West bank of the Kootenay River and adjacent to the dyke of the Bruner Project in numerous places, jeopardizing the said dykes.

Complaint by G. L. Salter, Trustee.

The West bank of the Kootenay River adjacent to the dyke or levee of the Kootenay Farm Estate and approximately due West and down stream a distance of some 900 feet from the outlet of the works of the Creston Reclamation Co. Ltd. diverting the course of the Goat River into that of the Kootenay River, has suffered from erosion to the extent that the Trustee of the Estate considered the dykes adjacent to the eroded bank to be endangered. The Trustee, acting on behalf of the Creditors, under the instructions of the Inspectors of the Estate and the advices of his engineers, has demanded that the dyke or levee of the Creston Dyking

District in the vicinity of the diversion be set back from the East bank of the Kootenay River a sufficient distance to permit of the reconstruction of the diversion at a much more acute angle with the Kootenay River, and has demanded such reconstruction by the Creston Reclamation Co. Ltd., and further has demanded that damages in the sum of \$2500 be paid to him in satisfaction of the estimated expenditures involved in the setting back of the dyke of the Trustee Estate away from the West bank of the Kootenay River, eroded as aforesaid, all in accordance with certain plans and specifications designed by his Engineers.

STATEMENT IN REPLY.

The reply of the Creston Reclamation Company Limited to these demands was that they could accept no responsibility for the erosion complained of, but that, having noted the changed flood conditions on and adjacent to the South dyke of the Creston Dyking District due to the back water effect produced by the increased flood flows caused by the construction of the South or Boundary Creek dyke on the Trustee Estate (as later set forth in Complaint No. 2), they had recommended to the Creston Dyking District remedial works at and in the vicinity of the diversion to improve and adjust these changed conditions, and that, if in the opinion of the Trustee as advised by his Engineers, these remedial works contemplated could be constructed in such a way as to at the same time eliminate or in any measure relieve or benefit the conditions of which the Trustee complained, the Creston Reclamation Co. Ltd. would be prepared to recommend to the Creston Dyking District the consideration of any such modification or alteration of the contemplated remedial works as might in the opinion of all concerned benefit the Trustee Estate, provided the improvement or adjustment of the flood conditions affecting the District's South dyke would not be impaired, that additional expenditures would not be involved, and that the Reclamation Works of the District would not otherwise be adversely affected thereby.

TRUSTEE STATEMENT IN REPLY.

The reply of the Trustee to the above was a rejection of the proposals of the Creston Reclamation Company Limited, together with a declaration that if and when the construction of the remedial works contemplated by the Creston Dyking District were commenced, injunction proceedings would be instituted. The Trustee further filed with the Creston Reclamation Co. Ltd. the report and plans of his Engineers, and advised that he would hold them responsible for any and all loss or damage which might be suffered by the Estate by reason of the erosion of the West bank of the Kootenay River in the vicinity of the diversion, and the flow of the waters of Goat River through the same.

STATUS OF THE DISPUTE AT THE DATE OF THESE PRESENTS.

A Conference was arranged between a Committee of the Landowners of the Kootenay Farm Estate, Representative of the Creston Reclamation Company Limited and the Creston Dyking

District and the Engineers of the Trustee, whereat the matters in conflict were, without prejudice, reviewed, and the nature of the remedial works contemplated by the Applicants and those demanded by the Trustee delineated on a plan of the said diversion, in blue and red lines respectively. The Applicants declined any commitments, reserved complete freedom of action, but reaffirmed their already expressed disposition to adjust their contemplated works to benefit the Trustee Estate, subject to the reservations stated heretofore. The Trustee of the Estate, under date Feb. 8th, 1940, without prejudice, interprets the said proposals as follows, and demands immediate confirmation of the same by the Creston Reclamation Co. Ltd.

1. In good time before 1940 high water the excavation within the area indicated by red lines on the plan aforesaid, a minimum of 30,000 cubic yards.
2. The existing diversion not to be obstructed during the 1940 high water.
3. In good time before 1941 high water to:
 - (a) Excavate to elevation of zero on the Creston Ferry Gauge the whole area between the two red lines marked on the said plan.
 - (b) Fill up the existing Goat River diversion.
 - (c) Construct a new mound parallel with and adjoining the new diversion on its southerly side, using for this purpose all available excavated earth.
 - (d) Drive a line of piles side by side at the Kootenay River end of the new mound and tie the same well into the said mound.
4. All the work to be done to the satisfaction of the Trustee Engineers, who shall certify approval.
5. Upon completion of the works as stated and certification of the same as provided, the Trustee and his successors will accept the diversion as satisfactory, and release the Creston Reclamation Co. Ltd. from any claim for damage to the Kootenay Farm Estate or its dyke by reason of the flow of water through the new diversion.
6. Until the completion of the work and its certification as aforesaid, the Creston Reclamation Co. Ltd. are to remain liable for any damage which may occur to the Trustee Estate, but so long as the works are being carried on to the satisfaction of the Trustee Engineers, the Trustee will not commence any legal proceedings against the Creston Reclamation Co. Ltd. until actual damage has occurred.
7. The Trustee will pay the charges of the Engineers acting on his behalf.

The Creston Reclamation Co. Ltd. has declined to confirm these proposals, disclaims all responsibility for any erosion of the West bank of the Kootenay River in the vicinity of the diversion, reaffirms the right of the Creston Dyking District to construct the remedial works contemplated and its expressed disposition to adjust the same to benefit the Trustee Estate, subject to the reservations stated.

2. COMPLAINT BY CRESTON RECLAMATION CO. LTD. and/or
CRESTON DYKING DISTRICT.

The construction of the South or Boundary Creek Dyke of the Kootenay Farm Estate, cut off the By-Pass through which a large volume of Kootenay River and Boundary Creek water flowed through the French's Slough along the west side of the Estate during flood periods. Such flood flows so cut off, increased the volume of the Kootenay River at the International Boundary Line, which some distance down stream diverted such excess volume through a break in the natural East bank of the Kootenay River, widening and deepening the same, the said excess volume thence flowing due north across Indian Reserves No. 1a, No. 1 and No. 1b, uniting with the waters of Goat River, the combined flow discharging through the diversion of the Creston Dyking District into the Kootenay River. The effect of such combined flood flows has been the ponding of the same against the South dyke of the Creston Dyking District, raising the flood levels very substantially and, if the contentions of the Trustee of the Kootenay Farm Estate are established, then the further effect of increasing the velocity of discharge through the diversion and contributing to the erosion of the West bank of the Kootenay River in the vicinity.

STATEMENT IN REPLY.

No Statement in reply to such complaint has been received from the Trustee in Bankruptcy of the Kootenay Farm Estate.

STATUS OF THE DISPUTE AT THE DATE OF THESE PRESENTS.

In view of the urgency for the construction of the remedial works, in the interests of the Applicants as stated, before the 1940 High Water, the Creston Dyking District has commenced the excavation of such yardage as may be necessary to improve the discharge of excess flood flows through the diversion, in order to alleviate and adjust the excess flood conditions adversely affecting its South dykes as stated.

PROPOSAL and SUBMISSION OF THE APPLICANTS.

The Applicants jointly and severally deny all primary or separate responsibility for any erosion of the banks of the Kootenay River either at the locations complained of by the Trustee Estate or Peter Charles Bruner, and disclaim all liability with respect thereto. It is the considered opinion of the Applicants, that each reclaimed area or district should provide at their own expense for the protection of its own works as may from time to time be adversely affected by any disturbances in the regimen of the Kootenay River, as such may develop by reason of the construction of works, approved by this Honourable Commission, in the several Drainage Districts in Canada, or howsoever, in the light of the following fundamental principles regulating alluvial rivers in delta lands:

1. Rivers have a prior right to the flood plain which they fashioned to accommodate their flood flows.
2. Whenever Man encroaches on the right of way of Nature, Nature reacts, and Man must pay the price.

3. The Regimen of a large alluvial river is in such delicate balance that the construction of a dyke or diversion, disturbs the whole system of Nature in transporting the flood waters through the alluvial plain.
4. A River can approach a state of permanent regimen, but never attain it, owing to varying discharge and velocity of flow.
5. Alluvial river channels move laterally, and slowly but surely back and forth over the alluvial plain.
6. Any addition to the flood waters of a river increasing the frequency and duration of its bank full stages, will produce an increase in channel capacity.

It is further submitted that, in the absence of any general flood protection plan for the entire flood area of the Delta lands adjacent to the Kootenay River in Idaho and British Columbia, the Reclamation of topographic Unit Areas without coordination or regard the one for the other, must inevitably set up disturbances in the regimen of the River for which each Unit must be prepared to pay the price, according as each is injured or affected.

It is respectfully submitted further that the Applicants have a Priority of Right in the construction of works for the reclamation of lands adjacent to the Kootenay River in Canada, by reason that its Application and subsequent Approval by this Honourable Commission preceded all others, and that in these premises it is for other Applicants, knowing the nature of the works first approved of, to conform and adjust their works so as to be unaffected thereby, or if otherwise to provide the necessary protection to the same. The works of the Trustee Estate it is admitted antedate in part those of the Applicants, but it is submitted that while the original works were constructed prior to the International Waterways Treaty and therefore without the jurisdiction of this Honourable Commission, they were brought within that jurisdiction by the Application of the Trustee of September 22nd, 1932, subsequently approved of.

It is emphasized that the Applicants have suffered by the increased height of the flood waters on their South dykes due to the construction of works by the Trustee Estate as outlined in their Complaint against the Trustee, that it is considered in their view to be their obligation to adjust that condition without claim against the Trustee Estate, and that in like circumstances affecting the Trustee and Bruner Districts it is for them to make such provision as they may consider necessary to protect their works and adjust the conditions adversely affecting them.

Finally it is submitted that this Honourable Commission, having granted permission for these works, it is within their province to review and adjust these differences arising therefrom, by such Decision and Order as will give recognition to the basic principles upon which the farming industry of these lands is founded, and as will bring relief from the intolerable burden of accusation and threat imposed on one District by other Districts, with respect to the uncontrollable and ever changing conditions in the regimen of the Kootenay River, to which all have contributed in a greater or lesser degree.

IT IS PROPOSED BY THE APPLICANTS to enlarge the cross-sectional area of the diversion of Goat River by the excavation of an undetermined number of cubic yards of earth in the spring of 1940, to observe the effect of this work, as it may be influenced or assisted by the high water flow of Goat River, on the South Dyke of the Creston Dyking District during the flood period of 1940, and in the Fall or Spring following such further improvement to the Outlet structure as may be deemed necessary for the benefit of the said District.

3. COMPLAINT BY THE CRESTON RECLAMATION COMPANY LIMITED and/or CRESTON DYKING DISTRICT.

Prior to the Approval of the amended application of Peter Charles Bruner, a large volume of the flood flow of the Kootenay River by-passed to the Kootenay Lake by way of Nick's (Big) Slough, being a continuation of French's Slough, and diverting from the said Slough through a break in its East bank, flowed through the length of the Bruner District to a confluence with the Kootenay River outside of the District's boundary, such by-pass flows being operative at a river rise of from six to seven feet on the Creston Ferry Gauge.

Such by-pass flow is now shut off by reason of the construction of the West dyke of the Bruner District following along the East bank of Nick's (Big) Slough, and across the break in the East bank aforesaid. The By-Pass flows are thus confined to the channel of the Nick's (Big) Slough, which continuing in a northerly direction is blocked and silted up in numerous places, and is not operative as a By-Pass until bank full at an elevation of from 19 to 20 feet on the said Creston Ferry Gauge.

By reason of the general elevations of the land area lying to the West of Nick's (Big) Slough, any by-pass of flood flows over and across such area does not become operative until a rise of the Kootenay River of from 17 to 20 feet on the Creston Ferry Gauge has been attained, and such by-pass flows are retarded by timbered growth and vegetation.

It is the contention of this Complaint that the evidence in this hearing of the Bruner amended application, is conclusive that Approval was given by this Honourable Commission on the amending of the Application to comply with the objections of the Kootenay Farm Project, the Creston Reclamation Co. Ltd., and the State of Idaho, with the understanding by this Honourable Commission and by all parties registering objection, that this By-Pass as defined, was open and operative, or would be, upon the construction of the dykes approved, and flood flows unobstructed at the same respective stages of the Kootenay River rise, as would exist if the dykes so approved had not been constructed, and that the said objections were withdrawn with that specific understanding.

STATEMENT IN REPLY.

The reply of Peter Charles Bruner to this Complaint has been to disclaim any obligation, under the Approval granted by this Honourable Commission, to construct such improve-

ment works in the channel of Nick's (Big) Slough as might be necessary to reestablish the operation of the By-Pass as stated in the Complaint, and to object to any improvement in and adjacent to the channel of Nick's (Big) Slough as might create a velocity of flow in the same adjacent to the dyke of the Bruner District.

STATUS OF THE DISPUTE AT THE DATE OF THESE PRESENTS.

The Creston Dyking District, the Kootenay Farm Estate, and the Bruner District mutually agreed to the construction of a cut or excavation in the West bank of Nick's (Big) Slough at a suitable point up stream from the channel obstructions heretofore mentioned, whereby the flow of the channel would divert through the same, creating a by-pass operative at an elevation of 12 feet of Kootenay River rise as measured on the Creston Ferry Gauge. P. C. Bruner has declined to contribute to the costs of such construction on an equal basis to the other reclaimed areas participating.

THE APPLICATION.

1. For an Order establishing the Priority of the Order of Approval of April 3rd, 1928, for the construction of certain permanent works described therein, and adjacent to the channel of the Kootenay River at Creston, Province of British Columbia, Canada, over and taking precedence of the Orders of Approval granted subsequently for the construction of works similar in nature, and also adjacent to the channel of the Kootenay River as aforesaid, whereby a Priority of Right to the Construction of such works as embraced in the said Order of Approval shall inure to their benefit.
2. For such Order as will adequately provide, and in the opinion of this Honourable Commission, be just and equitable to all concerned, directing and empowering, without recourse the one to the other,

Creston Reclamation Company Limited and /or
Creston Dyking District,

G. L. Salter, Trustee in Bankruptcy of the
Kootenay Farm Estate,

and

Peter Charles Bruner et al

to construct such remedial works, and to repair, improve or reconstruct such existing works as each may deem necessary, in and adjacent to the Kootenay River and the channels connecting therewith, as will provide, each at his or their own expense, for the correction or readjustment of all and every alteration or disturbance in the regulation or regimen of the Kootenay River and the channels connecting therewith, which may from time to time develop therein, and adversely affect or jeopardize the reclamation works in the respective drainage Districts adjacent to the Kootenay River in Canada, by reason of the construction of such works, as permitted in the several Orders of Approval to the respective parties aforementioned.

3. For an Order, supplementary to the Order of Approval to Peter Charles Bruner of May 15th, 1936, directing the said Peter Charles Bruner, his Successors and Assigns, to remove all such natural and artificial obstructions

in the channel of Nick's (Big) Slough, to an elevation of six feet on the Creston Ferry Water Gauge, across the width between its natural banks at the location of such obstructions, as may be necessary to reestablish the free flow and discharge in, through and from the said channel.

PETITION.

WHEREFORE this Application is respectfully submitted for the consideration of this Honourable Commission and the Applicants hereby apply to this Honourable Commission for the Orders of Priority of Right and Direction as aforesaid, or for such Order or Orders, Ruling or Decision as may in the opinion of this Honourable Commission be just and equitable to all concerned in these premises, or as may be required by any Treaties or Statutes relating hereto, with such provisos as may be deemed fitting herein.

ALL of which is respectfully submitted.

CRESTON RECLAMATION COMPANY LIMITED.

Frank V. Staples

Managing Director

CRESTON DYKING DISTRICT.

Guy Constathe

Chairman, Board of
Trustees.

Dated February 26th, 1940.

Certified Copy of Letters Patent of the
Creston Dyking District.

Certified a true copy of the Letters Patent
of the Creston Dyking District issued under authority
of Order-in-Council 418 approved on the 14th day of
April, 1937.

P. W. Wether
Deputy Clerk, Executive Council.

PROCLAMATION.

[L.S.] E. W. HAMBER,
Lieutenant-Governor.

CANADA:

PROVINCE OF BRITISH COLUMBIA.

GEORGE THE SIXTH, by the Grace of God,
of Great Britain, Ireland, and the British
Dominions beyond the Seas, KING, De-
fender of the Faith, Emperor of India.

*To all to whom these presents shall come—
GREETING.*

A. W. GRAY, { *WHEREAS* by section
Minister of Lands. } 172 of the "Water
Act" it is provided that it shall be lawful for
the Lieutenant-Governor in Council, upon the
recommendation of the Minister of Lands, to
constitute by Letters Patent a tract of land an
improvement district and the owners thereof a
body corporate:

And whereas a petition has been addressed
to the Lieutenant-Governor in Council by own-
ers of land within the tract of land hereinafter
described, praying that the said tract of land
may be constituted an improvement district and
the owners thereof a body corporate:

And whereas the provisions of the "Water
Act" relative to such petitions have been com-
plied with:

And whereas the Minister of Lands has
recommended that the prayer of the said peti-
tion be granted:

And whereas the Lieutenant-Governor in
Council has, by Order in Council made pursu-
ant to the provisions of the "Water Act," been
pleased to order that the said tract of land
situate in Kootenay Land District, and hereinafter
more particularly described, shall from
and after the fourteenth day of April, 1937, be
constituted an improvement district and the
owners thereof a body corporate under the said
Act, and has made further provision to the
tenor and effect hereinafter appearing:

Now KNOW YE that by these presents We do
hereby order and proclaim:—

1. That certain tract of land comprising Lots
9999, 10000, 10001, 13565, 13566, 13567, and
14357, Kootenay District, shall from and after
the fourteenth day of April, 1937, be consti-
tuted an improvement district and the owners
thereof a body corporate under and subject to
the provisions of the "Water Act" and amend-
ing Acts, and under and subject to the provi-
sions hereinafter contained or referred to.

NAME, TERRITORIAL LIMITS, AND OBJECTS
OF THE DISTRICT.

2. The improvement district shall be called
and known by the name and title of "Creston
Dyking District."

3. The said improvement district shall com-
prise all the tract of land hereinbefore de-
scribed.

4. The objects of the improvement district
shall be the acquisition and operation of works
for the reclamation and development of the
lands in the district by dyking and incidental
means and for the improvement and develop-
ment of the said lands by drainage and inci-
dental means.

QUALIFICATION OF VOTERS AT THE FIRST
ELECTION.

5. At the first election the persons qualified
to vote for Trustees shall be all such persons
as are British subjects of the full age of twenty-
one years, and are owners (as defined in section
165 of the said Act) of land within the terri-
torial limits, or the duly qualified agents of
such owners, and are not of Chinese, Japanese,
or other Asiatic or Indian race.

NUMBER, QUALIFICATION, AND TERM OF
OFFICE OF THE TRUSTEES.

6. There shall be three Trustees of the said
improvement district.

7. Any person qualified as hereinbefore pro-
vided to vote at the first election shall be qual-
ified to be a candidate for election as Trustee at
the first election.

8. The candidate elected as Trustee for whom
the greatest numbers of votes are cast at the
general meeting called pursuant to clause 10
hereof shall hold office until the annual general
meeting of 1940, the candidate elected for whom
the second greatest number of votes are cast
shall hold office until the annual general meet-
ing of 1939, and the candidate elected for whom
the third greatest number of votes are cast
shall hold office until the annual general meet-
ing of 1938, but should there be nominated no
more than three candidates for the office of
Trustee, then the Returning Officer shall have
power to and shall declare which of the candi-
dates elected shall hold office until the next, the
second, and the third succeeding annual gen-
eral meetings respectively.

FIRST MEETING OF THE FIRST TRUSTEES.

9. The first Trustees of the said improvement
district shall first meet on the first Monday fol-
lowing their election, and if the same is a holi-
day, then on the day next following which is
not a holiday.

RETURNING OFFICER AND HIS INSTRUCTIONS.

10. Leonard T. Leveque, farmer, of Erickson,
shall be Returning Officer for the first election
of Trustees of the said improvement district.
The Returning Officer shall call a general meet-
ing of the owners of land within the improve-
ment district who are qualified as aforesaid to
vote for the purpose of electing three Trustees.
The Returning Officer shall, at least six days
before the holding of the said general meeting,
cause to be posted at the post-office in Creston,
B.C., and in two or more conspicuous places
within the territorial limits, a notice signed by

(OVER)

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APPENDIX I.

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APPENDIX 2.

Plan showing Drainage Districts	Attached.
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APPENDIX 3.

Plan showing Diversion of Goat River	Attached.
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