

INTERNATIONAL JOINT COMMISSION

IN THE MATTER OF THE APPLICATION OF ST CROIX PAPER COMPANY, OF WOODLAND, MAINE, FOR APPROVAL OF THE CONSTRUCTION OF A STORAGE DAM AT THE OUTLET OF EAST GRAND LAKE NEAR FOREST CITY, MAINE AND FOREST CITY, NEW BRUNSWICK.

ORDER OF APPROVAL

WHEREAS East Grand Lake is a boundary water within the meaning of the Boundary Waters Treaty which was signed on 11 January, 1909; and

WHEREAS St Croix Paper Company, a subsidiary of Georgia-Pacific Corporation, is a corporation incorporated and existing under the laws of the State of Maine with its principal place of business in the Village of Woodland in the State of Maine; and

WHEREAS the existing dam at the outlet of East Grand Lake is owned by St Croix Paper Company on the United States side of the International Boundary and by its wholly-owned subsidiary, The St Croix Water Power Company on the Canadian side; and

WHEREAS in accordance with Article III of the said treaty, St Croix Paper Company, hereinafter referred to as the Applicant, under the date of July 1, 1967, submitted through the Governments an application to the Commission for approval of a new storage dam and related works at the outlet of East Grand Lake near Forest City, Maine, and Forest City, New Brunswick to replace the existing structure; and

WHEREAS it is stated in the application that the existing dam built in 1949 of squared untreated spruce timber should be replaced not later than the summer of 1969; and

WHEREAS it is stated in the application that the water impounded above the proposed dam will be used for hydro-electric generation at the Applicant's plants at Grand Falls, Maine and Woodland, Maine, and also at the plant of the New Brunswick Electric Power Commission at Milltown, New Brunswick; and

WHEREAS it is stated in the application that no change is proposed in the present operation of East Grand Lake; that the maximum and minimum water levels of the past, elevations 434.94 and 427.94, respectively, will not

be changed; that between June and September the reservoir will be drawn down to elevations 431.94, water being available; that after an early date in September the balance of storage will be drawn down; that it is the intention of the Applicant to avoid carrying water during the winter season above elevation 432.94; and that the Applicant agrees to maintain a minimum flow through the proposed works of not less than 75 cfs; and

WHEREAS notices that the application had been filed were published in accordance with the Rules of Procedure of the Commission; and

WHEREAS no Statements in Response were presented to the Commission; and

WHEREAS pursuant to published notices a public hearing was held in St Stephen, New Brunswick on 17 September 1968, at which all persons interested were afforded convenient opportunity of presenting evidence to and being heard before the Commission; and

WHEREAS at the hearing the Applicant stated that the said application has been made on its own behalf and also on behalf of its wholly owned subsidiary, the said The St Croix Water Power Company; and

WHEREAS at the hearing testimony was presented on behalf of the Applicant describing the nature and purpose of the proposed works; and

WHEREAS at the hearing no person raised objection to the approval of the application; and

WHEREAS at the hearing Counsel for the Government of Canada and Counsel for the Government of the United States raised no objection to the approval of the application; and

WHEREAS by letter dated September 11, 1968 which was read into the record of the hearing, the New England Basins Commission urged that the proposed new structure be provided with a suitable fishway for migratory fish and that the Applicant be required to maintain a minimum flow at the dam of 75 cubic feet per second; and

WHEREAS the Commission is informed that applications for authority to construct the proposed works have been submitted to the Federal Power Commission of the United States and to the Government of the Province of New Brunswick and are now pending; and

WHEREAS the Commission after consideration of the application, the testimony presented at the hearing and all other information available to it, has determined that the construction, maintenance and operation of the said works should be approved pursuant to the said treaty subject to the conditions hereinafter set forth.

NOW THEREFORE THIS COMMISSION ORDERS AND DIRECTS, in response to the said Application with Exhibit "L" attached, that the construction, maintenance and operation, by St Croix Paper Company and The St Croix Water Power Company of a storage dam and fish passage facilities at the outlet of East Grand Lake be and the same are hereby approved, subject to the following conditions:

1. The dam shall be located at the outlet of East Grand Lake at Forest City, Maine and Forest City, New Brunswick, on the same site as the existing storage dam.
2. The dam shall consist of a concrete spillway with two Taintor gates and a fishway section flanked by compacted earth embankments. The motor operated Taintor gates shall have provision for manual operation.
3. Before commencing construction of the said works, the Applicant shall deliver to the Commission two copies of:
  - (a) the licences or other documents issued by the Federal Power Commission of the United States and by or on behalf of the Province of New Brunswick, respectively, authorizing construction of the works, and of any plans approved incidental thereto;
  - (b) the communications received from the Department of Fisheries of Canada and the Department of Inland Fisheries and Game of the State of Maine, respectively, approving the design of the said fishway.
4. During construction of the said works the Applicant shall operate all available facilities and carry

out the construction so as to maintain levels and flows as nearly as possible in conformance with those prescribed in Condition 6 below.

5. Upon completion of construction of the said works, the Applicant shall remove the coffer dams and diversion structure.
6. Upon completion of construction, the Applicant shall operate the said works in such a manner that, under water supply conditions within the range of those experienced heretofore:
  - (a) the discharge of water from East Grand Lake shall be not less than 75 cfs. (cubic feet per second);
  - (b) the elevation of East Grand Lake near Forest City, Maine, shall be not greater than 434.94 mean sea level nor less than 427.94 mean sea level, the maximum and minimum levels maintained in the past; and,
  - (c) the elevation of East Grand Lake near Forest City, Maine during the period from June 1 to September 10 shall be not less than 431.94 mean sea level and during the period from December 15 to occurrence of the spring run-off shall be not greater than 432.94 mean sea level.
7. In the event of water supplies in excess of or less than the supplies experienced heretofore, the said works shall be operated to provide all possible relief to the riparian owners on East Grand Lake and downstream and to provide levels and flows no more extreme than would have occurred if the said works had not been built.
8. The International St Croix River Board of Control, previously established by the Commission, shall supervise the operation and maintenance of the said works to ensure compliance with the provisions of this Order and shall keep the Commission currently informed of all matters relating to this Order.

9. Prior to completion of construction of the said works, the Applicant shall obtain the approval of the said Board of Control of the plans or rule curves which the Applicant proposes to follow in regulating the outflows and levels of East Grand Lake in accordance with this Order. The regulation plans or rule curves thus approved may be amended by the Applicant from time to time with the prior approval of the Board of Control. The Applicant shall notify the Board of Control forthwith of any deviation from the regulation plans or rule curves currently approved by the Board of Control.
10. The Applicant shall maintain the said works in a fully operative condition at all times, and shall promptly notify the Board of Control of any repairs, alterations or other actions to be undertaken for this purpose.
11. The Applicant shall be responsible for furnishing such water level and stream flow data for East Grand Lake as the Board of Control may direct. To this end the Applicant shall maintain on East Grand Lake, near Forest City, continuous water level recording instruments, equipped with exterior gauges. The type and location of the said instruments shall be as approved by the said Board of Control.
12. St Croix Paper Company shall be responsible for the disposition of claims for physical injury or damage to persons or property occurring in United States territory in connection with the construction, maintenance and operation of the works approved herein and for the satisfaction of any such claims that are valid.
13. The St Croix Water Power Company shall be responsible for the disposition of claims for physical injury or damage to persons or property occurring in Canadian territory in connection with the construction, maintenance and operation of the works approved herein and for the satisfaction of any such claims that are valid.

14. Construction of the works approved herein shall commence and be substantially completed in 1969.
15. This approval will terminate thirty (30) days after the Applicant's receipt of this Order unless within that time the Applicant and The St Croix Water Power Company inform the Commission in writing that they accept all of the conditions set forth herein.

AND IT IS FURTHER ORDERED:

- (a) That condition numbered 6 of this Commission's Order of Approval dated the 15th day of October, 1965, issued in relation to the construction, maintenance and operation of a storage dam and fish passage facilities at the foot of Spednik Lake, will be superseded by the provisions of this Order upon completion of construction of the works as herein approved.
- (b) That the Commission retains jurisdiction over the subject matter of this Application and, after giving such notice and opportunity to all interested parties to make representations as the Commission deems appropriate, may make further order or orders relating thereto as may be necessary in the judgment of the Commission.

Signed this 11th day of October, 1968.

A.D.P. Heeney

René Dupuis

Matthew E. Welsh

Charles R. Ross

Eugene W. Weber