

ORDER IN COUNCIL  
EXECUTIVE COUNCIL CHAMBER

No.2478

Quebec, December 9, 1922

PRESENT:

The Lieutenant Governor in Council

CONCERNING the Grand Discharge  
of Lake Saint John

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The Honourable the Minister of Lands and Forests, in a report dated the 7th. December, (1922), sets forth:

WHEREAS the Quebec Development Company, Limited, a corporation organized under the Dominion Companies Act, desires forthwith to proceed to a water power development to be located at or near Ile Maligne situate in the Grand Discharge of Lake St. John by the construction of one or more dams at or near the said island; and

WHEREAS it is estimated that the cost of construction of such development work, with such other works as may be the consequence thereof, will be approximately twelve millions dollars (\$12,000,000.) and that there will be spent under existing agreements resulting from said development from fifteen to eighteen million dollars, (\$15,000,000. to \$18,000,000.) by a customer of said company, in building and equipping plants and lines to take power from such development, and

WHEREAS it is in the public interest that substantial aid be given to promote industries that will be the result thereof;

NOW THEREFORE the Honourable the Minister recommends that he be authorized to grant to said Quebec Development Company, its successors and assigns, the following upon the terms and conditions hereinafter set forth, namely:

1. The right, subject to Federal Government approval, if any be required, to raise and maintain the level of Lake St. John by the construction, operation and maintenance of one or more dams abutting in part on Ile Maligne as may be built and raised from time to time in such a way that the level of the water of said lake may be maintained at a maximum height of seventeen and one half, (17½) feet above the zero mark of the gauge at the wharf at Roberval, which zero mark is or shall be referred to a permanent bench mark established at a convenient spot to the satisfaction of the Minister of Lands and Forests; and by means of such dams to store water in and withdraw water from Lake St. John as may be desired provided that the Company may not, without the approval of the Lieutenant Governor in Council, build said dams to an elevation in excess of seven and one half, (7½) feet above said zero mark prior to the end of the twenty-four (24) calendar months next following the completion of the building of said dams to an elevation of seven and one half, (7½) feet above said zero mark.
2. The right to construct, operate and maintain such other dam or dams at or near the outlet of the lake in the Little Discharge as may be necessary or desirable to the exercise and enjoyment of the rights set forth in paragraph one, (1) above, provided, however, that proper works on said dams shall leave always a minimum flow of three hundred and fifty cubic feet per second, (350c.f.s.) in said Little Discharge in order to provide for the domestic needs and welfare of the public living on the slopes and watershed of said Little Discharge; and provided further that the Government reserves the right to have the Little Discharge flushed conveniently at periodical intervals if this should be found necessary by the Provincial Hygiene Service, provided also that all claims for damages as a result of the exercise of this right as it affects holders of Government right already sold shall be borne by the Company, the Government to be kept free of all claim in this respect.

3. For the consideration stated below the Government renounces all claims for damages resulting from such impounding, including damage from the flooding of Government lands, partly or wholly, beaches or islands, water-powers or other rights that may belong to the Crown, saving and excepting, however, damages to private property or to Government improvements, buildings, public roads, which shall be payable by the Company, its successors and assigns.

4. To issue Letters Patent for Island number one hundred and seventy-three (173) of the Islands of the Grand Discharge, as known on the official cadastre and book of reference for the township of Delisle, county of Lake St. John, containing about two hundred and thirty-three, (233) acres and commonly known as Ile Maligne at the price of Five dollars, (\$5.00) per acre, payment in full of which is hereby acknowledged.

5. The consideration for the properties, rights and privileges aforesaid and their full enjoyment shall be as follows:

(a) The cash consideration herein stated as having been paid;

(b) A waiver by said Quebec Development Company as respects lands granted by the Crown by Letters Patent that did not reserve the right of floodage hereinafter mentioned, and which lands said company as assignee of Oyamel Company had a right to flood under two certain grants from the Crown to said last named Company dated respectively August fourth and fifth, nineteen hundred and three, (August 4 and 5, 1903), of all claims for damages against the Crown and of all right to flood said lands by virtue of said Letters Patent to the Oyamel Company;

(c) The covenant and agreement on the part of said Quebec Development Company within five years subsequent to the date of the grant to be made hereunder to develop at Ile Maligne at least two hundred thousand horse power (200,000 H.P.), with extension of said delay of five years corresponding to time lost through fortuitous events, (cas fortuits) or force majeure, or securing Federal approval, if any be required;

(d) The covenant and agreement on the part of said Quebec Development Company to pay to the Crown herein represented by the Provincial Government at the rate hereinafter stated for each horse power per annum generated at said development at or near Ile Maligne in excess of two hundred thousand, (200,000) horse power per annum. the Term "horse power" per annum", shall mean six thousand, five hundred and thirty-four and ninety-six one hundredths, (6,534.96) kilowatt hours. Said rate for the fifth, (50) year period beginning at the date of the grant to be made hereunder shall be fifth, (50) cents per horse power per annum and for each succeeding twenty-one, (21) year period it shall be the amount agreed for any such period and if the parties cannot agree for any such period the rate for that period shall be the amount fixed by such Government agency as may be authorized by the Government so to do.

6. Said company, its successors and assigns, shall undertake to pay as a minimum for horse power hereunder the sum of fifteen thousand dollars (\$15,000.00) per year for and with respect to each year occurring after five years from the date of the grant to be made hereunder.

7. Payments hereunder shall be made to the Department of Lands and Forests in gold coin of the present standard of weight and fineness at the city of Quebec for each quarter as soon after the end of such quarter as the amount can be properly audited and ascertained and for this purpose said company, its successors and assigns, shall install and maintain at their own expense at said development accurate meters correctly measuring and recording the horse power generated, such meters to be open to the reasonable inspection and test of any person appointed and authorized for this purpose by the Minister of Lands and Forests.

The Company will further agree to commence work promptly on said Ile Maligne development and agree that if it should fail to commence work thereon within two months from the date of the grant to be made hereunder, the Lieutenant Governor in Council will have the right to demand as penalty and damages the sum of fifty thousand dollars (\$50,000.) and in default of payment thereof by the Company within a reasonable time after written demand, the Lieutenant Governor in Council shall have the right to annul the Letters Patent for Ile Maligne or the contract resulting hereunder without reimbursement of the payments made at the date of such annulment.

9. Should the Company within the five, (5) year period stated in article 5c above not perform the covenant and agreement set forth therein and expend as much as eight millions dollars, (\$8,000,000.) in and about the doing of the same, (unless prevented from so doing by fortuitous events "cas fortuits" or force majeure, or securing Federal Government approval, if any be required, in which case there will be a corresponding extension of the delay), the said company shall pay upon the the written demand of the Minister of Lands and Forests as penalty and damages over and above the \$15,000.00 herein mentioned, the several sums hereinafter named for each term of twelve, (12) months after said period, until said covenant and agreement shall have been performed, namely:

For the first twelve (12) months after such period the sum of Fifteen thousand dollars, (\$15,000.00);

For the second twelve (12) months after such period the sum of Twenty thousand dollars, (\$20,000.00);

For the third twelve (12) months after such period the sum of Twenty-five thousand dollars, (\$25,000.00);

For the fourth twelve (12) months after such period the sum of Thirty thousand dollars, (\$30,000.00);

For the fifth twelve (12) months after such period the sum of Thirty-five thousand dollars, (\$35,000.00);

For each twelve, (12) months thereafter the sum of Thirty-five thousand dollars, (\$35,000.00) until said covenant and agreement shall have been performed; and in default of such payments being made within a reasonable time after such demand, the Lieutenant Governor in Council shall have the right to annul the Letters Patent for Ile Maligne or the contract resulting hereunder without reimbursement of the payments made at the date of such annulment;

10 The method of calculating the power production shall be based on the electric horse power generated at said development as measured at the outgoing meters at the station. In case any difficulty should arise in this regard the matter will be referred to the Quebec Public Service Commission for arbitration and the parties hereto agree to abide to its decision.

11. As soon as practicable the necessary contracts shall be entered into and the Provincial Government will issue and deliver Letters Patent granting the aforesaid rights, privileges and properties as above set forth.

12. Such articles of form "E" (Hydraulic Service) that apply, mutatis mutandis, may be embodied in the contract.



Clerk of the Executive Council