

PROVINCE OF MANITOBA

DEPARTMENT OF MINES, RESOURCES AND ENVIRONMENTAL MANAGEMENT

WATER RESOURCES DIVISION

INTERIM LICENCE FOR THE DEVELOPMENT OF WATER POWER

Limestone Site, Nelson River

Issued in accordance with the provisions of the Water Power Act, Chapter W70, Revised Statutes of Manitoba, 1970, and amendments, and of the Regulations in force thereunder to govern the mode of granting and administering Provincial water-power rights.

WHEREAS Manitoba Hydro, a corporation duly incorporated by Act of the Legislature of the Province of Manitoba, and whose head office address is Box 815, Winnipeg, Manitoba, (hereinafter called "the Licensee") by memorandum dated May 21, 1975, signed by J. F. Funnell, General Counsel and Secretary, and by other documents attached thereto, has filed with the Water Resources Division of the Department of Mines, Resources and Environmental Management at Winnipeg (hereinafter called "the Division") an application for a Licence to divert, store and use water for the development of power at the Limestone site on the Nelson River; and,

WHEREAS Provincial water-powers and lands as defined in the Water Power Act, R.S.M. 1970, Cap. W70 (hereinafter called "the Act") are required to be used or occupied by the Licensee in carrying out the undertaking for which this Interim Licence is granted, the nature of the said undertaking

being the construction at or near the said site of a reinforced concrete powerhouse and intake structure, an adjoining reinforced concrete spillway, a main earth dam extending easterly from these concrete structures, an earth fill abutment at the west end of these concrete structures, a dyke extending from the north abutment in an upstream direction parallel to the left bank of the Nelson River, transmission lines and all necessary machinery and equipment for the development, generation, transformation and transmission of electric power for industrial and general purposes, as shown or described more particularly by means of the record plans and data filed with the Division, as specified hereinafter; and,

WHEREAS the Licensee has fully complied with the requirements of the Manitoba Water Power Regulations, being Manitoba Regulation 95/45 and all amendments thereto (hereinafter called "the Regulations"), insofar as it is required for the issue to the said Licensee of this Interim Licence; and,

WHEREAS the Licensee has duly executed an acceptance of the terms and conditions of this Interim Licence and has undertaken to observe and fulfil all the terms and conditions which under this Interim Licence and under the Regulations the said Licensee is required to observe or fulfil;

NOW THEREFORE, under authority of and subject to the provisions of the Act and Regulations, this Interim Licence is issued, granting to the Licensee:

- (a) The right to divert, store, and use waters of the Nelson River at and near the Limestone site,

- (b) The right to develop electric power and energy from the said waters,
- (c) The right to generate, transmit, distribute, sell and deliver the said electric power and energy and for that purpose to use and occupy the lands of the Province hereinafter described, and
- (d) The right to construct, operate and maintain the undertaking, the location and description of which are shown upon the record plans numbered and filed in the office of the Division at Winnipeg, except as the said undertaking may be modified or extended with the prior approval of the Minister of Mines, Resources and Environmental Management (hereinafter called "the Minister").

Subject, nevertheless, to the provisions of the Regulations and of any other regulations now or hereinafter in force governing the granting or administering of Provincial water-powers and the lands required in connection with the development and use thereof, and to the following special terms and conditions, namely: --

1. The Licensee shall file the general construction plans of the undertaking authorized hereby with the Division in such form and detail as is required by the Regulations within three (3) months from the date of this Interim Licence.

2. After the general construction plans have been approved, the Licensee shall begin the construction of the undertaking authorized hereby within the time limit provided in the Regulations, and shall thereafter without interruption, except such as may be occasioned by act of God or other major cause beyond the control of the said Licensee (other than want of funds), carry on and complete the construction of the said undertaking according to the plans so approved or as the same may be amended or modified at the direction and with prior approval of the Minister during the progress of construction, and subject to the terms of this Interim Licence and of the Regulations.
3. Subject to Article 1 hereof, the Licensee may enter upon, use and occupy for making surveys and investigations and constructing works as may be deemed necessary for the undertaking, such lands of the Province as may reasonably be required for the said purposes and which lie within the Severance Line shown on a plan identified as No. 51-5-1097 (Manitoba Hydro No. 7001-E-85 (Rev. 1)), and may flood such lands as are designated on the said plan, or as such plan may be amended from time to time by the Minister provided that, when so required in writing in accordance with the Regulations following completion of the initial development the Licensee shall cause a survey to be made and a plan prepared by a

Manitoba Land Surveyor showing in detail the lands required to be occupied for the purposes of the power development and the lands required for flooding purposes only. Such survey shall be limited to include only areas approved by the Division for the said purposes and shall be prepared in accordance with Section 24 of the Regulations.

4. Within eight (8) years from the date of this Interim Licence the Licensee shall have installed all the machinery and equipment required for an initial development of one (1) unit of one hundred and forty-eight thousand (148,000) horsepower measured on the turbine shaft and shall be in a position to apply the power to beneficial use. Within ten (10) years from the date of this Interim Licence, the Licensee shall have installed an additional nine (9) units and shall have satisfactorily completed the undertaking consisting of ten (10) units having a total of one million four hundred and eighty thousand (1,480,000) horsepower measured on the turbine shaft.
5. The Licensee shall notify the Division in writing of the commissioning date of each unit within 30 days of commissioning, and also when the initial development is completed.

The appropriate officer of the Division shall, in accordance with the provisions of Subsection (4) of Section 42 of the Regulations, determine a date which, for the purpose of the Interim Licence and of the Regulations, shall be the date of completion of the initial development and shall be the earlier of:

- (a) the date on which the turbine generator unit comprising the initial development has been commissioned; or
 - (b) the date fixed in Article 4 hereof as the limiting date by which the initial development is to be completed, whether the same shall have been completed or not.
6. The Licensee shall also from time to time in accordance with Section 24 of the Regulations cause surveys to be made and plans prepared by a Manitoba Land Surveyor of all other lands required for the purposes of the undertaking as distinct from those purposes described in Article 3 hereof.
7. The Licensee may divert and use continuously for the development of power at the said Limestone site all the waters of the Nelson River which may be flowing at the said site from time to time during the term of this Interim Licence, subject, however, to the provisions of Section 72 of the Regulations.

8. The Licensee shall not raise the headwater of its development to an elevation higher than 280.0 feet above mean sea level, Canadian Geodetic Datum. A higher elevation may be created only with prior written permission by the Minister and in accordance with Section 72 of the Regulations.
9. From the date of completion of the initial development determined in accordance with Article 5 hereof, and during the remaining term of this Interim Licence, the Licensee shall pay annually, in advance, a rental of \$2,175.00 for the use and occupation of those lands of the Province described in Articles 3 and 6 hereof which are situated within the Severance Line designated on a plan identified as No. 51-5-1097 (Manitoba Hydro No. 7001-E-85 (Rev. 1)). The first payment of such rental shall be made on the second day of January following the said date of completion of the initial development. Such first payment shall consist of an amount due for the preceding year, which shall be prorated to cover that portion of the year between the said date of completion of the initial development and the end of the year, together with the amount due in advance for the current year.
10. From the date of completion of the initial development determined in accordance with Article 5 hereof, and during the remaining term of this Interim Licence, the Licensee shall pay annually, in arrears, as rental for water used

in the development of power, an amount determined in accordance with the principles set out in Section 48 of the Regulations, being whichever is the greater of:

- (a) A rental at the rate of fifty (50) cents per installed horsepower of turbine capacity, based on the initial development of 148,000 horsepower or such greater installation as shall be commissioned for the production of power from time to time; or
- (b) A rental at the rate of one dollar and twenty-five cents (\$1.25) per horsepower-year of output measured on the turbine-shaft, such output to be calculated in the manner provided in Subsection (9) of Section 48 of the Regulations.

The first payment of annual water rental is to be for that part of the year between the said date of completion of the initial development and the end of the then current calendar year. In each case the Licensee shall, on or before the first day of March in each year following any calendar year for which rental is payable, submit all data required by the Division for the determination of its rental for the preceding calendar year. The appropriate officer of the Division shall thereupon prepare and submit to the Licensee a statement of the rental due. Payment shall be made within sixty (60)

days of submission of the said statements; otherwise the penalties provided in Subsections (4) and (6) inclusive of Section 48 of the Regulations shall apply.

11. Notwithstanding Article 10 hereof, if the Licensee commences the generation and transmission of power prior to the date fixed for completion of the initial development in accordance with Article 5 hereof, by and from any turbine generator unit commissioned prior to the said date, the Licensee shall pay annually, in arrears, for the water used in the development of power prior to the said date a rental at the rate of one dollar and twenty-five cents (\$1.25) per horsepower-year of output measured on the turbine shaft, such output to be calculated in the manner provided in Subsection (9) of Section 48 of the Regulations. The first payment of such annual water rental for each turbine generator unit is to be for that part of the year between the date of commissioning of each turbine generator unit, or a date fixed by the Lieutenant Governor in Council, whichever is the earlier, and the end of the then calendar year. Subsequent payments of such annual water rental are to be for each successive calendar year, or part thereof until the said date of completion of the initial development. In each case the Licensee shall, on or before the first day of March in each year following any calendar

year for which such annual water rental is payable, submit all data required by the Director for the determination of the rental for the preceding calendar year. The Director shall thereupon prepare and submit to the Licensee a statement of the rental due. Payment shall be made within sixty (60) days of submission of the said statements.

12. The plans filed by the Licensee and made a part of this Interim Licence are as follows:

<u>Manitoba Water Resources Division File Number</u>	<u>Licensee's File Number</u>	<u>Description</u>
51-5-1097	7001-E-85 (Rev.1)	Location Plan - General Arrangement and Typical Sections

13. The Licensee shall, to the satisfaction of the Minister, clear and keep clear from timber, brush and other material, all lands which are to be flooded under Article 3 hereof.
14. If, in the opinion of the Minister, studies indicate that they are required, the Licensee shall, to the satisfaction of the Minister, provide, maintain and operate facilities for the collection and passage or transportation of live fish, unharmed, in either an upstream or downstream direction through, over or around the works authorized to be constructed, maintained and operated under this Interim Licence.

15. Upon the satisfactory completion by the Licensee of the undertaking in accordance with Article 4 hereof and upon the due observance and fulfillment by it of all the terms and conditions required by this Interim Licence and under the Regulations to be by it observed and fulfilled, the Minister shall and will issue in favour of the Licensee a Final Licence for the diversion, storage and use of water, for the development of energy therefrom, for the utilization of such energy, and for the use and occupation of those lands of the Province which, in the Minister's opinion, are required for the proper operation and maintenance of the undertaking. The said Final Licence shall be issued subject to the regulations then in force and shall embody such matters as the Minister may determine in accordance with the Regulations, and the following terms and conditions, namely:

- (a) The Licensee may divert, store and use continuously for the development of power at the said Limestone site all the waters of the Nelson River which may be flowing at the said site from time to time during the term of this Final Licence, subject, however, to the provisions of Section 72 of the Regulations.
- (b) The Licensee may raise the headwater of its development to elevation 280.0 above mean sea level,

Canadian Geodetic Datum, but not higher except with prior permission of the Minister in writing and in accordance with Section 72 of the Regulations.

- (c) The Licensee shall, during the term of the Final Licence pay annually in advance on the second day of January in each year an annual rental of \$2,175.00 for those lands of the Province to be described in the Final Licence, and situated within the Severance Line and used for the purposes described in Articles 3 and 6 of the Interim Licence.
- (d) The Licensee shall also pay an annual rental during the term of the Final Licence for the use of water for the development of power, determined in accordance with the principles set out in Section 48 of the Regulations and payable at the times and in the manner therein provided, and at the following rates:
 - (i) The rentals in the five-year period directly following the date of completion of the initial development determined in accordance with Article 5 of the Interim Licence shall be the greater of:
 - (a) An annual rental of fifty (50) cents per installed horsepower; or

- (b) An annual rental of one dollar and twenty-five cents (\$1.25) per horsepower year.
- (ii) The annual rental to be paid after the expiry of the said five-year period shall be determined as provided in the regulations in force at such time.
- (e) The undertaking in respect of which the Final Licence is to be issued is to comprise: a reinforced concrete powerhouse and intake structure, with one vertical shaft hydroelectric turbine, and provisions for nine additional turbines, each of 148,000 horsepower capacity; an adjoining reinforced concrete spillway; a main earth dam extending easterly from these concrete structures; an earth fill abutment at the west end of these concrete structures; a dyke extending from the north abutment in an upstream direction parallel to the left bank of the Nelson River; transmission lines; and all plant machinery and equipment requisite for the complete development and utilization of the power economically available at the said Limestone site, together with such other approved works as have been constructed for purposes of the undertaking for which the Final Licence is to be issued.

- (f) In accordance with Section 45 of the Regulations the term of the Final Licence shall be fifty (50) years from and after the date fixed in accordance with Article 5 of the Interim Licence for the completion of the initial development and shall be subject to renewal or extension in accordance with the provisions of the acts and regulations relating thereto and then in force.
- (g) The Severance Line as defined in Section 1 of the Regulations shall be as designated upon record plan No. 51-5-1097 (Manitoba Hydro No. 7001-E-85 (Rev. 1)) on file in the office of the Division.
- (h) The Licensee shall, to the satisfaction of the Minister, clear and keep clear from timber, brush and other material, all lands which are flooded.
- (i) If, in the opinion of the Minister, studies indicate that they are required, the Licensee shall, to the satisfaction of the Minister, provide, maintain and operate facilities for the collection and passage of live fish, unharmed, in either an upstream or downstream direction through, over or around the works authorized to be maintained and operated under the said Final Licence.

16. All record plans filed with the Division and referred to in this Interim Licence are incorporated herewith and made a part hereof.
17. This Interim Licence is issued upon the express condition that it shall be subject to the provisions of the Regulations and all amendments thereto.

Issued at Winnipeg this 9th day of July A.D. 1976
at the direction of the Honourable Minister of Mines, Resources
and Environmental Management.

Original Signed By: The Minister

Minister of Mines, Resources and
Environmental Management
with the approval of the
Lieutenant Governor in Council