

Bill No. 71 of 1954

A BILL RESPECTING THE WESTERN IRRIGATION
DISTRICT AND A CERTAIN AGREEMENT THEREOF
WITH CALGARY POWER LTD. AND THE CANADIAN
PACIFIC RAILWAY COMPANY

NOTE

This Bill enacts an Act which is entitled "*The Western Irrigation District Agreement Act, 1954*".

The Board of Trustees of the Western Irrigation District, Calgary Power Ltd. and the Canadian Pacific Railway Company desire approval of an agreement whereby a portion of the irrigation works and undertakings of the Board can be used during an investigation by the power company as to the feasibility of using the said portion of the irrigation works and undertaking to transport water from the Bow River to a point near the hamlet of Shepard where it can be turned into a project for the development of hydro-electric power. If the investigation proves that the proposed scheme is economically sound the power company wishes to purchase the said portion of the works and undertaking of the Board. The power company would thereafter transport the water required by the Board upon terms set out in the agreement covering the investigation and purchase of the works of the Board.

The irrigation works and lands of the Board were originally obtained in 1944 from the railway company by an agreement which was incorporated in the Act establishing the irrigation district, that is, by section 7 of chapter 16 of the Statutes of Alberta, 1944. Clause 21 of that agreement restricts the capacity of the Board to enter into an agreement with the power company for the purposes aforesaid; also by Clause 21 of the 1944 agreement the Board is required to pay the railway company the sum of \$400,000.00 if the works of the Board are used for the generation of electric power. The railway company agrees to modify these conditions in the circumstances and to that end have become a party to the proposed agreement with the power company.

This Bill ratifies, validates and confirms the agreement by the Board, power company and railway company and gives the Board capacity to alienate its works and lands to the power company upon the terms and conditions set out in the agreement shown in the Schedule to this Bill. The agreement is to be deemed to be part of the Act and is binding upon the parties, thus superseding the agreement of 1944 where there is a conflict between these agreements.

This Bill comes into force upon assent and is retroactive to the 1st day of August, 1953, the date of the agreement.

J. W. RYAN,
Acting Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 71 of 1954

An Act respecting the Western Irrigation District and a Certain Agreement thereof with Calgary Power Ltd. and the Canadian Pacific Railway Company

(Assented to , 1954)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Western Irrigation District Agreement Act, 1954*". Short title

2. (1) That certain agreement between the Board of Trustees of the Western Irrigation District, Calgary Power Ltd. and the Canadian Pacific Railway Company of date the first day of August, 1953, and set out in the Schedule to this Act, is ratified, validated and confirmed and declared to be legally binding upon each of the parties thereto. Agreement ratified

(2) Each of the parties to the agreement may do all acts and things necessary to carry out the agreement notwithstanding any provisions to the contrary in any other agreement or in *The Western Irrigation District Act*.

(3) The provisions of the agreement set out in the Schedule shall be deemed to be expressly enacted in and to form part of this Act.

3. This Act comes into force on the day upon which it is assented to and upon so coming into force shall be deemed to have been in force at all times on and after the first day of August, 1953. Coming into force

SCHEDULE

This Agreement made this first day of August, A.D. 1953.
Between:

BOARD OF TRUSTEES OF THE WESTERN IRRIGATION DISTRICT, (hereinafter called "the Board"),

OF THE FIRST PART,

and

CALGARY POWER LTD., (hereinafter called "the Power Company"),

OF THE SECOND PART,

and

CANADIAN PACIFIC RAILWAY COMPANY, (hereinafter called "the Railway Company"),

OF THE THIRD PART.

WHEREAS the Board is a body corporate duly constituted under and pursuant to *The Western Irrigation District Act*, chapter 16, of the Statutes of Alberta, 1944; and

WHEREAS the Power Company is a body corporate incorporated under *The Companies Act* of Canada and owns and operates facilities for, and is engaged in, the generation and disposition of electric power and energy in the Province of Alberta, and in connection therewith owns and operates water power developments on the Bow River and its tributaries west of the City of Calgary in the said Province under licenses granted pursuant to the *Dominion Lands Act*, the *Dominion Water Power Act* and/or *The Water Resources Act* of Alberta; and

WHEREAS by Agreement between the Board and the Railway Company dated the 4th day of March, 1944, (hereinafter referred to as "the 1944 Agreement"), ratified by the aforesaid *The Western Irrigation District Act*, the Board acquired the Western Section of the irrigation system of the Railway Company (as described in the 1944 Agreement) including *inter alia*:

- (a) a dam in the Bow River in the south half of section 13, in township 24, range 1, west of the fifth meridian, in the City of Calgary;
- (b) a main irrigation canal extending easterly from the aforesaid dam to a point in either section 14, or section 23, in township 23, range 29, west of the fourth meridian;
- (c) the lands and premises described in Schedule "B" hereunto annexed and made part hereof;
- (d) the easements, licenses and rights, necessary or incidental to the ownership and operation of the said hereinbefore described works, referred to in Schedule "C" hereunto annexed and made part hereof,

(all of which are hereinafter collectively referred to as, and included in the expression, the "Board's Works"), and are shown outlined in red upon Record Plan No. 241-6162 on file in the office of the Director of Water Resources which plan shall be deemed to form part of this Agreement as Schedule "A" hereto; and

WHEREAS the Power Company has consulted with the Board with a view to investigation by the Power Company as to the economic use that may be made of the Board's Works for the purpose of diverting and using some of the waters of the Bow River in generating electric power while

also providing to the Board an adequate supply of water for the Board's purposes as hereinafter defined; and

WHEREAS the Power Company anticipates that the time and expense of such investigations will be considerable and are justified only if the Power Company is assured that it can acquire the Board's Works and the necessary licenses, rights and authority for the generation of electric power in the event that the Power Company's investigations establish, to its satisfaction, the economic feasibility thereof; and

WHEREAS the Railway Company pursuant to the 1944 Agreement, has paid to the Board, among other monies, sums aggregating \$400,000.00 as provided in clause 12 thereof, the said monies to be used by the Board in the maintenance, operation, renewal and repair of the undertaking and works acquired by it from the Railway Company as aforesaid; and

WHEREAS for the considerations set out in the 1944 Agreement the Board covenanted with the Railway Company that, should the lands and works so transferred to it be utilized for the development of electricity or power within 21 years from the date of the 1944 Agreement, the compensation accruing to the Board from such utilization should be received by the Board for the use and benefit of the Railway Company to the extent of repaying to the Railway Company the said sum of \$400,000.00; and

WHEREAS the Railway Company has agreed that, upon the Power Company having accepted the option hereinafter granted to it by the Board, it, the Railway Company, will accept the payments to be made to it as hereinafter set forth in full satisfaction and discharge of its rights and claims under clause 21 of the 1944 Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH:

1. In this Agreement, including this clause, unless the context otherwise requires:

- (a) "domestic purposes" means household, sanitary and fire protection requirements, the watering of livestock and the working of agricultural machinery by steam upon farm lands;
- (b) "industrial purposes" means the operation of railways but does not include the sale or barter of water for such purposes;
- (c) "Director of Water Resources" means the Director of Water Resources appointed and for the time being holding such office under and pursuant to *The Water Resources Act* of the Province of Alberta or any Act of the said Province in amendment thereof or substitution therefor and, in the event of any statutory change in the name or description of such officer, shall mean and include the

officer or person exercising the powers and functions of the Director of Water Resources under *The Water Resources Act*;

- (d) "water for the Board's purposes" means water required for the irrigation and domestic purposes of the lands served or to be served by the Board and for the municipal purposes of the towns, villages and hamlets served by the Board and water to be supplied by it to the Railway under clause 15 of the 1944 Agreement as amended by clause 20 of this Agreement.

2. The Power Company shall be entitled, and the Board hereby grants to the Power Company the right, to enter upon and use the Board's Works for the purpose of conducting its aforesaid investigations and to gather and obtain such information and conduct such experiments as the Power Company may deem necessary or advisable for or in connection therewith including the release of water through the gates comprised in the Board's Works in the City of Calgary to the extent that, and insofar as, such release will not interfere with, or adversely affect, the sufficient and continued supply of water for the Board's purposes.

3. The Power Company shall assume, bear and pay for, any expense occasioned to the Board by the Power Company's said investigations and experiments.

4. The period during which the Power Company shall be entitled to exercise the rights hereinbefore granted shall commence on the First day of August, 1953, and shall end on the Thirty-first day of July, 1963, subject to the earlier termination at any time upon the Power Company giving the Board written notice of its abandonment or discontinuance of its exercise of such rights or of the termination of the said period (which said period is hereinafter referred to as, and included in the expression, "the said option period").

5. The Power Company shall pay annually in advance, as consideration for such rights and for the option to purchase hereinafter contained:

- (a) to the Board on or before the first day of August the sum of \$2,000.00 for each year of the said option period from the first day of August 1953, up to and including the 31st day of July 1959, (the receipt of which payment of \$2,000.00 for the first year of the said period is hereby acknowledged), and
- (b) the sum of \$15,000.00 for each year of the said option period from, after and including the first day of August, 1959, each such annual \$15,000.00 payment to be made by the Power Company paying one-half the amount thereof to each of the Board and the Railway Company.

If the Power Company shall give the Board notice as aforesaid of the earlier termination of the said option period,

no further annual payments will be required to be made by it and the Board and the Railway Company shall be entitled to retain any payments made pursuant to this clause.

6. In consideration of the payments made and to be made by the Power Company as provided in clause 5 hereof, the Board hereby gives and grants to the Power Company the exclusive right and option, irrevocable within the time limited for acceptance, to purchase, free from encumbrances but subject to such reservations, restrictions or encumbrances as appear on the existing Certificates of Title as at the date hereof, the Board's Works at and for the price or sum of \$400,000.00 which shall be paid and satisfied as follows:

- (a) by crediting and applying on account of the said purchase price as part payment thereof, the aggregate amount of the annual payments theretofore made by the Power Company to the Board and the Railway Company pursuant to the provisions of clause 5 of this Agreement, less and deducting therefrom the sum of \$1,000.00 for each and every expired full year and fractional year of the said option period up to and including the 31st day of July, 1959, and
- (b) the sum of \$50,000.00 on the acceptance of the said option by paying one-half of the amount thereof to each of the Board and the Railway Company,
- (c) the balance of the said purchase price during, and before the expiry of, the three year period next following the acceptance of the said option, as follows:
 - (i) to the Railway Company, an amount equal to the difference between \$200,000.00 and the sum of the aggregate of the payments made by the Power Company to the Railway Company pursuant to the provisions of clause 5 and paragraph (b) of this clause 6, and
 - (ii) to the Board, an amount equal to the difference between \$200,000.00 and the sum of the aggregate of the payments made by the Power Company to the Board pursuant to the provisions of clause 5 and of paragraph (b) of this clause 6, less \$1,000.00 for each and every expired full year and fractional year of the said option period up to and including the 31st day of July 1959:

in each case together with interest at the rate of 5% per annum on the said respective amounts from the date of the acceptance of the said option to the date of the making of the said payments as provided in sub-paragraphs (i) and (ii) of this paragraph (c); such interest to be payable semi-annually as from and after the date of the acceptance of the said option; all interest in arrear to become principal and to bear interest at the rate aforesaid.

7. All payments to the Board shall be made to it at its office at Strathmore, Alberta, and all payments to the Railway Company shall be made to it at its office at Calgary, Alberta.

8. The said option shall be open for acceptance at any time during, but not after the expiration or termination of, the said option period and may be accepted by a letter delivered to the Board, or mailed by registered mail postage prepaid addressed to the Board at Strathmore, Alberta, and in either case accompanied by accepted cheque or bank draft for the amount to be paid to the Board upon acceptance as hereinbefore provided and by the payment to the Railway Company at its office aforesaid by accepted cheque or bank draft for the amount to be paid to the Railway Company upon acceptance as hereinbefore provided.

9. Time shall be of the essence of the provisions of this agreement.

10. The Power Company may before the acceptance of the said option, and in the event of its acceptance of the said option it shall within three years thereafter, cause surveys to be made and plans registerable in the Land Titles Office (herein collectively referred to as "the Plans") to be made and prepared of such portions of the lands and interests in lands owned by the Board described in Schedules "B" and "C" hereunto annexed as it shall require to be transferred and conveyed to it pursuant to the said option and the acceptance thereof; it being understood and agreed that the Power Company shall only require to be so transferred and conveyed to it such of the said lands and interests as may be reasonably necessary for its power development and undertaking and the operation and maintenance thereof and in the event of any dispute or difference between the Power Company and the Board as to what may or may not be so reasonably necessary such dispute or difference shall be settled and determined by the Director of Water Resources. The Board shall, as owner of the said lands, co-operate with the Power Company and make its titles and records available to the Power Company and execute and assist in the completion of the plans so as to effect their registration in the Land Titles Office for the South Alberta Land Registration District. The cost and expense of the said survey and preparation and registering of the said plans shall be borne and paid by the Power Company.

11. After the Power Company shall have accepted the said option and paid the full amount of the said purchase price of \$400,000.00 and interest, if any, as provided in clause 6 hereof, the Board shall and will within 30 days after:

- (1) the payment of the said \$400,000.00 and interest, if the Plans shall have been completed and filed in the Land Titles Office before the completion of such payment, or
- (2) after the filing of the Plans in the Land Titles Office, if they shall not have been so filed until after

the completion of such payment,
execute and deliver to the Power Company at its office at
the City of Calgary aforesaid, the following:

- (a) subject to clause (10) hereof, registerable transfers of the lands and premises described in Schedule "B" hereunto annexed and made part hereof, subject only to the reservations, conditions and exceptions noted in the said Schedule "B" or in the existing Certificates of Title of the Board to the lands described in the said Schedule "B";
- (b) the relevant Duplicate Certificates of Title which, together with the transfers referred to in the preceding subclause (a) will enable the Power Company to become registered in the Land Titles Office for the South Alberta Land Registration District as the owner of the said lands as aforesaid,
- (c) registerable assignments and transfers in favour of the Power Company of all easements or other interest in lands referred to in Schedule "C" hereunto annexed and made part hereof,
- (d) registerable instrument or instruments creating in favour of the Power Company as the owner of such of the main canal right-of-way lands referred to in Schedule "B" and annexing to and against the title and ownership of all lands of the Board situate within one mile of the said canal lands the unrestricted right to adversely or otherwise affect and to use such lands of the Board by or for the maintenance and operation of the said canal or any increase or extension thereof for the transport of water thereby and as a means of access to and egress from the said canal or any extension thereof (such access and egress being subject to the rights of any tenants of the Board existing as at the date of the acceptance of the said option and also subject to compensation being made for any damage to such lands due to such egress or ingress) including, but without restricting the generality of the foregoing, to injuriously affect such lands by seepage or percolation or flowing of water from or due to the said canal or from the lands of the Power Company,
- (e) such assignments, conveyances and other instruments as may be approved or required by the Director of Water Resources of all licenses, franchises, privileges, powers and authorities under or pursuant to which the Board is entitled to own, maintain and operate the dam and gates forming part of the Board's Works in the City of Calgary and to divert the waters of the Bow River, so as and in order to effectively vest in the Power Company, insofar as the Board has power so to do;
 - (i) the ownership and control of the said dam and gates; and

- (ii) the right to divert and use the waters of the Bow River at the dam and to carry them in the main canal.

It is acknowledged, understood and agreed however that:

- (i) such lands and the titles thereto to be so transferred to the Power Company shall be taken by it subject to any leases in respect thereof outstanding as of the date of the acceptance of the said option;
- (ii) the Power Company will, in the event of its acceptance of the said option, indemnify and save harmless the Board from and against any claims or demands of the holders of such leases as in respect of, and as regards, any lands comprised therein acquired by the Power Company as aforesaid
- (iii) the Power Company will, in the event of its acceptance of the said option, indemnify and save harmless the Board from and against any claims or demands of the holders of such then outstanding leases arising, during the term thereof, out of the construction, operation and maintenance of the Board's Works acquired by the Power Company under or pursuant to the terms of this Agreement.
- (iv) the Board will not, during the said option period, grant or enter into any new leases, nor will it renew or extend the term of any existing leases, with respect to any of the lands covered by the said option, without the written consent of the Power Company first had and obtained;
- (v) the provisions of the foregoing sub-paragraphs (i) to (iii) shall be read as subject to and conditional on the observance by the Board of the provisions of the foregoing sub-paragraph (iv).

12. All taxes and other adjustments and delivery of possession shall be made as of the date of the acceptance of the said option and therefrom and thereafter the Power Company shall be responsible for any taxes, including business taxes, which may be assessed against it by reason of the construction or operation of the power development.

13. If, after the Power Company shall have accepted the said option, it fails to make the payments, or any of them, within the times and in the manner provided in clause 6 hereof, the times of payment as aforesaid being of the essence of this Agreement, then the Board may deliver to the Power Company a notice in writing to the effect that, unless such payment or payments so in arrear is or are paid within ten (10) days from the delivery thereof, this Agreement shall be void, and upon the said notice being so

delivered and upon the Power Company continuing such default for the space of ten (10) days thereafter, all rights and interests hereby created in favour of the Power Company or derived under this Agreement, shall forthwith cease and determine; and the lands and works hereby agreed to be sold revert to and revest in the Board without any declaration of forfeiture or notice (except as hereinbefore mentioned) and without any act of re-entry or other act by the Board to be performed, or any suit or legal proceedings to be brought or taken, and without any reclamation or compensation for moneys paid thereon or to damages of any kind whatever.

14. Following the acceptance of the said option, the Power Company shall and will by means of a suitable gate or similar works, constructed and maintained by the Power Company (subject to the provisions of clauses 15 and 16 hereof) from time to time so long as the irrigation system operated by the Board continues in operation, deliver or cause to be delivered free of charge to the Board, to the canal or works retained or constructed or maintained by the Board at a convenient point (herein called "the Point of delivery"), on the main canal in either section 14 or section 23, in township 23, range 29, west of the 4th meridian the Board's requirements of water under the provisions governing the rights to use the water as set forth under the provisions of *The Water Resources Act* of the Province of Alberta and the license issued to the Board thereunder, for the beneficial, economical and advantageous use of water for the Board's purposes only, up to but not exceeding the maximum amount of quantity of 122,000 acre feet in each calendar year and up to and not exceeding the following respective maximum quantities and at the rates during the respective periods in each such year, as follows, that is to say:

Period	Length of Period in Days	Maximum Discharge Cubic Feet per second	Maximum Number of Days at Maximum Discharge	Average Cubic Feet per second for period	Total Maximum Quantity for period in acre feet
Apr. 15 - May 15	31	300	10	161	10,000
May 16 - June 10	26	600	10	404	21,000
June 11 - July 15	35	1000	15	572	40,000
July 16 - Aug. 15	31	500	10	307	19,000
Aug. 16 - Sept. 30	46	600	10	272	25,000
Oct. 1 - Oct. 15	15	300	10	233	7,000
Maximum Total for each year					<u>122,000</u>

The foregoing table and its provisions shall be subject to review at the end of any full five year period at the written request of either the Board or the Power Company to the other and in any case shall be adjusted as the said parties may mutually agree or in the event of their failure to agree as may be determined by the Director of Water Resources, provided always no change or alteration shall be made in the aforesaid yearly maximum 122,000 acre feet.

15. The Board shall assume, pay and be solely responsible for, any royalties, rents, taxes or other charges imposed by any governmental authority for or in respect of any such water delivered or to be delivered to the Board as provided in clause 14 hereof.

16. During the period of construction and completion of the power development (including the main canal) and thereafter from time to time as may be necessary or convenient for the repair, maintenance or extension of such power development and or main canal, the Board shall, on receipt of notice from the Power Company, use and make available Chestermere Lake and its facilities in connection therewith to receive in advance from the Power Company and store sufficient water to take care of the Board's requirements (as provided for in clause 14) for and during such periods of construction, repair, maintenance or extension of the said power development. The Power Company shall be entitled to deliver water to the Board in accordance with the provisions of this clause 16 in lieu of deliveries of water pursuant to the provisions of clause 14 hereof, but only to the extent that deliveries made under this clause 16 can be used by the Board without seriously affecting the service to the water users of the Board or over-loading the irrigation system of the Board.

17. In the event that the Power Company shall not accept the option hereinbefore granted and shall decide not to proceed with its said hydro-electric development, it shall promptly and at its own expense, restore the Board's Works to the condition prevailing at the time of entry thereon by the Company and shall remove any chattels placed by it in or about the Board's Works.

18. The Power Company shall at all times indemnify and save harmless the Board from and against any and all claims which may be made against the Board as a result of any act or thing done by the Company, or any improper omission, in the carrying out of its aforesaid investigations on or by means of the Board's Works.

19. Clause 5 of the 1944 Agreement is and shall be deemed to be amended and altered as and from the date of this agreement by the deletion therefrom of the second paragraph thereof and the substitution therefor of the following:

"Provided that said exception and reservation shall not confer on the Railway Company, its successors and assigns, any right, power or privilege to work:

- (i) The said mines and minerals other than gas and petroleum within 440 yards, or
- (ii) the said gas and petroleum within 40 yards therefrom without the leave of the Minister in charge of the administration of Water Resources, and on application to the said Minister for such leave the provisions of Section 84 of *The Railway Act*, R.S.A. 1942, chapter 197, shall *mutatis mutandis* apply".

20. Clause 15 of the 1944 Agreement is and shall be deemed to be amended and altered as and from the date of this agreement by the deletion thereof and the substitution therefor of the following new clause 15, namely:

"The Board shall, from time to time, so long as any part of the said undertaking and works is maintained and operated by the Board as an irrigation system, deliver all water required by the Railway Company for industrial purposes up to but not exceeding the maximum amount or quantity of 20 acre feet in each calendar year and a maximum rate of 50,000 cubic feet in any day of 24 hours, such water to be paid for by the Railway Company at the rate of One Dollar and Fifty Cents (\$1.50) per acre foot at district delivery points; the Railway Company to provide ditches, reservoirs or pipe lines for the storage and conveyance of water so supplied, it being agreed that such water shall be provided only during the irrigation season when the Board can supply such water without interfering with the supply of water for irrigation and domestic purposes to water users in the district".

21. In consideration of the premises and the covenants of the Railway Company herein contained clause 21 of the 1944 Agreement shall be and it is hereby amended by substituting for the words and figures "twenty-one (21) years" as they appear therein the words and figures "thirty-one (31) years".

22. In the event of the acceptance by the Power Company of the aforesaid option, the Power Company shall and will at all times (subject, however, to the provisions of clause 25 of this Agreement):

- (i) indemnify and save harmless the Board from and against any and all claims which may be made against the Board as a result of any act or thing done or omitted to be done by such owner or licensee in the operation of the Board's Works,
- (ii) maintain the dam, canal and other irrigation works so transferred by the Board, or extensions thereof or substitutions therefor, in good and satisfactory conditions so as adequately to supply water for the Board's purposes as provided for in this agreement.

23. The Board and the Railway Company each acknowledge and agrees that insofar as and to the extent that anything in this agreement contained shall be in conflict or inconsistent with the provisions of the 1944 Agreement, the provisions of this agreement shall prevail and without limiting the generality of the foregoing, the Railway Company shall and will, upon the Power Company having accepted the option hereinbefore granted to it by the Board, on and in consideration of the payment of the sum of \$200,000.00 to the Railway Company by the Power Company as provided in clause (6) of this Agreement, accept the said payment in full satisfaction and discharge of the Railway Company's rights or claims under clause 21 of the 1944 Agreement.

24. Notwithstanding anything to the contrary hereinbefore contained, if, as a result of its aforesaid investigations, the Power Company shall deem it desirable that Chestermere Lake and the facilities, rights and works of the Board in connection therewith be used for the purposes of power development, then and in that event and subject to the approval of the Director of Water Resources of the Province of Alberta, the said Chestermere Lake and facilities, rights and works of the Board in connection therewith and the main canal extending from the Board's Works (as hereinbefore defined) shall be deemed to be included in and deemed part of the Board's Works as hereinbefore defined, which may be acquired by the Power Company. In the event of the Power Company acquiring from the Board such additional works for the purposes of its power development, the delivery by the Company to the Board for the Board's purposes as hereinbefore provided, shall be made to the irrigation canals of the Board from and connecting with Chestermere Lake and the Power Company shall, in addition to the aforesaid \$400,000.00 purchase price, make compensation to the Board for any loss of revenue from the lands affected caused by the Power Company's use of such lands. In the event that the Board and the Power Company shall not be able to agree on any matter or thing arising out of or with respect to this clause 24, any such difference shall be settled and determined by the Director of Water Resources of Alberta, whose decision shall be binding upon the parties.

25. Failure of the Power Company or its successors or assigns to perform any of its or their obligations hereunder shall be excused if the same be caused by fires, strikes, riots, lack of water, tempests, lightning, force majeure, acts of God, the Queen or the Queen's enemies, or curtailment, delay or suspension of operations pursuant to any law or order purporting to be made by any duly constituted authority, or other circumstances beyond the control of the party failing to perform provided always that lack of finances shall not be deemed a circumstance beyond the control of such party.

26. This Agreement and all the covenants and conditions herein contained shall extend to, be binding upon and enure

to the benefit of the successors and assigns of the parties hereto respectively, provided always, however, that:

- (a) in the event of any sale, assignment or other disposition to or in favour of another company by the Power Company of this Agreement or its works or undertakings acquired or constructed by or pursuant to or in performance of this Agreement, the Power Company's liability for or in respect of any and all covenants, terms and conditions on its part in this Agreement contained shall cease, terminate and be at an end if:
 - (i) such sale, assignment or other disposition be approved by the Director of Water Resources, and
 - (ii) such other company shall execute and deliver to and in favor of the Board such other company's written covenant and undertaking, in form approved by the Director of Water Resources, to assume, carry out, perform and be responsible for all the terms, covenants and conditions on the part of the Power Company in this Agreement contained;
- (b) in the event of the Board's Works or any substantial part thereof becoming the property of the Crown in the right of the Province of Alberta or of any governmental corporation or authority or upon termination of any water power license held by the Power Company in respect thereof, the Power Company's liability for or in respect of any and all covenants, terms and conditions on its part in this Agreement contained shall cease, terminate and be at an end.

27. This Agreement may be varied, altered or amended as may be mutually agreed upon by the parties hereto from time to time in writing under their respective corporate seals.

28. This Agreement is made subject to the approval of the Legislature of the Province of Alberta on or before the 30th day of April 1954, and shall not bind the parties unless or until it is ratified and confirmed by a statute of the said Province enacted within the said time but upon such ratification and confirmation being made this Agreement shall be deemed to have been effective as and from the date hereof.

IN WITNESS WHEREOF the parties have executed this Agreement by their respective officers in that regard duly authorized.

Witness to signatures of
Western Irrigation Dis-
trict Officials:

(Sgd.) P. M. Sauder.

BOARD OF TRUSTEES OF
THE WESTERN
IRRIGATION DISTRICT

(Sgd.) J. A. MacArthur

(Sgd.) P. W. Slater.

CALGARY POWER LTD.

(Sgd.) G. H. Thompson

(Sgd.) L. G. Proctor.

CANADIAN PACIFIC
RAILWAY COMPANY

(Sgd.) B. W. Roberts

Vice-President

(Sgd.) F. Bramley

Secretary.

SCHEDULE "B"

LANDS OWNED BY WESTERN IRRIGATION DISTRICT

(Subject to the reservations, conditions and exceptions contained in the under-noted Certificates of Title as at the date hereof).

Location	Area	Title No.	Plan or Certificate No.
N.E. $\frac{1}{4}$ 23-23-29-w4th	3.67	65Z68	Cert. 6144P
S.E. $\frac{1}{4}$ 23-23-29-w4th	32.62	65Z68	Cert. 6144P
S.W. $\frac{1}{4}$ 23-23-29-w4th	10.52	65Z68	Cert. 6144P
N.E. $\frac{1}{4}$ 28-23-29-w4th	18.66	65Z69	Plan Irr. 51
S.E. $\frac{1}{4}$ 28-23-29-w4thBlock "A"	65Z70	65Z70	Plan 5891AM
N.W. $\frac{1}{4}$ 33-23-29-w4th	9.51	65Z71	Plan Irr. 51
S.W. $\frac{1}{4}$ 33-23-29-w4th	7.22	65Z71	Plan Irr. 51
S.E. $\frac{1}{4}$ 33-23-29-w4th	14.59	65Z71	Plan Irr. 51
N.W. $\frac{1}{4}$ 9-24-29-w4th	42.48	65Z66	Plan Irr. 51
N.W. $\frac{1}{4}$ 9-24-29-w4th	0.25	65Z63	Plan 3894EN
S.W. $\frac{1}{4}$ 9-24-29-w4th	53.25	65Z65	Plan Irr. 51
S.W. $\frac{1}{4}$ 16-24-29-w4th	2.16	65Z67	Plan Irr. 51
N.E. $\frac{1}{4}$ 36-23-1-w5th	37.5	65Z64	Cert. 6145P
N.E. $\frac{1}{4}$ 1-24-1-w5th	62.93	65Z58	Plan Irr. 51
S.E. $\frac{1}{4}$ 1-24-1-w5th	23.91	65Z58	Plan Irr. 51
N.E. $\frac{1}{4}$ 12-24-1-w5th	28.63	65Z58* (a) (b)	Plan Irr. 51
N.E. $\frac{1}{4}$ 12-24-1-w5th	1.62	65Z62	Plan Irr. 51
S.E. $\frac{1}{4}$ 12-24-1-w5th	20.02	65Z58	Plan Irr. 51
S.E. $\frac{1}{4}$ 12-24-1-w5th	3.95	17F34	Plan Irr. 51

N.E. $\frac{1}{4}$	13-24-1-w5th	17.51	80K40	Plan 5425EZ
S.E. $\frac{1}{4}$	13-24-1-w5th	126.05	80K40*(b)	Plan 5425EZ
S.E. $\frac{1}{4}$	13-24-1-w5th	0.9	65Z63	Plan 1125
S.E. $\frac{1}{4}$	13-24-1-w5th	3.5	65Z63*(b)	Plan 3822Q
S. $\frac{1}{2}$	13-24-1-w5th	8.27	65Z61	Cert. 7618AP

* Subject to the following leases not registered in Land Titles Office:

- (a) Edmund Coward, Jan. 1, 1946, Filling Station.
- (b) Edmund Coward, Jan. 1, 1946, Tourist Cabins.
- (b) Charlotte Coward, Jan. 1, 1947, Tourist Camp.
- (b) C. L. Thorogood, July 1, 1949, Lumber Yard.

SCHEDULE "C"

EASEMENTS, LICENSES AND RIGHTS OF WESTERN IRRIGATION DISTRICT

EASEMENTS

Location	Area	Instrument No.	Date of Instrument	Easement From
N.W. $\frac{1}{4}$ 14-23-29-w4th ..	16.28	486 GB	Feb. 8, 1949	C.P.R.
N. $\frac{1}{2}$ 15-23-29-w4th	14.21	486 GB	Feb. 8, 1949	C.P.R.
S.W. $\frac{1}{4}$ 22-23-29-w4th ..	9.92	486 GB	Feb. 8, 1949	C.P.R.
N. $\frac{1}{2}$ 21-23-29-w4th)		(486 GB	(Feb. 8, 1949	C.P.R.
S.E. $\frac{1}{4}$ 21-23-29-w4th)	24.21	(486 GB	(Feb. 8, 1949	C.P.R.
S.E. $\frac{1}{4}$ 28-23-29-w4th ..	16.18	486 GB	Feb. 8, 1949	C.P.R.
S.W. $\frac{1}{4}$ 28-23-29-w4th	2.7	486 GB	Feb. 8, 1949	C.P.R.
N.W. $\frac{1}{4}$ 9-24-29-w4th	9.07	4586 S	Feb. 19, 1908	Dominion Go'vt.

LICENSES

Water License for Irrigation Purposes No. 111 in the Bow River Drainage Basin and No. 19 on Bow River, dated September 23, 1921.

Partial Cancellation of Water License for Irrigation Purposes, dated July 15, 1940.

RIGHTS

Authorization No. 268 dated May 27, 1909, from Department of Public Works of Province of Alberta for use of road allowances as it affects the following:

Road Allowance between Sections 14 and 15, Tp. 23, Range 29, w4th.

Road Allowance between Sections 21 and 22, Tp. 23, Range 29, w4th.

Road Allowance between Sections 21 & 28, Tp. 23, Range 29, w4th.

Road Allowance between Section 33, Tp. 23, Range 29, w4th, and Section 36, Tp. 23, Range 1, w5th.

Road Allowance between Section 36, Tp. 23, Range 1, w5th, and Section 1, Tp. 24, Range 1, w5th.

No. 71

SECOND SESSION
TWELFTH LEGISLATURE
3 ELIZABETH II

1954

BILL

An Act respecting the Western Irrigation District and a Certain Agreement thereof with Calgary Power Ltd. and the Canadian Pacific Railway Company

Received and read the

First time

Second time.....

Third time.....

HON. MR. HALMRAST
