RETURN

To an Address to His Honour the Lieutenant-Governor praying him to lay before the House copies of any correspondence between His Honour or His Honour's Ministers and any person in regard to the regulations issued under the provisions of the "Water Clauses Consolidation Act."

By Command.
GEO. B. MARTIN,
Chief Commissioner of Lands and Works.

Lands and Works Department,
24th March, 1898.

PROVINCIAL SECRETARY'S OFFICE,
VICTORIA, B.C., 19th August, 1897.

SIR,—I have the honour to acquaint you that His Honour the Lieutenant-Governor in Council, by virtue of the authority vested in him by the "Water Clauses Consolidation Act, 1897," has been pleased to appoint you to act as Water Commissioner under the said Act.

I am, etc.,
(Signed) JAMES BAKER,
Provincial Secretary.

W. S. Gore, Esq.,
Deputy Commissioner of Lands and Works, &c.

VICTORIA, B.C., 2nd November, 1897.

SIR,—I have the honour to submit to you certain matters in connection with the operation of the works of the West Kootenay Power and Light Company with a view to obtaining your assistance in an endeavour to minimise the difficulties under which the Company, at present, labours. As you are aware, the Company has already expended many thousands of dollars in its venture and purposes expending many more unless the restrictions imposed upon its operation so hamper it as to deter its financial supporters from investing further in the enterprise, the main object of the Company being to furnish power to the mines adjacent to Rossland, Nelson and surrounding districts at prices which will enable the owners of low-grade properties to operate them at a profit, a condition heretofore impracticable owing to the grade of the ore and the cost of treatment. I am sure you will appreciate the importance of its successful operation as affecting the prosperity of the district. I need scarcely point out to you that a substantial increase in the number of shipping mines will enormously increase the revenues of the Crown.

Before entering upon the construction of the works two points had been selected by the Company, in pursuance of the authorisation contained in its special Act, at which water could be diverted and applied for the purposes of the Company. One of these points was situate in a small stream, the other in the Kootenay River, about midway between Robson and Nelson. This last point was ultimately selected as the better in view of the requirements of the district, and the Company's works and plant installed there. To have utilized the first point and acquired water sufficient to have generated a capacity of 4,000 h.p., for transmission and distri-

bution among the mines, would have required 10,000 miner's inches at the point of diversion. The total of the amount would, necessarily, be permanently abstracted from the stream, the topography of the country being such as to have rendered a return of the water to the stream commercially impracticable.

The utilization of the latter point necessitated the acquisition of 100,000 miner's inches at the point of diversion in order to generate an equal amount of power, viz., 4,000 h.p., at the Company's works. But, whereas in the former case 10,000 inches would have been permanently abstracted from the volume of the stream; in the latter the total quantity of water diverted would be returned to the river, within a distance of 620 feet from the point of diversion, as quickly as water would flow on a grade of three-quarters per cent. In the former case the subtraction of 10,000 miner's inches would have very materially affected the volume of the stream; in the latter, 100,000 miner's inches, even if permanently retained after diversion, could not have a noticeable or appreciable effect, so infinitesimal would such quantity be in comparison with the great volume of water in the Kootenay River.

The reason for the greater quantity required in the latter case, in order to obtain a similar 4,000 h. p. at the Company's works, is attributable to the difference in elevation between the two points contemplated and the Company's works. In the former, or stream case, the proposed point of diversion is 300 feet above the Company's plant; in the latter, or river case, the point of diversion is only 30 feet; or, in one case a head of 300 feet could be had, in the other only 30 feet. As you doubtless are aware, to obtain a given power at a given point from different sources the quantity of water required to be diverted at either source will depend entirely, other conditions being equal, upon the altitude of the source of supply. In this instance ten times the quantity would have to be diverted from the source of supply under a 30-foot head in order to acquire 4,000 h. p. at the point of transmission than would be required for similar h. p. from a source of supply under a 300-foot head. In addition to the extra supply of water required at the point of diversion under the smaller head, great additional expense would have to be incurred in the purchase of plant, turbine wheels, etc., the size and capacity of the wheels increasing in proportion as the height of the supply source diminishes. While wheels of Pelton pattern of 28,200 lbs. weight are sufficient to generate 4,000 h. p. under a 300-foot head, wheels of turbine pattern of 300,000 lbs. weight are required to generate similar power under a 30-foot head. A difference in weight of the wheels in iron alone of 270,000 lbs. makes a readily appreciable difference in cost of plant, freight, duty, transportation, labour and installation.

Believing the attitude of your Government to be friendly to all ventures tending to the development of the mineral resources of British Columbia, and a part of its policy to encourage and aid all legitimate enterprises of an industrial nature, I have felt emboldened to submit to you for consideration a suggestion that the tariff or scale of charges provided in the "Water Clauses Consolidation Act" should be so altered as to enable you to vary the system of measurement of water, and charge per unit of h. p. actually obtained. Such a system, instead of compelling adherence to an arbitrary rule requiring payment of rates inadequate under some circumstances and excessive under others, would be sufficiently flexible to enable you to take into consideration the configuration of the country, the capacities of streams or rivers from which water diversions are proposed, the necessities of the contiguous lands and inhabitants thereof, the effect of such proposed diversions upon the volumes of the streams or rivers utilised, the diminishment or non-impairment of quantity by reasons of the permanent or temporary character of the diversion, and thus enable you to work out substantial equity under all circumstances.

In the case of this Company, if the point of diversion had been at the first point selected, instead of the Kootenay River, $1,000.00 only would have been collectible under the water charges scale, whereas under the present system $10,000 is demanded.

To have made the diversion in the stream would have seriously and permanently impaired its volume, whereas the diversion from the Kootenay River of the additional number of inches does not even noticeably affect its volume, and such diversion is merely temporary, as already explained, the quantity of water diverted at the one point being returned at another point 620 feet distant, undiminished in quantity and undeteriorated in quality.

May I ask your co-operation in an endeavour to re-adjust the scale of charges so as to meet varying contingencies, and enable the Company to acquire water under the circumstances at rates within the limits of ordinary commercial value? I am afraid the Company's financial supporters will be deterred from further advances unless an alternative system of

charges upon a materially reduced scale be adopted. While I shall endeavour to prevent any such result, even if no change be made, yet I may not succeed, as you are aware of the difficulties encountered when capital has once lost confidence or acquired a feeling of uncertainty as to the permanency of tenure of any of the rights of a Company submitted to it as an investment.

To assist in removing this uncertainty I have the honour to request that an Order in Council be passed confirming to the Company the water records and grants already issued by your Department and acquired by purchase by the Company from the lawful holders.

By the Company's Act of incorporation it is authorised to expropriate lands of any persons or bodies corporate or politic for the purposes of the Company, subject to the usual terms as to compensation. Special mention is also made of the rights of the Company to appropriate portions of roads, streets, bridges, and highways of the Crown, subject to the observance of certain prescribed conditions, *vide* section 26, Chap. 10 of the Statutes of 1897, the Company's Act of incorporation. Further, by section 38 of the Act, provision is made whereby the Lieutenant-Governor in Council may impose and reserve to the Crown such rents, charges, etc., in respect of the *waters* or of the *lands* of the Crown, if any, which shall be appropriated or enjoyed by the Company as may be deemed just and proper. Thus, while mention is made of the Company's right to appropriate roads, streets, and bridges of the Crown, no specific mention of its right to appropriate for rights of way *lands* forming part of the public domain, and not coming within the category of roads, streets, or highways, is made.

By irresistible inference I assume such a right exists, and I beg to request that you may direct me as to the proper course to pursue in order to obtain an Order in Council granting and confirming a right of way to the Company of fifty feet in width over the lands of the Crown, as set forth in the maps and plans of the Company.

Herewith I beg to enclose plans of the Company's works for your perusal, and I shall be pleased to wait upon you at any time and give you such further information as you may desire with reference to the subject-matter of this letter.

Trusting you may receive my suggestions and requests in the spirit offered, and that you may be pleased to accept and accord with same,

I have, etc.,

(Signed) CHARLES ROSS,
for the West Kootenay Power & Light Co.

The Honourable
Chief Commissioner of Lands and Works,
Victoria, B. C.

ROSSLAND, B. C., November 20th, 1897.

DEAR SIR,—I have wired you in regard to the Orders in Council which it was agreed by the Premier and yourself should be passed for our Company, namely:—(1) Confirming our water records; (2) fixing the charges to be paid; and (3) the right of way of our line over Government land, but as yet have no reply. Our Montreal Directors are getting agitated about the delay. I wish you would have them drawn up and duly passed without delay, and oblige,

Yours truly,
(Signed) J. B. MCARTHUR.

Hon. D. M. Eberts, Q. C.,
Victoria, B. C.

[TELEGRAM].

ROSSLAND, B. C., November 18th.

Hon. D. M. Eberts,
Victoria, B. C.

Have Orders in Council been passed? Montreal Directors very anxious.

J. B. MCARTHUR.

[TELEGRAM].

27/11/97.

To J. B. McArthur, Rossland.

Plans referred to in Sir Charles Ross's letter of 2nd inst. not received. Send plans Kootenay Power Company's work and right of way.

W. S. GORE.

December 1st, 1897.

SIR,—Your communication of the 20th ultimo, directed to the Honourable the Attorney-General, has been referred to me, and I have brought the several matters dealt with in it and in the communication from Sir Charles Ross of the 2nd November, ultimo, before my colleagues, who are desirous of carrying out the understanding arrived at when you were here. An Order in Council has accordingy been passed which alludes to the public benefits anticipated from the operations of your Company, and (in so far as the Council has power to do so) confirms, preserves and grants to your Company the records now held by you.

The question of fees, as you are aware, has to be dealt with by general regulation, and accordingly the Order specifies that the schedule under the "Water Clauses Act" from time to time in force shall apply to your grants. You will remember that, in consultation with the Minister of Mines, you promised to supply certain data as to the cost of rendering effective the body of water recorded by you and the expenditure incurred in generating a horse power. This was with a view of meeting your wishes in regard to the lowering of the scale of fees charged to an undertaking such as yours. The special consideration of such point has to be deferred until you supply the promised data. Meanwhile a revised scale to apply to power companies, based upon the horse power generated, is in course of preparation.

A telegram was sent from my Department to you on the 27th November, ult., and upon receipt of the information respecting plans therein requested the question of the right of way will be favourably dealt with.

I have, etc.,
(Signed) GEO. B. MARTIN,
Chief Commissioner of Lands and Works.

J. B. McArthur, Esq.,
Rossland, B. C.

[TELEGRAM].

ROSSLAND, B. C., Dec. 3rd.

W. S. Gore,
Lands and Works, Victoria.

Plans are with Col. Baker. Get them from him. We find we are not on any town land. Will not need Order in Council for it.

J. B. MCARTHUR.

ROSSLAND, B. C., December 7th, 1897.

Hon. Geo. B. Martin,
Chief Commissioner of Lands and Works,
Victoria, B. C.

SIR,—I have the honour to acknowledge the receipt of your letter of the 1st. I have forwarded your letter to Sir Chas. Ross, who is at present in Montreal, and have asked him to furnish you with the necessary data asked for. I will thank you for a copy of the Order in Council relating to the water grants.

Yours truly,
J. B. MCARTHUR.

December 10th, 1897.

SIR,—I have the honour to acknowledge the receipt of your letter of the 7th inst., asking for a copy of the Order in Council *re* water grant to your Company.

In reply, I regret to say that I cannot send you a copy of the Order in Council in question, as it is contrary to the regulations of the Government to furnish any person with copies of such orders.

I have, etc.,
(Signed) GEO. B. MARTIN,
Chief Commissioner of Lands and Works.

J. B. McArthur, Esq.,
Secretary the West Kootenay Power & Light Co.,
Rossland, B. C.

RITCHIE BUILDING, ROSSLAND, B. C.,
23rd December, 1897.

The Hon. Geo. B. Martin,
Chief Commissioner of Lands and Works,
Victoria, B. C.

Re Cascade Water Falls.

SIR,—I have the honour to communicate with you on behalf of some English capitalists who are interested in the development of the above water-power, and who have lately acquired, by purchase, the title thereto through their agent, Mr. Charles K. Milbourne, of Nelson.

While the negotiations for such purchase were being carried on the Cascade Development Company (Foreign), who owned the land on either side of the Falls, applied to Mr. Norris, Assistant Commissioner of Lands and Works at Vernon, under the "Water Clauses Consolidation Act, 1897," for a grant of water record for 200,000 miner's inches, which, after contest, was granted to it by the said Commissioner about six weeks ago.

The Company has assigned its rights to the water record to Mr. Milbourne, as trustee for the above capitalists.

Mr. Milbourne has lately had the Falls surveyed and examined by an hydraulic engineer, and it has been ascertained that 65,000 miner's inches is the full capacity of the same. Mr. Norris has consented to allow Mr. Milbourne, as assignee of the applicants, to reduce the application to that number of miner's inches, and will grant him a water record therefor as trustee.

The question upon which I particularly desire your action is in regard to the payment of fees for such water record.

Under the schedule of fees issued pursuant to an Order of the Lieutenant-Governor in Council, dated 18th August, 1897, the fees payable for the above water record would amount to several thousands of dollars, which, in conjunction with the annual fee which the holders of the water record will be compelled to pay, seems to me to be very high, and of such amount as to seriously retard the development of the water power of the country by water power companies.

On consultation with the officers of the West Kootenay Power & Light Company I have learned that, by an Order in Council, that Company was granted a water record without payment of the prescribed fees, which were left in abeyance until an application could be made to the Lieutenant-Governor in Council, with a view of reducing the same in so far as they applied to water power and light companies.

On behalf of the capitalists interested in the water power of the above Falls I desire to make a similar application.

Mr. McArthur, an officer of the above-mentioned Company, informed me that he had mentioned the matter to some of the Provincial Ministers, and that there was a reasonable probability that the subject-matter of his application would be favourably considered.

The capitalists whose interests I represent are about to incorporate themselves into a water power and light company, or are, I believe, acquiring the charter of the Cascade Water

Power & Light Company (Chapter 51, B. C. Statutes, 1897). They will proceed at once with the development of the power, and are under contract to expend the sum of $200,000 for such purposes.

I have the honour to request that you will be good enough to have a direction given to Mr. Norris, the Assistant Land Commissioner at Vernon, to issue the water record for 65,000 miner's inches to Mr. C. K. Milbourne, of Nelson, as trustee as before mentioned, without payment of fees, pending their possible reduction by a future Order in Council.

If you should desire to impose some conditions, such as the payment of the sum at present payable under the Schedule, or a part thereof, into a chartered bank, to the credit of the Commissioner or otherwise, or should you impose any other reasonable stipulation to insure the payment of such fees as may eventually become payable, I shall be only too happy to carry out the terms imposed. Perhaps it might be sufficient in the interests of the Government, if the Commissioner were instructed to grant the water record, the same to remain in his possession, subject to being cancelled at any future time by the non-payment of the Government fees.

The parties interested are most anxious to be assured of the water record being granted them before commencing operations, but they are also desirous that no act should be done with regard to the payment of the fees at present prescribed which would prejudice them in any future application to the Government for a reduction in the amount.

The 3rd subdivision of section 1 of the Schedule referred to, which provides that "for every additional 50 inches above 300 inches the sum of $5 should be paid," had been inserted therein without due consideration, and the applicants feel that the Government will eventually realise that it is oppressive to *bona fide* Water Companies, and that it ought, in all fairness, to be reduced. They feel that it will be some years before they can find means to utilise the immense water-power of the Falls, and that their plant must in the meantime remain almost idle, and no profits will therefore accrue from their large investment. It will be doubly oppressive if the large fees required by the Schedule must also be paid.

I have the honour to request that you give the subject-matter of my communication due consideration, and I would feel more than grateful if you should have an Order in Council made in this case similar to the one which I believe was made on the application of the West Kootenay Power and Light Company.

I have also the honour to request an early acknowledgment of my letter, for the time may soon elapse in which I will be required on Mr. Milbourne's behalf to take out the water record, which has been adjudicated upon and granted in his favour.

I have, etc.,

(Signed) W. J. NELSON.

January 4th, 1898.

Re Cascade Water Falls.

SIR,—I have the honour to acknowledge the receipt of your letter of the 23rd ultimo, and in reply beg to say that your Company may rest assured that they will receive the same consideration as the West Kootenay Power & Light Company, or others, relative to the amount of the fee to be paid for recording water for generating large horse power. I am endeavouring to obtain information upon which to base a scale of fees which will be reasonable for such purposes, and will be glad to receive any data which you may be able to furnish me.

Pending the adoption of a new scale of fees, Mr. Norris will be directed to grant Mr. C. K. Milbourne a record of 65,000 inches of water in question, upon your depositing with him $500.00 as a guarantee of your *bona fides*, and conditional upon payment of any further sum which may be determined upon, failing payment of which the record will be cancelled and the deposit forfeited.

I have, etc.,

(Signed) W. S. GORE,

Water Commissioner.

W. J. Nelson, Esq.,
Ritchie Building, Rossland, B. C.

January 4th, 1898.

Re Cascade Water Falls.

SIR,—I enclose herewith a copy of a letter from Mr. W. J. Nelson and a copy of my reply thereto, and beg that you will kindly grant Mr. Milbourne a water record on the conditions mentioned in my letter.

I have, etc.,
(Signed) W. S. GORE,
Water Commissioner.

L. Norris, Esq.,
Government Agent, Vernon, B. C.

VICTORIA, B. C., 18th January, 1898.

DEAR SIR,—In reference to our conversation of the 17th inst., I shall be much obliged if you will be good enough to inform me whether it is necessary for the West Kootenay Power & Light Company to file plans of its right of way with your Government, as the right of way passes entirely over what I understand to be private property, viz.: the Nelson & Fort Sheppard, the Canadian Pacific, and the Columbia & Western Railways.

With reference to the plans which you desire to be furnished with, I have this day sent instructions to have a semi-perspective plan of my Company's works made out, and this will be sent to you as soon as completed.

Yours truly,
(Signed) CHARLES ROSS.

W. S. Gore, Esq.,
Lands and Works Depprtment, Victoria, B. C.

January 21st, 1898.

SIR,—I have the honour to acknowledge the receipt of your letter of the 18th instant, and in reply beg to say that you can use your own discretion relative to filing a plan of your right of way where it passes over private lands. What I more particularly want is a plan showing your line of flume and position of power-houses, etc. I would also like a statement of the head, volume and velocity of water which will pass through your flume, and of the number of horse-power you estimate will be generated thereby.

I have, etc.,
(Signed) W. S. GORE,
Water Commissioner.

Sir Charles Ross,
West Kootenay Power & Light Co., Victoria, B.C.

VICTORIA, B. C., February 2nd, 1898.

SIR,—I have the honour to reply to your letter of the 21st of January, and would beg to make the following suggestions as to the method by which it will be possible to define the power used by any one company.

The Company shall be required to file with the Deputy Commissioner of Lands and Works the following documents :—

(1.) An elevation plan of the Company's works :
(2.) A certificate from the manufacturers of the discharge of the water-wheels in cubic feet per minute :
(3.) A certificate from a Provincial Land Surveyor that the plans are correct :
(4.) The length of their pole line.

Yours truly,
(Signed) CHARLES ROSS.

W. S. Gore, Esq., Deputy Commissioner,
Lands and Works Department, Victoria, B. C.

VICTORIA, B.C.:
Printed by RICHARD WOLFENDEN, Printer to the Queen's Most Excellent Majesty.
1898.