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U. S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE.

HENRY S. GRAVES, FORESTER.

WATER POWER PROJECTS, TELEPHONE,
TELEGRAPH, POWER TRANSMISSION LINES
ON THE
NATIONAL FORESTS.

REGULATIONS OF THE SECRETARY OF AGRICULTURE AND INSTRUCTIONS REGARDING APPLICATIONS FOR PERMITS FOR WATER-POWER PROJECTS UNDER THE ACT OF FEBRUARY 15, 1901, AND FOR EASEMENTS FOR TELEPHONE, TELEGRAPH, AND POWER TRANSMISSION LINES UNDER THE ACT OF MARCH 4, 1911.



WASHINGTON:
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CONTENTS.

	Page.
Regulations.....	5
Act of February 15, 1901.....	5
Act of March 4, 1911.....	30
Instructions.....	36
Applications under act of February 15, 1901.....	36
General statement.....	36
Preliminary applications and permits for power projects of more than 100 horsepower total capacity..	40
Final applications and permits for projects of more than 100 horsepower total capacity.....	42
Final applications and permits for projects of 100 horsepower total capacity or less.....	44
Transmission-line applications and permits.....	45
Applications under act of March 4, 1911.....	47
Telephone, telegraph, and power-transmission lines..	47
Forms.....	49
58—Application for preliminary power permit.....	49
59—Preliminary power permit.....	50
60—Application for final power permit.....	53
60a—Form of affidavit of engineer to accompany application for final power permit.....	56
60b—Form of certificate of applicant to accompany application for final power permit.....	57
61—Power stipulation.....	59
61b—Acknowledgment.....	72
62—Final power permit.....	72
63—Transmission-line permit.....	63
68—Transmission-line stipulation.....	79
69—Stipulations.....	69
319—Proof required of corporate officer's authority to sign agreements, permits, and bonds as principal.....	89

WATER POWER PROJECTS, TELEPHONE, TELEGRAPH, POWER TRANSMISSION LINES.

REGULATIONS.

ACT OF FEBRUARY 15, 1901 (31 STAT., 790).

REG. L-1. Preliminary power permits will be granted for the purpose of preserving priority of application while applicants are securing the data necessary for applications for final permits, and may allow such construction work as is necessary to preserve water appropriations until final permits are secured. Preliminary permits will not be granted for transmission lines alone or for power sites having a total capacity of 100 horsepower or less.

Final power permits will allow the occupancy and use of National Forest lands for the construction, maintenance, and operation thereon of project works for the development, transmission, and use of power.

Preliminary or final permits for power sites of a total capacity in excess of 100 horsepower will be granted, amended, extended, and renewed by the Secretary of Agriculture, hereinafter called "the Secretary."

Permits for power sites of a total capacity of 100 horsepower or less will be granted, amended, extended, and renewed by the district forester.

Permits for transmission lines will be granted, amended, extended, and renewed: (1) By the Secretary when such permit is supplemental to an existing permit for a power site of a total capacity in excess of 100 horsepower; (2) by the district forester when the transmission line is to be used in connection with a power site (whether under permit or not) of a total capacity not to exceed 100 horsepower or when the connected load upon the transmission line will not exceed 100 horsepower; (3) in all other cases by the Forester.

The Secretary alone may revoke power and transmission line permits.

NOTE.—Since a preliminary permit merely protects an applicant's priority, it is optional with him whether he will apply for a preliminary permit or will secure without such permit the data necessary for making an application for a final permit. No permit is required for traveling, camping, or surveying within National Forests, and camp wood and forage for necessary stock may be taken without specific permission and without charge. Necessary cutting of timber in surveying for lawful projects may be done without permit. Unnecessary cutting is prohibited.

Total capacities for the purpose of this regulation will be computed in accordance with the rule prescribed in Regulation L-7.

Whenever transmission lines are to be built in connection with, or as extensions to, a power or transmission system already under permit, the transmission-line permit will be made supplemental to the major permit. Lines transmitting purchased power from systems not under permit, whether constructed and owned by the power company or by the purchaser of the power and regardless of the power capacity of such system, will be handled by the district forester if the connected load upon the line does not exceed 100 horsepower; otherwise permits will be issued by the Forester.

Power plants and transmission lines forming part of a system generating steam power only will not be handled under these regulations except upon specific request of applicants. Such use will be authorized by "special-use" permits.

REG. L-2. Applications for preliminary or final permits, whether for maintenance or priority of application or for occupancy and use of lands of the United States within National Forests, shall be filed with the district forester of the district in which the lands are situated, except that applications for permits in the Territory of Alaska may be filed either with the district forester or with the supervisor of the National Forest in which the lands are situated.

NOTE.—If a proposed project will include lands of the United States outside of the National Forests, as well as those within, the regulations of the Department of the Interior require that applicants shall also submit to the local land office, in the land district in which such lands are situated, such maps and papers and copies thereof as are required by the regulations of that department.

If the project will include lands of the United States wholly outside the National Forests, application should be made to the local land office of the land district in which the lands are situated, in accordance with the regulations of the Department of the Interior.

Preliminary applications should be prepared in accordance with Regulation L-10 and final applications in accordance with Regulation L-11 or Regulation L-12, depending upon the size of the project.

REG. L-3. Applications for final permits will be given consideration in the order of the relative priorities therefor. Such priorities may be initiated by the filing of preliminary applications as prescribed in Regulation L-10 or of final applications as prescribed in either Regulation L-11 or Regulation L-12. If a preliminary permittee shall file complete final application before loss of priority initiated by the preliminary application, the priority so initiated shall be maintained by the final application and be effective as of the date of the preliminary application. Priority shall be maintained, however, only in so far as the projects shown in the final application are within the approximate limits of diversion and discharge as shown in the preliminary application.

Priority initiated or maintained by a final application shall be lost if the applicant fails to make the payment required and to return a duly executed stipulation, as prescribed in Regulation L-14 or in Regulation L-15, on or before a date fixed in the letter transmitting such stipulation to him, unless upon a satisfactory showing therefor, filed with the district forester before said date, the district forester shall extend the time originally named.

Priority initiated by a preliminary application shall be lost (1) if the initial payment is not made on or before a date fixed by the district forester in the letter transmitting the request for payment, unless upon a satisfactory showing therefor, filed with the district forester before said date, the district forester shall extend the time originally named; or (2) if the application for final permit is not filed before the date specified in the preliminary permit, unless additional time shall have been allowed by written authority of the Secretary upon a showing by the permittee, filed with the district forester prior to said date, that the filing of final application has been prevented by unusual climatic conditions that could not reasonably have been foreseen or by some special or peculiar cause beyond the control of the permittee.

Priority initiated or maintained by an application for permit shall be lost if the permit is revoked.

No other application, either preliminary or final, for a like use (except for transmission lines) covering in whole or in part the same or adjacent lands will be accepted from a permittee whose priority is lost until the expiration of one year thereafter; and this restriction shall extend to transferees of the permittee and, if the permittee is a corporation, to reincorporations representing the same or associated interests, whenever in the judgment of the Secretary a transfer or reincorporation has been effected for the purpose or with the result of escaping the restriction of this regulation, it being the intent of such restriction to leave open to other applicants for a period of one year power sites upon which priorities have lapsed, as provided in this regulation.

NOTE.—In transmitting stipulations for signature or letters of transmittal for payment of charges, the district forester will name a date upon which stipulations must be returned and payment made on penalty of loss of priority.

REG. L-4. Final permits will be issued only if it appears that the proposed occupancy and use will be in general accord with the most beneficial utilization of the resources involved and consistent with the public interest. No final permit will be issued if the works to be constructed thereunder will unreasonably interfere with the construction or operation of works authorized by existing final permits. No final permit will be issued for the construction of works within an area covered by a prior preliminary permit until after the filing of final application or the loss of priority by the prior preliminary permittee.

Applications for final permits involving in whole or in part the same lands will be examined in order of their priority, but before the issuance of final permit consideration may be given to the financial ability and business connections and affiliations of the applicants.

Successive preliminary permits may be issued covering the same power site, but in each successive preliminary permit it shall be specified that such permit is subordinate to all outstanding prior permits and shall not adversely affect any rights thereunder.

The rejection of an application shall be final unless an appeal therefrom is filed with the district forester (in the Territory of Alaska it may be filed with the forest supervisor) within the time named therefor by the officer rejecting

the application. Such appeal shall set forth fully the facts and arguments upon which it is taken.

NOTE.—Decisions rejecting applications, whether made by the Secretary, by the Forester, or by the district forester, will be forwarded to the applicant by the district forester accompanied by a letter fixing a definite date on or before which an appeal must be taken or the case will be closed.

REG. L-5. Wherever the approval of a State administrative official, board, or commission is a condition precedent to the right either to take and use water for power purposes or to engage in the business of the generation, transmission, or distribution of power, certified evidence of such approval must be filed with the district forester before a final permit will be issued. Formal notification by such official, board, or commission that the water right has been canceled or the permission to engage in the power business withdrawn will be deemed sufficient grounds for the revocation of the permit.

REG. L-6. Final permits will be issued for a period not to exceed 50 years from the date of issuance thereof. If, however, at any time not less than 2 nor more than 12 years prior to the termination of the permit the permittee shall formally notify the Secretary that he desires a new permit to occupy and use such lands as are occupied and used under the existing permit and will comply with all then existing laws and regulations governing the occupancy and use of National Forest lands for power purposes, the existing permit will be considered as an application for such new permit.

Whenever in his opinion the public interest requires it the Secretary may grant an indeterminate permit in lieu of a fixed-term permit, but such indeterminate permit shall expressly state that it is subject to the right of the United States, of the State, or of a municipal corporation to purchase as provided in Regulation L-14, paragraph (S) hereof; that it may be terminated for cause as provided in Regulation L-19 hereof; or that it may be otherwise modified or terminated according to law. Such permit shall also provide for a readjustment of its terms at intervals of not less than 20 years to conform to regulations existing at the time of readjustment.

REG. L-7. The following terms, wherever used in these regulations, shall have the meaning hereby in this regulation assigned to them, respectively, viz:

“Municipal purposes” means and includes all purposes within municipal powers as defined by the charter of the

municipal corporation, where any such purpose is directly pursued by the municipal corporation itself with the primary object of promoting the security, health, good government, or general convenience of its inhabitants.

“Power business” means the entire business of the applicant or permittee in the generation, distribution, and delivery of power by means of any one power system, together with all works and tangible property involved therein, including freeholds and leaseholds in real property.

“Power project” means a complete unit of power development, consisting of a power house, conduit or conduits conducting water thereto, all storage or diverting or fore-bay reservoirs used in connection therewith, the transmission line delivering power therefrom, any other miscellaneous structures used in connection with said unit or any part thereof, and all lands the occupancy and use of which are necessary or appropriate in the development of power in said unit.

“Project works” means the physical structures of a power project.

“Construction of project works” means the actual construction of dams, water conduits, power houses, transmission lines, or some permanent structure necessary to the operation of a complete power project, and does not include surveys or the building of roads and trails, or the clearing of reservoir sites or other lands to be occupied, or the performance of any work preliminary to the actual construction of permanent project works.

“Primary transmission line” means the main line or lines over which power is delivered from a power house, or generating station, at the voltage of the high-tension side of the station transformers.

“Distance of primary transmission” means the distance measured along the primary transmission line from the power house to the point of first reduction in line voltage by means of transformers.

“Operation period” means the period covered by final permit subsequent to the actual beginning of operation.

“Survey-construction period” means the period covered by preliminary and final permits prior to the operation period.

“Nominal stream flow” means the sum of (a) the flow determined by averaging the values estimated for the natural mean flow for the two-month (calendar) minimum-flow period in each successive five-year period or major fraction thereof, and (b) the stream flow made available from storage by project works not under permit.

“Load factor” means the ratio of average power output to maximum power output.

“Total capacity of the power site” means the continued product of (1) the factor 0.08¹; (2) the average effective head in feet; (3) the stream flow estimated to be available at the intake (in second-feet and in amount not to exceed the maximum hydraulic capacity of the project works) considered as the sum of (a) the nominal stream flow and (b) stream flow made available from storage by project works under permit; and (4) a factor not less than the average load factor of the power system, representing the degree of practicable utilization of the stream flow estimated to be available and based on the extent of fore-bay storage and the load factor of the power system.

“Rental capacity of the power site” means the capacity on which the rental charges are based. Unless otherwise ordered by the Secretary, it will be determined by making the following deductions from the total capacity of the power site.

(a) Whenever power projects include water-conduit or intake-reservoir sites not wholly on National Forest lands a deduction will be made from that part of the total capacity of the power site which is due to the use of the nominal stream flow. This deduction will be, in per cent, the sum of (1) the product of the proportion of the average effective head obtained from the dam by the per cent of submerged lands below the flow line fixed by the average effective head that are not National Forest lands, and (2) the product of the proportion of the average effective head obtained from the water conduit by the per cent of the length of said conduit which is not located on National Forest lands.

(b) Whenever power projects include reservoir sites not wholly on National Forest lands, a deduction will be made from that part of the total capacity of the power site which is due to the use of stream flow made available from storage by the project works under permit. This deduction will be the per cent of the total area of the reservoir sites that is not National Forest land.

(c) From the total capacity of the power site which remains after deductions (a) and (b) have been made will be made a further deduction which, in per cent, shall be the product of the square of the distance of primary transmission in miles and the factor 0.001, but in no case shall deduction (c) exceed

¹ The factor 0.08 represents the horsepower at 70 per cent efficiency of a second-foot of water falling through a head of 1 foot.

25 per cent. Deductions will be made under this paragraph only when the application is accompanied by a satisfactory showing of the practicability and probability of the delivery of power to the point named, and, in case of final permits, only when the application is also accompanied by complete maps and notes of survey of the proposed transmission line.

NOTE.—A feeder conduit is a conveyor of water, making available to a power project the flow from a drainage other than that from which the principal diversion is made. If diversion of run-off is made from the drainage on which the power plant is located, this will be termed the “principal diversion”; if not, the diversion yielding the greatest portion of the “nominal stream flow” will be so termed.

The power capacity, due to the feeder conduit, means the continued product of (1) the factor 0.08, (2) the average effective head of the project in feet, (3) the load factor as above defined and determined, and (4) the average stream flow made available by the feeder conduit during the two consecutive months of minimum flow for the whole or major part of each five-year period.

The length of the feeder conduit will be considered as the distance measured along the conduit from its intake to the point where it discharges its contents into the drainage from which the principal diversion is made, or into the conduit carrying such principal diversion.

The deduction for unreserved land along the feeder conduit will be the product of its power capacity and the ratio of the unreserved to total length of such feeder.

“Primary transmission lines,” as used in these regulations are to be distinguished from “service lines,” which mean and include lines operated at the voltage of the apparatus using the power (lamps, motors, etc.) and having no voltage reduction at the delivery end; and from “secondary transmission or distribution lines” which mean and include all lines operated at a voltage intermediate between the “primary transmission line” voltage and the “service-line” voltage. In computing deductions for transmission-line distance, length of primary transmission lines only will be considered.

REG. L-8. The maintenance of priority under preliminary permits and the occupancy and use of National Forest lands under final permits for power sites of more than 100 horsepower total capacity (except as hereinafter provided in this regulation) will be conditioned on the payment in advance for each calendar year of a rental charge calculated from the “rental capacity of the power site,” as defined in Regulation

L-7, at the following rates per horsepower per year, unless otherwise ordered by the Secretary:

For the unexpired portion of the calendar year and for the first full calendar year of the survey-construction period and similarly for the operation period-----	\$0. 10
For the second full calendar year of each of said periods-----	. 20
For the third year-----	. 30
For the fourth year-----	. 40
For the fifth year-----	. 50
For the sixth year-----	. 60
For the seventh year-----	. 70
For the eighth year-----	. 80
For the ninth year-----	. 90
For the tenth and each succeeding year-----	1. 00

At any time not less than ten years after the issuance of final permit or after the last revision of rates of rental charges thereunder the Secretary may review such rental rates and impose such new rental rates as he may decide to be reasonable and proper: Provided, That such rental rates shall not be so increased as to reduce the margin of income (including appreciation in land values) from the power project under permit over proper actual and estimated expenses (including reasonable allowance for renewals and sinking-fund charges) to an amount which, in view of all the circumstances (including fair development expenses and working capital) and risks of the enterprise (including obsolescence, inadequacy, and supersession) is unreasonably small, but the burden of proving such unreasonableness shall rest upon the permittee.

The occupancy and use of National Forest lands under transmission-line permits (except as hereinafter provided in this regulation) will be conditioned on the payment in advance for each calendar year of a rental charge of \$5 for each mile or fraction thereof, unless otherwise ordered by the Secretary.

No rental charge will be made (1) for power projects of 100 horsepower total capacity or less or for transmission lines used in connection therewith; (2) for primary transmission lines which are part of a power project under permit; (3) for any power project or transmission line when the power to be developed or transmitted is to be used by a municipal corporation for municipal purposes or by any permittee for one or more of the following purposes: (a) For irrigation as auxiliary to irrigation works owned or operated by the permittee; (b) for logging operations in connection with the purchase by the permittee of National Forest timber under a timber-sale agreement or for the manufacture into a merchantable product by the permittee of such timber so purchased; (c) for the

temporary development of power to be used in the construction of permanent project works under permit issued to the permittee.

Whenever a power project is not used exclusively for the purposes above named such proportional part of the full schedule charge for any calendar year will be credited to the permittee as the power developed by the project works and used for the purposes above named bears to the total output of the project works for said year. Such credits will be made only upon application by the permittee accompanied by a showing of fact satisfactory to the Secretary. Any amount so credited will be applied to the cancellation of charges as they may thereafter become due.

The rental charges on account of a preliminary permit will be calculated from the rental capacity of the power site as estimated by the Secretary at the time of granting such permit. The rental charges on account of a final permit will be calculated from the rental capacity of the power site as estimated by the Secretary at the time of granting said final permit: Provided, That said estimated rental capacity may be adjusted by the Secretary (a) to provide for changes made during construction; (b) annually to provide for changes in ownership of lands in reservoir sites and on water-conduit lines and for changes in length of primary transmission; (c) to provide for changes in nominal stream flow whenever such flow is increased or decreased because of additional storage or otherwise; or (d) whenever not less than 10 years after the determination of the last preceding estimated value thereof the permittee shall apply for or the Secretary give notice of a redetermination of the rental capacity of the power site.

The first payment by every permittee shall be the charge for a full year, but any excess of said payment over the pro rata charge for the unexpired portion of the calendar year in which the permit is issued will be credited to the permittee as a part of his payment for the first full calendar year.

All payments made for the survey-construction period will be credited to the permittee for the cancellation of charges as they become due in the operation period.

If all or any part of the amounts due for rental charges as required in the preliminary permit shall, after due notice has been given, be in arrears for 60 days, then and thereupon the preliminary permit shall terminate and be void without revocation by the Secretary. If all or any part of the amounts due for rental charges as required in the final permit shall, after due notice has been given, be in arrears for 90 days, then and

thereupon the final permit shall be subject to revocation by the Secretary.

The decision of the Secretary shall be final as to all matters of fact upon which the calculation of the capacities or rentals depends.

NOTE.—Except when forming part of a power project of 100 horsepower total capacity or less the regular charge of \$5 per mile or fraction thereof will be made for all secondary transmission or service lines, as defined in the note to Regulation L-7, whether such lines are included in the general permit or are under supplementary or independent permit.

From the fact that probably in many instances the data for the original calculations will be meager, provision is made for a redetermination of the power capacity by 10-year intervals, to admit of utilizing more complete data and to allow for possible change of conditions.

REG. L-9. All applications for permits, whether preliminary or final, shall, if the applicant be an individual, contain a sworn statement that he is a citizen of the United States. If the applicant is an association of citizens, the application shall contain a sworn statement by each member that he is a citizen of the United States. Associations must, in addition, submit their articles of association; if there be none, the fact must be stated over the signature of each member of the association.

If the applicant is an incorporated company, its application must be accompanied by the following papers:

(A) A copy of its articles of incorporation, duly certified to by the officer of the State having custody of the original thereof.

(B) If operating in a State other than that in which incorporated, a certificate of the proper officer of the State that it has complied with the laws of that State governing foreign corporations to the extent required to entitle the company to operate in such State.

(C) A true list, signed by the secretary, under the seal of the company, showing the names and designations of its officers and directors at the date of the filing of the items required by this regulation.

REG. L-10. All applications for preliminary permits shall consist of the following items (in addition to those specified in Regulation L-9), each of which shall be dated and signed by the applicant:

(D) An application in triplicate on Form 58.

(E) A map on tracing linen, not larger than 28 by 40 inches and not smaller than 24 by 36 inches, with scale so selected as

to show upon a single map the power project or projects applied for, showing the approximate location of the dams, reservoirs, conduits, power houses, and other project works. The map shall show: For each reservoir site, the distance and bearing of the dam from the nearest existing corner of the public survey and approximately the position of the maximum flow line; and for each water-conduit line, the distance and bearing of each terminus from the nearest existing corner of the public survey and the approximate location of the water conduit. If on unsurveyed land, the distances and bearings may be taken from a permanent mark on some natural object or permanent monument that can be readily found and recognized.

(F) Estimates in triplicate for each power project of (1) the total head to be utilized and the per cent thereof to be obtained from dam and water conduit, respectively; (2) the stream flow and the per cent thereof to be made available from storage by the project works; (3) the area to be flooded by back water from the diversion dam; (4) the length of the proposed water conduit (from intake to tailrace outlet); (5) the area and capacity of each proposed storage reservoir; (6) the probable load factor of the power system; and (7) the distance, in miles, of proposed primary transmission.

These estimates should be accompanied by a statement of the data on which they are based, including stream measurements, rainfall, run-off and evaporation records, drainage areas, probable points of delivery of power, and any other pertinent information.

(G) If application is made for permission to prosecute construction under preliminary permit, the application shall be accompanied by a duly certified copy of such notice or application, if any, as is required to be posted or filed, or both, to initiate the appropriation of water under the local laws. This notice or application should provide for use by the applicant for a permit of sufficient water for the full operation of the project works. If permission to construct is not applied for, no notice of water right need be filed.

Application must be made for a definite, limited period only, which period will allow a reasonable time for the preparation and filing of the final application as prescribed in Regulation L-11.

A preliminary application shall not initiate any priority until every map or paper required by Regulation L-9 and by this regulation shall have been filed in the manner prescribed.

REG. L-11. All applications for final permits to occupy and use National Forest lands for power projects of more than 100 horsepower total capacity shall consist of the following items (in addition to those specified in Regulation L-9):

(D) An application in triplicate on Form 60.

(E) Maps of location and plans of structures on tracing linen, cut to a uniform size not larger than 28 by 40 inches and not smaller than 24 by 36 inches, with graphical scale not less than 6 inches in length drawn thereon. Separate sheets shall be used for maps of location whenever the whole survey can not be shown upon a single sheet.

(1) The following maps and plans shall be submitted for each reservoir that will be a part of the power project or projects applied for: (a) A contour map of each reservoir site, dam, and dam site on a scale of not more than 400 feet to the inch, with a contour interval of not more than 10 feet. The contour map for each reservoir site shall show the high-water flow line and, in case the reservoir is to be used in whole or in part for diversion purposes, the flow line fixed by the estimated average effective head and also a table or diagram of areas and capacities for each flow line and each contour line. (b) A cross section of each dam site along the center line of the proposed dam, with a graphical log properly located thereon of each boring, test pit, or other exploration, and a brief statement of the character and dip of underlying material. (c) Plans, elevations, and cross sections of the dams, showing spillways, sluiceways, or sluice pipes, and other outlet works, and also a statement of the volume of the dam, the character of the materials used, and the type of construction.

(2) The following maps and plans shall be submitted for the entire length of each water conduit, from intake to tail-race outlet, that will be a part of the power project or projects applied for: (a) Either a contour or a profile map and survey (at the option of the applicant) of the entire water-conduit location on a scale of not more than 400 feet to the inch. If a contour survey is made, the contours shall have an interval of not more than 10 feet and shall cover an area of 100 feet in width on each side of the center line of the water conduit or a difference in elevation of at least 25 feet above or below the grade line of the conduit. If a profile survey is made, stations should be located at intervals not to exceed 100 feet, and such stations should be shown upon maps, profiles, and field notes. The map and profile of each section of line

should be drawn upon the same sheet. This map shall show the transit line of the survey and the center line of the proposed final location of the water conduit. The maps shall also show what sections of the water conduit will be in flume, ditch, tunnel, pipe, etc., and the grade of each section. (b) Plans, elevations, and cross sections of each type of water conduit, showing material, dimensions, grades, flow line, and capacity and plans and elevations of intake works and fore bays.

(3) A map on a scale of not more than 50 feet to the inch, showing the proposed location of the power house, other buildings, etc., shall be filed for each power-house site that will be a part of the power project or projects applied for. This map shall also state the proposed type and estimated number and rated capacity of the water wheels and generators to be used.

(4) A map of the survey of the proposed final location of the center line of the transmission line, on a scale of not more than 1,000 feet to the inch, shall be filed for such portions of transmission lines as are located upon National Forest lands.

(5) A general map of the power project or projects applied for on such a scale that the entire survey may be shown on a single sheet shall be submitted whenever more than two detail sheets are required to show the entire location (see par. (E)); also a similar map showing the entire primary transmission system from power houses to points of distribution. Both power projects and transmission system may be shown upon a single sheet, provided the combined map can be drawn on a scale of not less than 2 inches to the mile. General maps should also be prepared as key maps by indicating thereon by outline and number (or letter) the location of the areas covered by the several detail sheets.

(F) Copies of field notes in triplicate of the entire final location survey of water conduits, and transmission lines, the exterior boundaries of power-house and reservoir sites, and all reference lines to public-land corners.

(G) Estimates in triplicate for each power project of (1) the total average effective head to be utilized and the per cent thereof to be obtained from dam and from water conduit, respectively; (2) the stream flow and the per cent thereof made available from storage by the project works and by other works, respectively; (3) the area to be flooded by the dam below the flow line fixed by the estimated average effective head; (4) the length of the proposed water conduit (from intake to tailrace outlet) and the number, length, and size of

pressure pipes; (5) the area and available capacity of each proposed storage reservoir; (6) the available storage capacity of fore-bays (or diversion ponds); (7) the probable load factor of the power system; and (8) the distances in miles of primary transmission.

These estimates should be accompanied by complete statements in detail of all data on which they are based, including stream measurement, rainfall, run-off and evaporation records, drainage areas, total static head and losses in head, probable maximum, minimum, and average power output, load curves of the power system, efficiencies of machinery, probable points of delivery of power, and all other pertinent information.

(H) Such evidence of water appropriation as is specified in Regulation L-10 (G). If such evidence has been filed with a preliminary application, only such additional evidence, in general, will be required as will cover appropriations or transfers subsequent to the date of the evidence filed with the preliminary application. But wherever the approval of a local administrative official, or board, or commission is a condition precedent to the right either to take and use water for power purposes or to engage in the business of the generation, transmission, or distribution of power, certified evidence of such approval must also be filed with the application for final permit. (See Reg. L-5.)

(I) A detailed statement in triplicate by the applicant of the time desired for making financial arrangements, for completing preliminary construction, and for beginning "construction of project works," as defined in Regulation L-7.

(J) The application shall be accompanied by an affidavit of the applicant's engineer and a certificate of the applicant. (See pp. 57 and 58.) Affidavits and certificates will not be placed upon maps, plans, and other exhibits, but will be filed as a separate exhibit.

The maps and field notes shall show reference lines to initial point of survey, to termini of water conduits, and to termini of transmission lines (when within a National Forest or not more than 2 miles outside its exterior boundary measured along the transmission line). The maps and field notes shall also show the intersection of the survey line with the section lines of public-land surveys and with boundaries of National Forests and other reservations of the United States.

The termini of water conduits, the termini of transmission lines, the intersections with boundaries of reservations of the United States, and the initial point of survey of power-house

sites shall be fixed by reference by course and distance to the nearest existing corner of the public survey. The initial point of the survey of reservoir sites shall be fixed by reference by course and distance to the nearest existing corner outside of the reservoir by a line or lines not crossing an area that will be covered with water when the reservoir is in use. When any such terminus, intersection, or initial point is upon unsurveyed land, it shall be connected by traverse with an established corner of the public survey, and the distance from the terminus, intersection, or initial point to the corner shall be computed and noted on the map. When the nearest established corner of the public survey is more than 2 miles distant, this connection may be with a permanent mark on a natural object or a permanent monument which can be readily found and recognized. The field notes shall give an accurate description of the natural object or monument and full data of traverse, as required above. The intersections of the survey lines with section lines of the public-land survey shall be referenced by course and distance to the nearest existing corner along the section lines intersected. If no corner can be found within a half mile of the survey line, the fact may be noted on the map and in the field notes and the reference omitted. The maps shall also show all lines of public-land subdivisions by official survey; the protractions on unsurveyed land of section and township lines, such protractions in any National Forest to conform to the diagram accompanying the proclamation establishing the boundaries of such National Forest; and the status as to ownership of all lands of the power project or projects, designating separately lands patented, lands of the United States entered or otherwise embraced in an unperfected claim under the public-land laws, unreserved lands of the United States, and, separately for each reservation, lands included within National Forests and other reservations of the United States. Elevations and contour lines shall be based on United States Geological Survey datum whenever available.

Each separate original map, plan, set of field notes, estimates and data, evidence of water appropriation, articles of incorporation, etc., shall be plainly marked "Exhibit A," "Exhibit B," etc., respectively, and referred to by such designation in the application. Maps and plans shall, in addition, be described in the application by their titles as "Exhibit A, map of location of," etc., "Exhibit B, plan of," etc. Duplicate and triplicate copies, when required, should be marked "Exhibit —, duplicate," "Exhibit —, triplicate." Maps should be rolled for mailing and should not be folded.

A final application shall not initiate or maintain any priority until every map or paper required by Regulation L-9 and by this regulation has been filed in the manner prescribed.

NOTE.—Certificate to the completeness of an application will not be given unless data have been filed under all the items prescribed above and there appears to have been a bona fide attempt to comply fully with the regulation.

Mere sketches of structures will not be accepted as fulfilling the requirements of paragraph (E), subdivisions (1) (c) and (2) (b). These should be actual dimension plans of structures designed for construction at the locations proposed.

REG. L-12. No applications will be accepted for preliminary permits for power projects of 100 horsepower total capacity or less. Applications for final permits for such projects shall be in writing, dated and signed by the applicant, and, in addition to the items specified in Regulation L-9, shall be accompanied by:

(D) A map showing the location of dams, reservoirs, conduits, power houses, and transmission lines or other works.

(E) Field notes of the survey.

(F) A statement of the amount of water to be diverted for use, the maximum capacity of the diversion works, and the total head to be utilized.

(G) Such showing as is specified in Regulation L-11 (H).

The map shall be drawn on tracing linen and may be on any convenient scale. The map shall show, with reasonable accuracy, the extent and location of each reservoir site, water conduit, power-transmission line, and power-house site. It shall also show: For each reservoir site, the distance and bearing of the initial point of survey from the nearest existing corner of the public survey, the location of the maximum-flow line, the area and available storage capacity of the reservoir; for each water conduit or power-transmission line, the distance and bearing of each terminus from the nearest corner of the public survey, the location of the center line of the conduit or transmission line, its length and intersections of the center line with the boundaries of National Forests and other reservations of the United States; and for each power-house site, the distance and bearing of the initial point of survey from the nearest corner of the public survey, the location of the exterior boundaries of the site, and the area. If on unsurveyed land, or if on surveyed land and corners can not be found within 1 mile, the distances and bearings may be taken from a permanent mark on some natural object or permanent monument that can be readily found and recognized.

In the case of temporary developments only the district forester may in his discretion waive such of the preceding requirements as are not necessary to the purpose of such application.

NOTE.—The requirements of this regulation are necessary in order that rights of way under permit may be located sufficiently to protect the permittee against subsequent applications and in order that entry may be made on the tract books of the General Land Office.

REG. L-13. Before a final power permit will be issued the permittee shall (except in cases involving sites of a total capacity of 100 horsepower or less) execute and file a stipulation, which will be prepared and submitted to him by the district forester and which upon its acceptance shall constitute and express the conditions of the permit. Such stipulation shall expressly bind the applicant to such of the items enumerated in Regulation L-14 and such other conditions as may be required.

REG. L-14. In so far as applicable to the specific occupancy and use under permit, the occupancy and use of National Forest lands for power purposes will be permitted upon the following conditions and not otherwise; and these conditions shall also apply to all existing permits, in which the occupancy and use of National Forest land is conditioned upon the compliance by the permittee with the regulations of the Secretary as at any time existing. In general such conditions will be embodied in a stipulation to be signed by the applicant, but whether so embodied or not, and in so far as applicable, the permittee will be bound:

(A) To construct the project works on the location shown upon and in accordance with the maps and plans submitted with the final application for permit and to make no material deviation from said location unless and until maps and plans showing such deviation shall have been submitted and approved. (See Reg. L-15.)

(B) To begin the construction of the project works, or the several parts thereof, within a specified period or periods from the date of execution of the permit, and thereafter to diligently and continuously prosecute such construction, unless temporarily interrupted by climatic conditions or by some special or peculiar cause beyond the control of the permittee.

(C) To complete the construction and begin the operation of the project works, or the several parts thereof, within a specified period or periods from the date of execution of the permit.

(D) That except when prevented by unavoidable accidents or contingencies, the permittee will operate in good faith and as continuously as may be possible under prevailing market requirements, the project works constructed, maintained, or operated in whole or in part under permit; will neither discontinue the operation of said project works nor reduce the amount of power developed or transmitted by the same at such a time or in such a manner as to reduce the output of electric energy required by the consuming public, or to increase the market price therefor, or to discriminate between consumers, or to prejudice the public interests; and, if there is discontinuance of operation or reduction in the amount of power generated or transmitted for a continuous period of more than thirty (30) days or for an aggregate period of more than ninety (90) days in any calendar year, will notify the district forester of the fact of such discontinuance or reduction, and of the reasons therefor.

(E) To pay annually, in advance, such rental charges as may be fixed and required by the Secretary under these regulations. (Reg. L-8.)

(F) On demand of the Secretary to install at such places and maintain in good operating condition in such manner as shall be approved by the Secretary, free of all expense to the United States, accurate meters, measuring weirs, gauges, or other devices approved by the Secretary, and adequate for the determination of the amount of power developed by the project works and of the flow of the stream or streams from which the water is to be diverted for the operation of the project works and of the amount of water used in the operation of the project works and of the amount of water held in and drawn from storage; to keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Secretary; and to make a return during January of each year, under oath, of such of the records of measurements for the year ending on December 31, preceding, made by or in the possession of the permittee, as may be required by the Secretary.

(G) That the books and records of the permittee, in so far as they contain information concerning the power project or projects under permit and the power business conducted in connection therewith, shall be open at all times to the inspection and examination of the Secretary or other officer or agent of the United States duly authorized to make such inspection and examination.

(H) On demand of the Secretary to maintain a system of accounting of the entire power business conducted in connec-

tion with the power project or projects under permit in such form as the Secretary may prescribe or approve, which system, as far as practicable, will be uniform for all permittees, and to render annually such reports of the power business as the Secretary may direct: Provided, however, That if the laws of the State in which the power business or any part thereof is transacted require periodical reports from public-utility corporations under a uniform system of accounting, copies of such reports so made will be accepted, to the extent that they furnish the necessary information, as fulfilling the requirements of this clause.

(I) To protect all Government and other telephone, telegraph, and power-transmission lines at crossings of and at all places of proximity to the permittee's transmission line in a workmanlike manner according to the usual standards of safety for construction, operation, and maintenance in such cases, and to maintain transmission lines in such manner as not to menace life or property.

(J) To clear and keep clear all lands of the power project for such width and in such manner as the forest officers may direct.

(K) To dispose to the satisfaction of the forest officers of all brush, refuse, or unused timber on National Forest lands resulting from the construction and maintenance of the project works.

(L) To build and repair roads and trails as required by the forest officers or other agents of the United States whenever any existing roads or trails are destroyed or injured by the construction work or flooding under permit; and to build and maintain necessary and suitable crossings for all roads and trails which intersect the water conduit, if any, constructed, maintained, or operated under permit.

(M) To do everything reasonably within the power of the permittee, and to require its employees, contractors, and employees of contractors, to do everything reasonably within their power, both independently and on request of the forest officers, or other agents of the United States, to prevent and suppress fires upon or near the lands occupied under permit.

(N) To pay the full value, as fixed by the district forester, of all timber cut, injured, or destroyed on National Forest lands in the construction, maintenance, and operation of the project works.

(O) To pay the United States full value for all damages resulting from the breaking of or the overflowing, leaking, or seeping of water from the project works, and for all other

damage to the lands or other property of the United States caused by the neglect of the permittee or of the employees, contractors, or employees of the contractors of the permittee.

(P) To permit the use of any reservoir for the temporary storage or for the transportation of logs, ties, poles, or lumber; and, upon demand of the Secretary, to construct, maintain, and operate a logway or other device approved by the Secretary and suitable for the passage of such logs, ties, poles, or lumber over or around any dam without undue hindrance or delay; and, unless otherwise approved by the Secretary, to furnish free of cost to users of such logway or other device the machinery and the power necessary for the operation of such logway or other device: Provided, however, That the permittee shall not be required to furnish any labor other than that necessary in the operation of the power machinery used in connection with such logway or other device: And provided further, That the use of said reservoir or of such logway or other device by owners of such logs, ties, poles, or lumber shall be under such rules and regulations adopted by the permittee as may be approved by the Secretary.

(Q) To sell power to the United States when requested at as low a rate as is given to any other purchaser for a like use at the same time and under similar conditions, if the permittee can furnish the same to the United States without diminishing the quantity of power sold before such request to any other customer by a binding contract of sale: Provided, That nothing in this clause shall be construed to require the permittee to increase permanent works or to install additional generating machinery.

(R) To abide by such reasonable regulation of the service to be rendered by the permittee to consumers of power furnished or transmitted by the permittee, and of rates of payment therefor, as may from time to time be prescribed by the State or by any duly constituted agency of the State in which the service is rendered; but if such regulation is not exercised by the State or by any duly constituted agency thereof, that the Secretary may upon the filing with him of formal complaint by the State, by a municipality, or by not less than twenty-five (25) customers or prospective customers of the permittee cause an inquiry to be made concerning the service or rate of payment complained of; and if it shall appear upon such inquiry that the service or the rate of payment complained of is unreasonable, the Secretary may fix the character of the service and may name the rate of payment which shall be rendered or charged.

(S) Upon demand therefor in writing from the Secretary to surrender the permit to the United States or to transfer the same to such State or municipal corporation as the Secretary may designate, and on the conditions specified in this paragraph; also to give, grant, bargain, sell, and transfer with the permit (upon such demand and upon said conditions) such works, equipment, structures, and property then owned or held and then valuable or serviceable in the generation, transmission, or distribution of electrical or other power, and which are then dependent in whole or in part for their usefulness upon the continuance of the permit, as may have been determined by agreement with the Secretary and embodied in the aforesaid stipulation: Provided, however, That such agreement and such stipulation shall include only complete units of construction or of development: And provided further, That if such agreement or stipulation shall not include all such aforesaid works, equipment, structures, and property as are dependent in whole or in part for their usefulness upon the continuance of the permit, the permittee shall waive all right to demand or receive consequential damages for the severance of any property taken under the provisions of this paragraph from any property not taken. The Secretary may require such surrender if the United States shall desire to take over the permit and properties, or he may designate as such transferee any State or municipal corporation which shall desire such transfer: Provided, however, That no municipal corporation shall be so designated unless by proceedings in a court of competent jurisdiction it shall have been determined that such a municipal corporation has the right to acquire such property: And provided further, That no municipal corporation shall be so designated unless it also has the power to acquire the said property and rights of the permittee in accordance with the following conditions. Such surrender or transfer shall be on condition precedent that the United States or such transferee shall first pay to the permittee the reasonable value of all said works, equipment, structures, and other tangible property and, in addition thereto, a bonus of three-fourths of 1 per cent of such reasonable value for each full year of the unexpired term of the permit. Such reasonable value shall not include any sum for any permit, franchise, or right granted by the United States, by any State, or by any municipal corporation in excess of the amount (exclusive of any tax or annual charge) actually paid to the United States or to such State or municipal corporation as the compensation for the granting of such permit, franchise, or right,

or any sum for any other intangible properties or values whatsoever, it being the intent of this paragraph that all such intangible values shall be covered by the bonus herein provided for. Such reasonable value shall be determined by mutual agreement between the parties in interest and, in case they can not agree, by a board of arbitration of three members, one of whom shall be named by the permittee and one by the transferee; the third shall be either the Secretary or some representative whom he may name. The reasonable value, for the purposes of such determination, of such works, equipment, structures, and other tangible property shall be the actual and necessary cost thereof or, if such original cost can not be determined with reasonable certainty, shall be the cost of reproduction of such works, equipment, structures, and other tangible property under substantially the same conditions as existed at the time of the original construction and at prices for labor and material which shall be the average of such prices for the five years next preceding the date of valuation, less a percentage of such original or such reproduction cost equal to the per cent of physical and functional depreciation of the existing works, equipment, structures, and other tangible property.

(T) That in respect to the regulation by any competent public authority of the service to be rendered by the permittee or of the price to be charged therefor, and in respect to any purchase or taking over of the properties or business of the permittee or any part thereof by the United States, or by any State within which such properties are situated or business carried on, in whole or in part, or by any municipal corporation in such State, no value whatsoever shall at any time be assigned to or claimed for the permit or for the occupancy or use of National Forest lands granted thereunder, nor shall such permit or such occupancy and use ever be estimated or considered as property upon which the permittee shall be entitled to earn or receive any return, income, price, or compensation whatsoever.

(U) That the works to be constructed, maintained, and operated under the permit shall not be owned, leased, trusteeed, possessed, or controlled by any device or in any manner so that they form part of or in any way effect any combination in the form of an unlawful trust or form the subject of any unlawful contract or conspiracy to limit the output of electric energy or are in unlawful restraint of trade with foreign nations or between two or more States or within any one State in the generation, transmission, distribution, or sale of electric or other power.

(V) That any approval of any alteration or amendment, or of any map or plan, or of any extension of time, shall affect only so much of the stipulation or permit as is specifically covered by such approval; and that no approval of any such alteration, amendment, or extension shall operate to alter or amend, or in any way whatsoever be a waiver of any other part, condition, or provision of the stipulation or permit.

(W) That the permit shall be subject to all prior valid claims and permits which are not subject to the occupancy and use authorized under the permit applied for.

NOTE.—Paragraph (S) is included in stipulations for power permits in order that permittees may not, on account of the occupancy of lands of the United States, be immune against the operation of State laws of eminent domain. The lands of the United States, and permanent structures thereon which under the common law are part and parcel of the land, are not subject to condemnation without authority of Congress. Such authority has not been given. The procedure which has been provided leaves the interest of the United States unaffected, while it fully protects the legitimate interests of the permittee and of the transferee.

A procedure fixed by contract with the permittee has been provided because the State laws of eminent domain are inoperative on the public lands. Valuation by a board of arbitration has been provided, because, in the absence of specific authorization by Congress, jurisdiction in such proceedings could not be conferred upon the courts. A bonus has been added in order that the property of a permittee may not be taken away before he has had opportunity to earn the expected return, unless he is given compensation in addition to the cost of the properties. This bonus would amount to about 35 per cent of the cost of the properties should they be taken over upon completion.

REG. L-15. During the progress of construction amendments to maps of location or plans of structures will be required from the permittee if there is to be a material deviation from the maps or plans as originally filed, but no deviation will be allowed which interferes with the occupancy and use of lands under existing permits or pending applications. Any approval of any such deviation, or of any amendment of a map or plan, or of any extension of time, shall be in the form of a supplemental stipulation and permit so drawn as to become a part of the original stipulation and permit and a substitute for the clauses amended. Any such approval shall

apply only to the matter specifically covered thereby, and no such approval shall operate to alter or amend or be in any way a waiver of any other part, condition, or provision of the stipulation or permit.

If after the completion of the project works there are any deviations in location from those shown upon the original maps or approved amendments thereof, additional maps, prepared in the manner prescribed for original maps of location, and showing the extent of such deviations and the final locations of such project works, will be required to be filed within six months after the completion of the project works. Also upon the completion of the project works detailed working plans will be required of the works as constructed, except such parts as have been constructed in compliance with plans originally filed or approved amendments thereof. Such new or additional plans may be originals on tracing linen or Vandyke negatives of the permittee's own working plans. The plans of conduits, dams, and appurtenant structures must be complete; of power houses, only general layout plans will be required.

REG. L-16. An extension of the periods stipulated in the permit for beginning or completing construction and for beginning operation will be granted only on the written approval of the officer executing the same after a showing by the permittee satisfactory to such officer that beginning or completing construction or operation has been prevented by engineering difficulties that could not reasonably have been foreseen or by other special and peculiar cause beyond the control of the permittee.

REG. L-17. Permission to occupy and use National Forest lands may be transferred to a new permittee under the following conditions and not otherwise: The proposed transferee shall file with the district forester of the district in which the lands under permit are situated the decree, execution of judgment, will, contract of sale, or other written instrument upon which the proposed transfer is based, or a properly certified copy thereof, also a written application for the transfer. A stipulation binding the proposed transferee to the performance of such of the old conditions and of such new and additional conditions as the Secretary may deem necessary will be prepared and submitted to the proposed transferee for execution and return to the district forester; and thereupon, if the Secretary approves of the transfer and issues a new permit, the transferee shall succeed to the rights and obligations of the original permittee, subject, however, to such new and

additional conditions as shall have been embodied in said stipulation and permit.

REG. L-18. If any person shall make a false engineer's affidavit under these regulations, the Secretary may order that no map, field notes, plan, or estimate made by such person shall be received or filed while the order is in force. If any person or corporation for himself or itself, or as the attorney, agent, or employee of another, shall offer or file any false engineer's affidavit, knowing the same to be false, the Secretary may order that no application for a power permit shall be filed by or received from the person or corporation so offending, either in his or its own behalf or as attorney, agent, or employee of another, and that no power permit shall be issued to such person or corporation while the order is in force.

REG. L-19. Violation by a final permittee of any of the provisions of these regulations, or of any of the conditions of a stipulation executed by him or of a permit issued to him thereunder, shall be sufficient ground for revocation of such permit.

No final permit will be deemed to be terminated except upon formal revocation thereof by the Secretary and until the permittee shall have had a reasonable time—not to exceed 90 days—within which to show cause why such revocation should not be made.

REG. L-20. Any power project under permit, or any part thereof, whether constructed or unconstructed, may be abandoned by the permittee upon the written approval of the Secretary after a finding by the Secretary that such abandonment will not tend to prevent the subsequent development of such project or part thereof so abandoned, and after the fulfillment by the permittee of all the obligations under the stipulation and permit, in respect to payment or otherwise, existing at the time of such approval. Upon such abandonment, after such approval thereof and fulfillment of existing obligations, so much of the stipulation and permit as relates to the abandoned project or part of a project will be formally revoked by the Secretary.

ACT OF MARCH 4, 1911.—RIGHTS OF WAY FOR TELEPHONE, TELEGRAPH, AND POWER-TRANSMISSION LINES.

REG. L-21. Rights of way over National Forest lands for telephone, telegraph, and power-transmission lines, under the act of March 4, 1911 (36 Stat., 1253), will be granted by the Secretary of Agriculture.

REG. L-22. All applications for rights of way over National Forest lands for power-transmission lines or for telephone or telegraph lines, under the said act of March 4, 1911, shall be filed with the district forester of the district in which the lands to be occupied are situated, except that such applications in the Territory of Alaska may be filed either with the district forester or with the supervisor of the National Forest in which the lands are situated. Applications shall consist of—

(A) The items specified in Regulation L-9;

(B) Field notes of survey in triplicate;

(C) Maps of location on tracing linen in duplicate prepared in the manner prescribed for transmission lines in Regulation L-11. Each sheet of maps shall in addition be verified by an indorsement thereon in the following form:

State of _____,

County of _____, ss:

_____, being duly sworn, says that beginning on the ____ day of _____, 19__, and ending on the ____ day of _____, 19__, he surveyed for _____ the location of a proposed _____ line described as follows: (Here describe the line by termini and length), and that such survey is accurately represented upon this map and by the accompanying field notes.

_____,
Surveyor.

Sworn to and subscribed before me this ____ day of _____, 19__.

Each sheet of the map must have an application indorsed thereon in the following form:

(Date) _____, 19__.

of _____

hereby applies, under the act of March 4, 1911 (36 Stat., 1253), and the regulations thereunder promulgated by the Secretary, United States Department of Agriculture, for a right of way for a _____ line, the location of which is shown hereon.

_____,
Applicant.

REG. L-23. The grantee shall, unless otherwise ordered by the Secretary, pay annually in advance a rental charge of \$5 for each mile or fraction thereof of National Forest land crossed by power-transmission lines.

REG. L-24. If the right of way applied for is for telephone or telegraph lines, no rentals will be charged, but the applicant shall agree to furnish such facilities to forest officers and to permit such reasonable use of its poles or lines as may be determined upon between the applicant and the district forester at the time of filing the application.

REG. L-25. The applicant shall file, together with the application, as required under Regulation L-22, a stipulation which will be prepared and submitted to him by the district

forester and which, upon its acceptance by the Secretary of Agriculture, shall constitute and express the conditions under which the grant will be made. Such stipulation shall expressly bind the applicant:

(A) To construct its lines upon the locations shown upon the maps submitted with its application and to complete such construction within two years from the date of the grant of the right of way.

(B) That except when prevented by unavoidable accidents or contingencies the grantee will operate in good faith and as continuously as may be possible under prevailing market requirements, or users' demands, the line or lines constructed, maintained, or operated in whole or in part under grant; will neither discontinue the operation of said lines nor reduce the amount of power delivered or transmitted over any transmission line at such a time or in such a manner as to reduce the amount of electric energy required by the consuming public, or to increase the market price therefor, or to discriminate between consumers, or to prejudice the public interests; and, if there is discontinuance of operation of any line, or reduction in amount of power transmitted, for a continuous period of more than thirty (30) days or for an aggregate period of more than ninety (90) days in any calendar year, will notify the district forester of the fact of such discontinuance or reduction and of the reasons therefor.

(C) To pay annually in advance such charges as may be fixed and required by the Secretary for power-transmission lines under these regulations.

(D) On demand of the Secretary to install at such places and maintain in good operating condition in such manner as shall be approved by the Secretary accurate meters, or other devices approved by the Secretary, adequate for the determination of the amount of power delivered over transmission lines under grant, or any part thereof; to keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Secretary; and to make a return during January of each year, under oath, of such of the records of measurements for the year ended on December 31, preceding, made by or in the possession of the grantee, as may be required by the Secretary.

(E) That the books and records of the grantee, in so far as they contain information concerning the power-transmission lines under grant, or the power business conducted in connection therewith, shall be open at all times to the inspection and examination of the Secretary or other officer or agent

of the United States duly authorized to make such inspection and examination.

(F) On demand of the Secretary to maintain a system of accounting of the entire power business, conducted in connection with the power-transmission lines under grant, in such form as the Secretary may prescribe or approve, which system as far as practicable will be uniform for all grantees, and to render annually such reports of the power business as the Secretary may direct: Provided, however, That if the laws of the State in which the power business or any part thereof is transacted require periodical reports from public-utility corporations under a uniform system of accounting, copies of such reports so made will be accepted, to the extent that they furnish the necessary information, as fulfilling the requirements of this clause.

(G) To protect all Government and other telephone, telegraph, and power-transmission lines at crossings of and at all places in proximity to the grantee's telephone, telegraph, and power-transmission lines in a workmanlike manner, according to the usual standards of safety for construction, operation, and maintenance in such cases; and to maintain the telephone, telegraph, and power-transmission lines in such a manner as not to menace life or property.

(H) To clear and keep clear National Forest lands along the right of way for such width and in such manner as forest officers may direct.

(I) To dispose to the satisfaction of the forest officers of all brush, refuse, or unused timber on National Forest lands resulting from the construction, maintenance, and operation of its lines under the grant.

(J) To do everything reasonably within the power of the grantee, and to require its employees, contractors, and employees of contractors, both independently and on request of the forest officers, or other agents of the United States, to prevent and suppress fires on or near the lands occupied.

(K) To pay the full value as fixed by the district forester for all timber cut, injured, or destroyed on National Forest lands in the construction, maintenance, and operation of the lines under grant.

(L) To sell power to the United States when requested at as low a rate as is given to any other purchaser for a like use at the same time and under similar conditions, if the grantee can furnish the same to the United States without diminishing the quantity of power sold before such request to any other customer by a binding contract of sale: Provided, That

nothing in this clause shall be construed to require the grantee to increase permanent works or install additional generating machinery.

(M) To abide by such reasonable regulation of the service rendered and to be rendered by the grantee, whether in respect to the furnishing or transmitting of power or to the transmitting of communications by telephone or telegraph, and of rates of payment therefor, as may from time to time be prescribed by the State or by any duly constituted agency of the State in which the service is rendered; but if such regulation with respect to the furnishing or transmitting of power is not exercised by the State, or by any duly constituted agency thereof, that the Secretary may upon the filing with him of formal complaint by the State, by a municipality, or by not less than twenty-five (25) customers or prospective customers of the grantee cause an inquiry to be made concerning the service or rate of payment complained of; and if it shall appear upon such inquiry that the service or the rate of payment complained of is unreasonable, the Secretary may fix the character of the service and may name the rate of payment which shall be rendered or charged.

(N) That the lines to be constructed, maintained, and operated under the grant shall not be owned, leased, trusteeed, possessed, or controlled by any device or in any manner so that they form part of or in any way effect any combination in the form of an unlawful trust, or form the subject of any unlawful contract or conspiracy to limit the output of electric energy, or are in unlawful restraint of trade with foreign nations, or between two or more States, or within any one State, in the generation, sale, or distribution of electric energy or in the transmission of communications by telephone or telegraph.

(O) That in respect to the regulation by any competent public authority of the service to be rendered by the grantee or of the price to be charged therefor, and in respect to any purchase or taking over of the works or business of the grantee, or any part thereof, by the United States or by any State within which the works are situated or business carried on, or by any municipal corporation of such State, no value whatsoever shall at any time be assigned to or claimed for the right of way granted, nor shall such right of way or grant ever be estimated or considered as property upon which the grantee shall be entitled to earn or receive any return, income, price, or compensation whatsoever.

REG. L-26. The grantee shall not assign or transfer to any other person or corporation whatsoever the right of way

granted, except with the approval in writing first obtained from the Secretary of Agriculture, or other proper officer of the United States, and upon terms and conditions prescribed in said written approval by said Secretary or other officer. The assignee or transferee under any such approval shall take and use the right of way subject to all terms and conditions in these regulations, together with the original approved application and grant set forth, and subject to such additional terms and conditions as may be provided by such written approval of the transfer.

REG. L-27. During the progress of construction amendments to maps of location will be required from the grantee, if there is material deviation from the maps as originally filed, but no deviation or amendment will be allowed which will interfere with the occupancy and use of National Forest lands under existing permits or grants under any of the right-of-way acts of the United States. If after the completion of construction there are any deviations in location from those shown upon the original maps or approved amendments thereof, additional maps prepared in the manner prescribed for original maps of location must be filed within six months after the completion of construction. Such maps shall show the extent of such deviation and the final location of the telephone, telegraph, or power-transmission lines as constructed under the authority of the grant.

REG. L-28. Grants of rights of way will be effective from the date on which the Secretary of Agriculture writes upon the face of the maps his approval thereof.

REG. L-29. Upon breach by the grantee of any of the terms or conditions set forth in these regulations, or in the approved application, or in the grant, the United States may enforce appropriate remedy therefor by suit for specific performance, injunction, action for damages, or otherwise. And if any such breach shall be continued or repeated after 30 days' notice thereof given in behalf of the United States to the grantee, the right of way granted, together with all rights thereunder and all rental charges and other moneys paid thereon, may be forfeited to the United States by a suit for that purpose in any court of competent jurisdiction.

INSTRUCTIONS.

APPLICATIONS UNDER ACT OF FEBRUARY 15, 1901 (31 STAT., 790).

General Statement.

By the act of February 15, 1901, the Secretary of the Interior is authorized, under general regulations to be fixed by him, to permit the use of rights of way through the public lands, forests, and other reservations and certain national parks of the United States for conduits, reservoirs, power plants, telephone and telegraph lines, to be used for irrigation, mining, domestic purposes, etc., and for the production and transmission of electrical power. The right of way, to which permission to use is given, is restricted to the extent of the ground actually occupied by such plants, conduits, etc., and not to exceed 50 feet on each side of the marginal limits thereof, or 50 feet on each side of the center lines of conduits or pole lines. The statute does not make a grant in the nature of an easement, but gives a permission or license, revocable at any time for breach of conditions.

By the act of February 1, 1905, the Secretary of Agriculture is vested with jurisdiction to pass upon all applications under the act of February 15, 1901, for permission to occupy and use National Forest lands.

Permission may be granted under the statute for rights of way through unsurveyed as well as surveyed lands.

Every proper inducement is given for the utilization of power sites within the National Forests. Neither now nor in the past have they been reserved from use. To aid legitimate development and to protect the public welfare, public lands of the United States chiefly valuable for water power are from time to time withdrawn by the President from settlement, location, sale, or entry and are reserved for power purposes. By such withdrawals not only is the land retained in Government ownership, but the developer is protected against other and perhaps subsequent claimants to the land. A modification of the power-site reserve may be secured wherever a power permit is applied for in accordance with the regulations.

To protect the interests of the public, and to prevent speculative holding of power sites by those who do not intend or are unable to develop, provision is made for the payment of a rental charge under the preliminary and final power permits (except under certain special conditions) and definite periods are specified for the filing of the final application, beginning of construction and of operation. It is the practice to allow as much time as is requested by the applicant, except when it is evident that the periods are of unnecessary length or shorter periods should be given in order to properly protect the interests of the public. The rental charges are nominal in amount, the maximum under the most extreme conditions being about one-sixteenth of a cent per kilowatt hour. On the average the charge per kilowatt hour is much less than that amount on account of deductions allowed for nonforest land and because in many instances the site is actually developed far beyond the power capacity upon which the charges are based. By providing a sliding scale of rates during the first 10 years of operation it is recognized that, except in unusual cases, several years are required before the maximum capacity of the plant can be marketed. (See Regs. L-7, L-8, and L-14 (B) and (C).) A rental is also charged for transmission rights of way based upon the length of National Forest land crossed by the transmission line.

In order that the interests of the consumers of the power may be protected, the power permittee is required to abide by reasonable regulation of rates and of service by either the State or, if the State does not exercise such regulation, by the Secretary. (See Reg. L-14 (R).)

The lands of the United States and permanent structures thereon are not subject to condemnation without authority of Congress, which authority has not been given. The procedure mentioned in Regulation L-14 (S) has therefore been provided in order that a State or municipality desiring to take over certain water-power properties on the National Forests may do so with the same facility and for the same purposes that such properties could be acquired if located wholly on private lands. The procedure which has been provided leaves the interests of the United States intact, while fully protecting the legitimate interests of the permittee and the transferee. In the stipulation the permittee contracts to surrender the permit, together with such part of the works dependent in whole or in part upon the continuance of the permit as has been determined upon by prior agreement. Such surrender will only be required under the limiting conditions described in Regulation L-14 (S). In return the permittee receives the reasonable value of all

tangible property plus a bonus varying according to the length of the unexpired term of the permit. This bonus has been added in order that the property of a permittee may not be taken away before he has had an opportunity to earn the expected returns, except upon the receipt of compensation in addition to the cost of the properties. The bonus amounts to about 35 per cent of the cost of such properties if taken over upon completion of construction. The reasonable value is to be determined by mutual agreement, if possible; if not, by a board of arbitration of three members. The latter method of valuation has been provided because, in the absence of specific authorization by Congress, jurisdiction in such proceedings can not be conferred upon the courts.

An important function of the Federal Government in water-power regulation is the prevention of capitalization of the permit and of the occupancy and use of the public domain. This is accomplished by Regulation L-14 (T).

Under the present regulations four forms of permit are granted: (1) Final permits for water-power projects of 100 horsepower total capacity or less (computed in accordance with Regulation L-7); (2) final permits for transmission lines only; (3) final permits for power projects of more than 100 horsepower total capacity; and (4) preliminary permits for projects of more than 100 horsepower total capacity. (See Reg. L-1.)

Preliminary permits are issued to protect an applicant's priority against subsequent applicants until he has had an opportunity to study the proper location and design of the project and obtain the data necessary to the final application. Operation is allowed under final permit only. Except where it can be clearly shown that construction upon National Forest land is necessary in order to preserve the applicant's water appropriation, no construction of the project works will be allowed under preliminary permit.

If the applicant has determined the approximate final location and design of the project works, and has obtained the data specified in Regulation L-11, he should apply for a final permit. If such is not the case, he may apply either for a preliminary permit for a time sufficient for making the final application, or he may proceed without permit to get the necessary information.

No permit is required for traveling, camping, or surveying within the National Forests. Camp wood and forage for necessary stock may be taken without permit. Unnecessary cutting is prohibited.

In Regulations L-9 to L-12 are given the requirements for the four forms of permits granted under the act. The applications for projects of 100 horsepower total capacity or less and for transmission lines are very simple in character; practically all the required data are necessary for determining the true location of the project or line and for the protection of the permittees against reapplication for the land by others. In applying for a preliminary power permit, there is required only a sketch map of location and certain other information indicating the project which the applicant has in mind, together with data of run-off when such data have been obtained and are accessible to the applicant; only when permission is requested to construct under the preliminary permit is evidence of water appropriation required. The final application for projects of more than 100 horsepower total capacity is more detailed in character. It is not the intention, however, to require any data that are not necessary and are not customarily obtained before beginning construction. Experience has shown that, except in unusual cases, applicants who really intend construction obtain not only the data mentioned in Regulation L-11, but much more.

If any national forest land is desired, the application should conform to the regulations in all respects. If in addition the proposed project includes lands of the United States outside of the National Forests, as well as those within, the regulations of the Department of the Interior require that applicants shall also submit to the local land office in the land district in which such lands are situated such maps and papers and copies thereof as are required by the regulations of that department. If the project will include lands of the United States wholly outside the National Forest, applications should be made to the local land office of the land district in which the lands are situated, in accordance with the regulations of the Department of the Interior.

All applications for National Forest land under the act of February 15, 1901 (31 Stat., 790), for power projects and transmission lines should be filed with the district forester of the Forest Service district in which the lands are situated, with the exception of projects in Alaska, which may be filed either with the forest supervisor of the Forest in which the lands are situated or with the district forester at Portland, Oreg.

An application filed in error with the forester, supervisor, or ranger will be forwarded to the district forester concerned; but with the exception of projects in Alaska, no priority will be obtained until the complete application is received by the

district forester. An applicant for National Forest land in Alaska will obtain a priority by filing a complete application with the district forester or with the forest supervisor of the Forest in which the lands are situated.

Permits granted under the act may not be transferred except by following the procedure specified in Regulation L-17.

Inquiries regarding the meaning of the regulations should be made of the district forester.

Preliminary Applications and Permits for Power Projects of More Than 100 Horsepower Total Capacity.

Preliminary permits will be granted, amended, extended, or renewed by the Secretary only. Applications will be accepted and rejected (subject to appeal) by the district forester.

Preliminary permits for power projects are granted in order to maintain a priority right for the applicant during a time sufficient for the preparation of the maps, plans, and other data required to be filed with the application for a final permit. It is not necessary in order to obtain a final permit for a proposed developer to obtain a preliminary permit, but the final permit may be applied for directly. (Reg. L-1.)

The preliminary permit will be granted for a definite, limited period, which will vary according to the circumstances of the particular case, and will be only long enough to give a reasonable time for the preparation of the final application as prescribed in Regulation L-11. In general, the term of the preliminary permit will vary from six months to one year, but a longer period may be allowed if the circumstances warrant and the necessity for the longer period is clearly shown.

It is not the intention that construction work on the project shall be carried on during the preliminary permit, and a sufficient allowance will be made in the final permit for the time necessary to financing the project and to the carrying on of work preliminary to the beginning of actual construction. Whenever the time prescribed by the State statutes within which construction must begin in order to maintain water rights is insufficient to enable the applicant to prepare a final application before beginning construction, a clause may be inserted in the preliminary permit allowing such construction to proceed as is necessary to permit compliance with the State law; but in general such permission will be given only when there are no private lands within the project upon which such construction may proceed.

Regulation L-2 provides that applications will be filed with the district forester of the Forest Service district in which such lands are situated, or may also be filed with the forest super

visor if the projects are located in the Alaskan Forests. The application will be prepared in accordance with Regulations L-10 and L-9, and will consist of a tracing, the application in triplicate on Form 58, three copies of certain estimates and data, and, when permission to prosecute construction under the permit is requested, evidence of the applicant's right to all the water needed for the project.

By filing an application which complies in all respects with the regulations a priority right for a final permit is obtained, provided the land applied for is not already covered by a prior application, valid claim, or permit. Successive preliminary permits may be issued for the same site, but each such permit will be subordinate to all outstanding prior preliminary and final permits, and no final application will be accepted until after loss of priority by all prior permittees. (Reg. L-4.)

Except under the conditions noted below, an annual charge based on the rental capacity of the site will be made during the term of the preliminary permit. No rental will be charged for transmission lines included in the preliminary permit for municipal use, for irrigation, or for logging operations in connection with purchases of National Forest timber; but no free use will be allowed unless the applicant files a satisfactory showing that he is entitled to such privilege. No free permit for logging operations will be granted unless the timber-sale contract has been awarded to the power applicant. (See Reg. L-8.)

After the application has been investigated by the district forester the applicant will be requested to make payment of the first year's rental charge, and will be allowed a stated period for making this payment. No preliminary permit will be granted until the applicant has made this deposit. Failure to make payment as requested by the district forester will result in loss of priority. (Reg. L-3.)

Priority will also be lost if the rental payment is not made as prescribed in Regulation L-8, if the permit is revoked, or if the final application is not filed within the time specified in the preliminary permit.

No extension of time for the filing of the final application will be granted except upon the written approval of the Secretary of Agriculture, after a satisfactory showing by the permittee of the reasons for such extension and after a report has been submitted by the district forester. (Reg. L-3.)

If the application is rejected, the applicant will be given a definite period by the district forester in which to appeal. If such appeal is not made, the case will be closed at the end of the allotted time. (Reg. L-4.)

The permit will terminate and be void without revocation at the expiration of the preliminary permit or on failure to make the annual rental payment, unless extensions have been granted by the Secretary.

If for any reason priority is lost, the applicant or permittee, or the successor thereto, will not be allowed to file any application for the same ground and for a like use within the period of one year after such loss of priority.

Final Applications and Permits for Projects of More Than 100 Horsepower Total Capacity.

Final applications will be accepted and, subject to appeal, rejected by the district forester. The Secretary alone will grant, amend, extend, renew, and revoke final power permits.

By a final permit, occupancy and use of National Forest land is allowed. In general a permit of 50 years' duration is given, but a shorter period may be granted in special cases. In certain special cases an indeterminate permit may be granted by the Secretary, which will be subject to the right of the United States, State, or municipality to purchase in the manner specified by Regulation L-14 (S). This may be terminated for breach of conditions (Reg. L-19) or in accordance with existing law. It will provide for periodic adjustment of its terms.

The application should be prepared in accordance with Regulations L-9 and L-11 and should be filed with the district forester, or if the project is on National Forest land in Alaska, it may be filed with the forest supervisor. No priority will be initiated or maintained until every map or paper required by the two regulations has been filed in the manner prescribed. Mere sketches of structures will not be accepted as fulfilling the requirements of Regulation L-11 (E), 1 (c) and 2 (b). These should be actual dimension plans of structures designed for construction at the location proposed. A certain definite date is set in the stipulation before which actual construction of the project works must be commenced, therefore the time requested under Paragraph I of Regulation L-11 should be sufficient for making necessary financial arrangements and for completing such preliminary construction work (trails, roads, etc.) as must be done before actual construction of the project works can be commenced. (See Regs. L-7 and L-14.) If, in constructing the project material deviations are made from the plan as filed, new maps and plans must be filed and approved. (Reg. L-15.)

If the applicant for a final permit holds a preliminary permit for the same lands, which permit has an earlier priority than any other permit, and makes a complete final application before the expiration of the preliminary permit, the priority date

secured by the preliminary application is maintained under the final application.

The lines shown on the maps accompanying the final application will not be required to follow without change the lines as shown on the map accompanying the preliminary application, and the position and arrangement of conduits and power houses, as shown upon the map accompanying the preliminary application, may be changed if the detailed surveys preceding the final application show such change to be desirable; but priority from the date of filing of the preliminary application will be allowed for only so much of the projects shown in the application for final power permit as is within the approximate limits of diversion and discharge, as shown in the application for the preliminary power permit. (Reg. L-3.) An application for a final permit will not be accepted unless it complies with Regulations L-9 and L-11, or if the land applied for is held by a prior preliminary or final applicant or permittee. (See Regs. L-3 and L-4.)

To maintain a priority established by a final application, the stipulation must be filed (Reg. L-13) and the rental charges paid before the date specified by the district forester. Priority will be lost if the permit is revoked. After loss of priority no application will be received from the permittee or his successor for the same lands for a like use for the period of one year. (See Reg. L-3.) No credits will be given for deposits of rentals made under preliminary or final permit until operation of the project works has been commenced. No credit will be given for payments made under preliminary permits if the final permit is issued to other than the preliminary permittee. The rate at which the first payment under the final permit shall be levied will be 10 cents per horsepower per year if no preliminary permit for the same lands has been held by the final permittee. If the final permit succeeds a preliminary permit, the advancing scale of the preliminary permit will continue in effect until the beginning of operation under the final permit.

No rental charge will be made for primary transmission lines which are a part of a general power project included in the final power permit, or for any transmission, distribution, or service line which is used for municipal purposes, for irrigation, or for logging operations in connection with Forest Service timber sales. If the plant under permit is not to be used exclusively for one or more of the purposes named, the full schedule rental charge for any calendar year will be collected prior to the beginning of operations, and the proper credits given after operation begins. (See Reg. L-8.)

If the application is rejected, either on account of prior rights to the same ground or because inconsistent with the public interest (Reg. L-4), or for any other reason that appears good and sufficient, the applicant or preliminary permittee will be allowed a definite period by the district forester in which to appeal. If the appeal is not filed within the given period, the case will be closed.

The permit may be revoked because of loss of water rights or of permission to engage in the power business, as outlined in Regulation L-5.

The permit itself is not transferable, but the permission to occupy National Forest lands may be transferred under the conditions outlined in Regulation L-17. Prior to purchase or transfer of property under permit, the proposed successor should inquire of the district forester regarding any new and additional conditions that may be embodied in the new stipulation and permit.

No part of a power project under permit may be abandoned and the remainder retained except upon permission of the Secretary and fulfillment of all obligations.

No final permit will be terminated except upon formal revocation by the Secretary, and then only after a reasonable time has been allowed the permittee to show cause why such revocation should not be made.

Final Applications and Permits for Projects of 100 Horsepower Total Capacity or Less.

Permits for the occupancy and use of power sites having a total capacity of 100 horsepower or less may be granted, amended, extended, and renewed by the district forester. The Secretary alone may revoke. (Reg. L-1.) No rental charge will be made for such permits.

With the exception of the projects in the National Forests of Alaska, applications will be filed with the district forester and must conform to the requirements of Regulation L-12. Application for Alaskan projects may be filed either with the district forester or with the supervisor of the Forest within which the project will be located.

The data upon which priority of application is established is that upon which the last map or paper necessary to constitute a complete application as specified in the regulations is filed as above directed, provided there are no prior rights to the desired land.

If the application for a permit, or for an extension or amendment thereof is denied by the district forester, sufficient opportunity for appeal should be given the applicant.

The permits are of indeterminate length and are subject to revocation by the Secretary upon breach of conditions. (Reg. L-19.) No revocation will be made until the permittee has had ample opportunity to show why such action should not be taken.

The permits are not transferable. But in event of change of ownership of the properties on the National Forest land permission to occupy such land may be transferred in accordance with the instructions in Regulation L-17.

This form of permit is issued on the understanding that the total capacity of the site, computed in accordance with Regulation L-7, does not exceed 100 horsepower. Therefore, as one of the conditions of the permit, it will be provided that in event that the total capacity, by reason of amendments or changes in the plans, due to a greater available flow than the amount estimated at the time of granting the permit, or for any other reason, is found to exceed 100 horsepower, the permittee agrees to make application under Regulation L-11 for a new permit and to relinquish the free permit.

Such other clauses of Regulation L-14 will be inserted on the Form 832, on which the permit is written, as are necessary and applicable to the case.

Transmission-Line Applications and Permits.

Permits for transmission lines will be granted, amended, extended, and renewed (1) by the Secretary when such permit is supplemental to an existing permit for a power site of a total capacity exceeding 100 horsepower; (2) by the district forester when the line is to be used in connection with a power site (whether under permit or not) of a total capacity not exceeding 100 horsepower or when the connected load upon the line will not exceed 100 horsepower; (3) in all other cases by the Forester. The Secretary alone may revoke permits, and no revocation will be made without giving the permittee opportunity to advance reasons showing why such action should not be taken.

The transmission-line application may be included in the preliminary application for a power project of more than 100 horsepower. Otherwise only final applications will be accepted.

Unless the transmission line is made a part of or supplemental to a final permit previously issued, the transmission-line permit will terminate at the expiration of 50 years from the date of issuance of the permit, unless otherwise stated in the permit. However, such permit will give the holder a prior right to apply for a new permit, provided not less than 2 nor more than 12 years before the expiration of the 50 years he indicates that such new permit is desired. (See Reg. L-6.)

In the permit definite periods will be provided for the beginning and completion of construction and for the beginning of operation. No construction will be allowed prior to the granting of the permit.

The application for a transmission-line permit should be filed with the district forester (or with the forest supervisor if the land is in Alaska). If it is to be used in connection with a power plant exceeding 100 horsepower in total capacity, it will be prepared in accordance with Regulation L-11 and Regulation L-9 and will consist of an application in triplicate on Form 60; maps of location of the size and scale specified in and prepared in accordance with Regulation L-11 (E) (4), together with the key map or the transmission-line system described in Regulation L-11 (E) (5); copies of field notes in triplicate, as provided in Regulation L-11 (F) a statement of the time required for the beginning and completion of construction; the engineer's affidavit and applicant's certificate; a certified copy of the articles of incorporation or of association (if not already filed), and if the applicant be a company a list of the officers and directors, and if the company is to operate in a State other than that in which incorporated a certificate as specified in Regulation L-9 (B) (unless such papers are already on file).

If the total capacity of the power site to which the line is to be connected, or if the connected load upon the line is 100 horsepower or less, the application may be prepared in accordance with Regulations L-12 and L-9. Unless otherwise directed by the district forester such application will consist of (1) a tracing showing the location of the transmission line within Forest boundaries, (2) field notes of the survey in triplicate, (3) an application in triplicate on Form 60, (4) the papers required by Regulation L-9.

No rental charge will be made for transmission lines when part of a power project of less than 100 horsepower or when they are to be used for municipal purposes or for irrigation or in connection with a timber sale or temporarily in the construction of other works under permit or for primary transmission lines when part of a power project under permit. In all other cases, unless otherwise ordered by the Secretary, a rental charge will be made of \$5 per annum for each mile of line or fraction thereof of National Forest land crossed by the line. (See Reg. L-8.)

To maintain a priority established by the application, the stipulation must be filed and the rental charges paid before the date specified by the district forester. Priority will be lost if the permit is revoked.

Except when the line is to be made a part of an existing permit, the date of priority will be that upon which the last map or paper necessary to constitute a complete application as specified in the regulations is filed as directed, provided there are no prior rights to the desired land.

After the rejection of an application for a permit or for an amendment or extension thereof opportunity will be given the applicant to appeal, but if such appeal is not filed within the time allowed by the district forester the decision will be final.

The permits are not transferrable. In event of change of ownership the instructions in Regulation L-17 should be followed if a right to use the land is desired by the successor in interest.

APPLICATIONS UNDER ACT OF MARCH 4, 1911 (36 STAT., 1253).

Telephone, Telegraph, and Power-Transmission Lines.

By the act of March 4, 1911 (36 Stat., 1253), the Secretary having jurisdiction over the land is authorized, under general regulations to be fixed by him, to grant an easement for rights of way for a period not exceeding 50 years from the date of issuance of the grant over public lands, National Forests, and reservations for poles and lines for telephone, telegraph, and electric-power transmission. The right of way is restricted to a strip 20 feet on each side of the center line. It is also provided that if any or all parts of the right of way covered by the grant is abandoned or is not used for a period of two years, the Secretary may declare the right forfeited.

Applications under this act should be filed with the district forester of the Forest Service district in which the desired lands are situated, with the exception that if the project is located in Alaska application may be filed with the forest supervisor. If the desired right of way includes public lands under the jurisdiction of the Interior Department as well as National Forest lands, the regulations of the Department of the Interior require that a separate application in accordance with the regulations of that department be filed with the local land office of the land district in which such lands are situated.

Applications filed in error with the Forester, supervisor, or ranger will be forwarded to the district forester concerned. With the exception of projects in Alaska, no priority will be obtained until the complete application is received by the district forester. An applicant for National Forest land in Alaska will obtain a priority by filing a complete application with either the district forester or the forest supervisor.

While the maximum length of the grant is limited to 50 years, shorter periods may be given.

The application should conform to the requirements of Regulations L-11 and L-9, as amended by Regulation L-22 to include two tracings and an engineer's affidavit and applicant's certificate on each tracing. The maps of location will be prepared as outlined in Regulation L-11 (E) (4) and the general directions of the regulation, and when the entire line can not be shown on a single sheet will also include the index map described in Regulation L-11 (E) (5).

Unless otherwise ordered by the Secretary, a rental will be charged for National Forest land crossed by power-transmission lines. This will be paid prior to the granting of the right of way, but will cover the period of one year subsequent to the date of granting the easement. The annual payment will be \$5 for each mile of National Forest land crossed by the line and \$5 for each fraction of a mile.

No rental will be charged for the telegraph and telephone rights of way, but certain conditions to the grant, specified in Regulation L-24, may be made.

Prior to the issuance of the grant the applicant will sign a stipulation which will be presented to him by the district forester, and which will in general conform to Regulation L-25. No construction work will be allowed until after the issuance of the grant. A definite period will be stipulated for the completion of construction.

Although the Secretary by the terms of the act may declare the grant forfeited if the rights of way are abandoned or not used for a period of two years, forfeiture for failure to comply with the terms of the grant requires judicial proceedings.

FORMS.

Form 58. (Revised July 1, 1915.)

UNITED STATES DEPARTMENT OF AGRICULTURE FOREST SERVICE

[Designation to be inserted by district forester.]

APPLICATION FOR PRELIMINARY POWER PERMIT.

* _____,
a corporation organized and existing under and by virtue of the
laws of the State of _____
and having its office and principal place of business at _____,
in the State of _____

* _____,
_____ citizen __ of the United States and __ resident __ of the
State of _____,
do ____ hereby make application for a preliminary power permit
for _____ months, covering certain lands of the United
States within the _____ National Forest in the
State of _____, as such lands are approximately
shown upon a certain map executed by _____, on
the ____ day of _____, 191__, which map is filed herewith
and made a part hereof. This application is made in order that
the applicant__ may, upon the filing of a complete and final
application, in accordance with the regulations of the Secretary
of Agriculture, secure a priority for said final application from
the date of the filing of this preliminary application.

(Space for insertion of request for construction work if necessary to
maintain water rights.)

In witness whereof, the applicant__ ha__ caused this instru-
ment to be executed this ____ day of _____, 191__.

[SEAL OF CORPORATION.]

Attest: _____,

Secretary.

* Use lines 1-5 or 6-8. Cancel lines not used.

When an application is made by an individual or an association of individuals, the following oath, serving as an affidavit of citizenship, will be taken.

Subscribed and sworn to before me this ____ day of _____, 191__.

[SEAL.] _____,

Notary Public.

NOTE.—This form is to be used by the applicant in making application for a preliminary permit. Copies may be obtained upon application to the district forester at Missoula, Mont.; Denver, Colo.; Albuquerque, N. Mex.; Ogden, Utah; San Francisco, Cal.; Portland, Oreg.; Washington, D. C.; or the forest supervisor at Ketchikan, Alaska. After the blanks have been filled in, three copies should be filed as a part of the application. (Reg. L-10.)

Form 59. (Revised July 1, 1915.)

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

[Designation to be inserted by district forester.]

PRELIMINARY POWER PERMIT.

Whereas, in accordance with the regulations issued under the act of February 15, 1901 (31 Stat., 790), by the Secretary of Agriculture (hereinafter called the "Secretary") _____ (hereinafter called the "permittee"), filed with the district forester at _____ on the ____ day of _____, 191__, an application for a preliminary power permit, covering certain lands of the United States within the _____ National Forest in the State of _____, as such lands are approximately shown upon a certain map contained in said application; and

Whereas, the permittee has paid the rental charges required by the aforesaid regulations as a condition precedent to the issuance of this permit:

Now, therefore, the permittee is granted, subject to the provisions hereinafter set forth, priority for an application for a final power permit authorizing the occupancy and use of the aforesaid lands of the United States as more particularly described and shown upon a certain map executed by _____ on the ____ day of _____, 191__, which said map is hereby made a part of this permit, and the construction, maintenance, and operation thereon for the development, transmission, and, or, distribution of power, of _____

reservoirs, ----- water conduits, -----
 ----- power-house sites, and ----- transmis-
 sion lines, all to be located approximately as shown on the
 aforesaid map.

ARTICLE 1. If the permittee shall, on or before the ____ day of
 -----, 191--, file with the district forester at -----
 -----, in the manner prescribed by the regulations of the
 Secretary, a complete application for a final power permit
 (hereinafter called the "final application"), covering the lands
 under this permit, then and thereupon the priority initiated by
 the application for this permit (hereinafter called the "preliminary
 application") shall be maintained by said final applica-
 tion and shall relate back and be effective as of the date of
 the preliminary application: *Provided, however,* That such
 priority shall be maintained only in so far as the project or
 projects shown in said final application are within the approxi-
 mate limits of diversion and discharge as shown in the prelimi-
 nary application; and if in said final application the permittee
 shall include National Forest lands which comprehend develop-
 ments not included in the preliminary application, the priority
 of application for such additional lands shall date only from the
 date of the filing of said final application: *And provided fur-*
ther, That the said final power permit will be issued only if it
 appears that the proposed occupancy and use will be in general
 accord with the most beneficial utilization of the resources in-
 volved and consistent with the public interest; and that no
 final power permit will be issued if the works to be constructed
 thereunder will unreasonably interfere with the construction or
 operation of works authorized by existing final power permits,
 or for the construction of works within an area covered by a
 prior preliminary permit until after the filing of final applica-
 tion or the loss of priority by the prior preliminary permittee.

ART. 2. The priority granted and maintained by this permit
 will be lost if the final application is not filed upon the date
 specified in article 1 hereof, unless additional time shall have
 been allowed by the written authority of the Secretary upon a
 showing by the permittee, filed with the district forester prior
 to said date, that the filing of said final application has been
 prevented by unusual climatic conditions that could not reason-
 ably have been foreseen or by some special or peculiar cause
 beyond the control of the permittee.

ART. 3. The permittee shall pay annually in advance from the
 1st day of January, 191--, until the date of the granting of the
 aforesaid final permit, to the ----- national
 bank of ----- (United States depository), or

such other Government depository or officer as may hereafter be legally designated, to be placed to the credit of the United States, a charge for the priority rights granted under this permit, which charge shall be calculated from the "rental capacity of the power site," as defined in the regulations of the Secretary and as estimated at the time of granting this permit, at a rate which shall be ten (10) cents per horsepower per year for the first full calendar year under this permit, and which shall increase by ten (10) cents per horsepower per year for each year thereafter until the date of the granting of final permit as aforesaid.

ART. 4. If any part of the aforesaid charge, payable as provided in article 3 hereof, shall, after due notice has been given, be in arrears for sixty (60) days, then and thereupon the priority maintained by this permit shall be lost and this permit shall terminate and be void without revocation by the Secretary.

ART. 5. If, upon the filing of the said final application, a final power permit is granted by the Secretary to the permittee to occupy and use the aforesaid lands for the construction, maintenance, and, or, operation of the aforesaid works, and in accordance with the provisions of such final power permit the permittee completes the construction and begins the operation of the aforesaid works, all payments made in consideration of this permit will be credited to the permittee and be applied to the payment of charges due, or to become due after such beginning of operation, under such final power permit: *Provided, however,* That if such final application provides for only a partial development of the power project or projects, as outlined in the preliminary application for, and as protected by, this permit, then only such proportional part of the aforesaid payments will be credited to the permittee as the amount of development provided for in said final application bears to the amount of development indicated in the preliminary application. If, however, after the filing of the final application in the form and manner prescribed in the regulations of the Secretary, the Secretary does not grant a final power permit to the permittee, all payments made in consideration of this permit will be returned to the permittee.

ART. 6. If the priority maintained by this permit is lost, either in the manner specified in articles 2 or 4 hereof, or by revocation of this permit, no other application, either preliminary or final, for a like use (except for transmission lines), covering in whole or in part the lands under this permit or adjacent lands, will be accepted from the permittee until the expiration of one year after such loss of priority; and this

restriction shall extend to transferees of the permittee and, if the permittee is a corporation, to reincorporations representing the same or associated interests, whenever in the judgment of the Secretary a transfer or reincorporation has been effected for the purpose or with the result of escaping the restriction of this article, it being the intent of such restriction to leave open to other applicants for a period of one year power sites upon which priorities have lapsed as herein provided.

ART. 7.* This permit shall give no right to begin construction of any kind or to cut or destroy any timber upon National Forest lands, except such as may be necessary in the prosecution of examinations or surveys.

ART. 7.* The permittee is hereby authorized to begin the construction of the following works:

ART. 8.* This permit is subject to a -----
power permit granted to ----- on the ---- day
of -----, 19--, and having a priority date of ----
19--; also to -----

ART. 9. This permit is nontransferable and is subject to all prior valid claims.

In witness whereof, I have hereunto set my name this ----
day of -----, 19--.

-----,
Secretary of Agriculture.

NOTE.—This form will not be used by the applicant. After being executed by the Secretary, the preliminary power permit in complete form will be forwarded to the applicant.

* Cancel clauses not used.

Form 60. (Revised July 1, 1915.)

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

[Designation to be inserted by district forester.]

APPLICATION FOR FINAL POWER PERMIT.

* -----,
a corporation organized and existing under and by virtue of the
laws of the State of -----,
and having its office and principal place of business at -----,
in the State of -----.

* _____,
 _____ citizen__ of the United States and __ resident__ of the
 State of _____
 do ____ hereby make application for a final power permit au-
 thorizing the occupancy and use of certain lands of the United
 States within the _____ National Forest in the
 State of _____, and the construction, mainte-
 nance, and, or, operation thereon for the development, trans-
 mission, and distribution of power the following project works:

(Cancel such of the four following items (a), (b), (c), and (d) as may
 not be applicable.)

(a) _____

(Masonry, earth, etc., diverting or storage.)

dams approximately _____ feet in maximum
 height and approximately _____ feet in maxi-
 mum length, to form _____ reservoirs to flood
 approximately _____ acres at spillway level,
 respectively (†), in section _____

_____ meridian, of which approximately _____
 _____ acres are National Forest land, said dams and
 said reservoirs being designated, respectively, as follows:

(b) _____ water conduits approximately _____
 _____ miles in length, respectively,* crossing sections

_____ meridian, of which approximately _____
 _____ miles will cross National Forest land, said water
 conduits being designated, respectively, as follows _____

(c) _____ power houses and appurtenant struc-
 tures to occupy approximately _____ acres, respec-
 tively,† in section _____

_____ meridian, of which approximately _____
 _____ acres are National Forest land, said power houses
 being designated, respectively, as follows _____

* Use lines 1-5 or 6-8. Cancel lines not used.

† If surveyed, describe by section, township, and range. If unsur-
 veyed, substitute in paragraphs (a), (b), (c), and (d) the following:
 "located on certain lands described and shown by the maps and field
 notes accompanying the application filed with the district forester
 on the ____ day of _____, 191__."

(d) _____ transmission lines _____
 miles in length, respectively,* crossing sections _____
 _____ meridian, of which approximately _____
 _____ miles will cross National Forest land, said trans-
 mission lines being designated as follows _____

All as approximately shown upon certain maps and plans sub-
 scribed and sworn to by _____
 on the _____ day of _____, 191____, which maps and plans are
 filed together herewith and designated as follows _____

(Designate each

original map or plan as "Exhibit A," "Exhibit B," etc., following each
 such designation by the title of the map or plan, as "Exhibit A, Map
 of Location of, etc.," "Exhibit _____ Plan of, etc.")

which maps and plans, together with certain field notes, esti-
 mates, and data, evidence of water rights, articles of incorpora-
 tion, etc., designated, respectively, as "Exhibit _____," "Exhibit
 _____," _____ are hereby made a part of this
 application.

This application is made in order that the applicant__ may
 obtain the benefits of the act of Congress approved February
 15, 1901 (31 Stat., 790); and the use and occupancy of National
 Forest lands for which this application is made is desired in
 order to construct, maintain, and, or, operate thereon the afore-
 said project works for the purpose of developing power _____

(Add use to

which power is to be put and any other purpose for which land may be
 desired.)

In witness whereof the applicant__ ha__ caused this instru-
 ment to be executed this _____ day of _____, 191____.

[SEAL OF CORPORATION.]

Attest: _____,

Secretary.

* See footnote on page 54.

When application is made by an individual or an association of individuals, the following oath, serving as an affidavit of citizenship, will be taken:

Subscribed and sworn to before me this ____ day of _____, 191__.

[SEAL.] _____

Notary Public.

NOTE.—This form is to be used by the applicant in making application for a final permit. Copies may be obtained upon application to the District Forester at Missoula, Mont.; Denver, Colo.; Albuquerque, N. Mex.; Ogden, Utah; San Francisco, Cal.; Portland, Oreg.; Washington, D. C.; or the Forest Supervisor at Ketchikan, Alaska. After the blanks have been filled in, three copies should be filed as a part of the application. (Reg. L-11.)

60a. (Revised Mar. 1, 1913.)

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Form of affidavit of engineer to accompany application for final power permit.

STATE OF _____,

County of _____, ss:

_____ being duly sworn, says he is the engineer of (or the person employed to make the surveys, collect the data, make the estimates, and prepare the designs and plans by) the _____ Company; that the survey of the water conduits, transmission lines, reservoirs, and power-house sites as shown upon the maps filed together herewith and described as follows: _____

(Describe as in the application, Form 60.)

being a total length of water conduit of _____ miles, a total length of transmission lines of _____ miles, a total area of reservoir site of _____ acres, and a total area of power-house site of _____ acres was made by him (or under his direction) under authority of said _____ Company; that said survey was commenced on _____ and completed on _____, 19__; that said survey represents the proposed final location of said water conduits, transmission lines, reservoir sites, and power-house sites, and that said survey is accurately represented upon the maps herein described; he further says that the notes of survey filed together herewith as Exhibit ____ are the notes of the above-described survey; that said notes are a true and complete copy of an

actual location survey made upon the ground by him (or under his direction) within the dates above named; and that all of said notes and no others were used in the preparation of the maps herein described; he further says that the plans of structures filed together herewith and described as follows: -----

(Describe as in the application, Form 60.)

were prepared by him (or under his direction) under authority of said ----- Company; that the designs as shown upon said plans represent safe, proper, and adequate structures for the full economic utilization of the power available for development at the location shown upon the maps herein described; and he further says that the data and estimates filed together herewith as Exhibit ---- were prepared by him (or under his direction) under authority of said ----- Company; that the estimates shown in said Exhibit ---- are based upon the said data, being all the data available therefor; and that said estimates represent, in his best judgment and belief, the amount of power that can be developed, under the condition specified, by the works shown upon the maps and plans herein described.

-----,
Engineer.

Subscribed and sworn to before me this ---- day of -----, 191--.

[SEAL.]

-----,
Notary Public.

NOTE.—This affidavit form is not to be placed upon map, plans, or other exhibits, but is to be typewritten and filed as "Exhibit -----" of the application. See Regulations L-11 (J). If the above-described work has been done by or under the direction of more than one engineer, each should subscribe to an affidavit covering the part of the work for which he is responsible.

60b. (Revised Mar. 1, 1913.)

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Form of certificate of applicant to accompany application for final power permit.

I, -----, do hereby certify that I am the ----- of the ----- Company; that -----, who

subscribed (respectively) to the foregoing affidavit__, is (are) the engineer__ of (said company) (the person__ employed by said company to do the work evidenced on the (respective) affidavit__); that the survey of the water conduits, transmission lines, reservoirs, and power-house sites as shown upon the maps filed together herewith and designated as follows_____

(Designate as in affidavit.)

the notes of survey as given in "Exhibit _____," filed together herewith, the designs of structures as shown upon the plans filed together herewith and designated as follows_____

(Designate as in affidavit.)

the collection of data and the estimates of power as given in "Exhibit _____," filed together herewith, were made under authority of said (company); that said (company) is fully authorized by its articles of incorporation to construct, maintain, and operate water conduits, transmission lines, dams, reservoirs, and power houses upon the location shown upon the above-described maps, and of the design shown upon the above-described plans; that said locations and said designs have been adopted by said (company) as the approximate final locations and the approximate final designs of said water conduits, transmission lines, dams, reservoirs, and power houses; that said estimates as shown by said "Exhibit _____" have been approved by said (company); and that, in accordance with the regulations of the Secretary of Agriculture, the maps, plans, estimates, and data herein described have been prepared as a part of an application of said (company) dated _____, 191__, and bearing my signature (as _____ of said company).

[SEAL OF COMPANY.] _____,

_____ of the Company.

Attest:

Secretary.

NOTE.—This certificate form is not to be placed upon map, plans, or other exhibits, but is to be typewritten and filed as "Exhibit _____" of the application. See Regulations L-11 (J).

Form 61. (Revised July 1, 1915.)

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

[Designation to be inserted by district forester.]

POWER STIPULATION.

Whereas, in accordance with the regulations issued under the act of February 15, 1901 (31 Stat., 790), by the Secretary of Agriculture, _____ filed with the district forester at _____ on the ____ day of _____, 191____, an application for a final power permit authorizing the occupancy and use of certain lands of the United States within the _____ National Forest in the State of _____, and the construction, maintenance, and, or, operation thereon of certain project works for the development, transmission, and distribution of power, said lands and said project works being described and shown by the maps, field notes, plans, estimates, and data contained in said application:

Now, therefore, in consideration of and as a prerequisite to the granting of the aforesaid permit, the permittee stipulates and agrees as follows, to wit:

DEFINITION OF TERMS.

ARTICLE 1. That the following terms wherever used in this stipulation shall have the meanings hereby in this article assigned to them, viz:

"Permittee" means _____ a corporation organized and existing under and by virtue of the laws of the State of _____, and having its office and principal place of business at _____ in the State of _____.

"Secretary" means the Secretary of Agriculture of the United States of America, or his successor, or his duly authorized representative, or such other officer or agent of the United States as may be legally designated.

"National Forest lands" means lands of the United States reserved, acquired, and, or, held for National Forest purposes.

"Permit," as used in this stipulation, means the final power permit, application for which has been filed as aforesaid, in accordance with the regulations of the Secretary under the act

of February 15, 1901 (31 Stat., 790), and the permit in consideration of which this stipulation is filed with the district forester.

“Municipal purposes” means and includes all purposes within municipal powers as defined by the charter of the municipal corporation, where any such purpose is directly pursued by the municipal corporation itself with the primary object of promoting the security, health, good government, or general convenience of its inhabitants.

“Power business” means the entire business of the permittee in the generation, distribution, and delivery of power by means of any one power system, together with all works and tangible property involved therein, including freeholds and leaseholds in real property.

“Power system” means all interconnected plants and works for the generation, distribution, and delivery of power.

“Power project” means a complete unit of power development, consisting of a power house, conduit or conduits conducting water thereto, all storage or diverting of fore-bay reservoirs used in connection therewith, the transmission line delivering power therefrom, any other miscellaneous structures used in connection with said unit or any part thereof, and all lands the occupancy and use of which are necessary or appropriate in the development of power in said unit.

“Project works” means the physical structures of a power project.

“Construction of the project works” means the actual construction of dams, water conduits, power houses, transmission lines, or some permanent structure necessary to the operation of the complete power project, and does not include surveys or the building of roads and trails, or the clearing of reservoir sites or other lands to be occupied, or the performance of any work preliminary to the actual construction of the permanent project works.

“Primary transmission line” means the main line or lines over which power is delivered from a power house, or generating station, at the voltage of the high-tension side of the station transformers.

“Distance of primary transmission” means the distance measured along the primary transmission line from the power house to the point of first reduction in line voltage by means of transformers.

“Operation period” means the period covered by final permit subsequent to the actual beginning of operation.

“Survey-construction period” means the period covered by preliminary and final permits prior to the operation period.

"Nominal stream flow" means the sum of (a) the flow determined by averaging the values estimated for the natural mean flow for the two-month (calendar) minimum-flow period in each successive five-year period or major fraction thereof, and (b) the stream flow made available from storage by project works not under the permit.

"Load factor" means the ratio of average power output to maximum power output.

"Total capacity of the power site" means the continued product of (1) the factor 0.08;¹ (2) the average effective head in feet; (3) the stream flow estimated to be available at the intake (in second-feet and in amount not to exceed the maximum hydraulic capacity of the project works) considered as the sum of (a) the nominal stream flow and (b) stream flow made available from storage by project works under the permit; and (4) a factor, not less than the average load factor of the power system, representing the degree of practicable utilization of the stream flow estimated to be available, and based on the extent of fore-bay storage and the load of the power system.

"Rental capacity of the power site" means the capacity on which the rental charges are based. Unless otherwise ordered by the Secretary, it will be determined by making the following deductions from the total capacity of the power site:

(a) Whenever power projects include water-conduit or intake reservoir sites not wholly on National Forest lands, a deduction will be made from that part of the total capacity of the power site which is due to the use of the nominal stream flow. This deduction will be, in per cent, the sum of (1) the product of the proportion of the average effective head obtained from the dam by the per cent of submerged lands below the flow line fixed by the average effective head that are not National Forest lands, and (2) the product of the proportion of the average effective head obtained from the water conduit by the per cent of the length of said conduit which is not located on National Forest lands.

(b) Whenever power projects include reservoir sites not wholly on National Forest lands, a deduction will be made from that part of the total capacity of the power site which is due to the use of stream flow made available from storage by the project works under the permit. This deduction will be the per cent of the total area of the reservoir sites that is not National Forest land.

¹ The factor 0.08 represents the horsepower at 70 per cent efficiency of a second-foot of water falling through a head of 1 foot.

(c) From the total capacity of the power site which remains after deductions (a) and (b) have been made may be made a further deduction, which, in per cent, shall be the product of the square of the distance of primary transmission in miles and the factor 0.001, but in no case will deduction (c) exceed 25 per cent.

AMENDMENT OF MAPS AND PLANS.

ART. 2. To construct its project works on the location shown upon and in accordance with the maps and plans contained in the aforesaid application, which said maps and plans are hereby made a part of this stipulation, and to make no material deviation from said location or from said plans unless and until maps or plans showing such deviation shall have been submitted to the district forester and approved by the Secretary.

ART. 3. To file, within six (6) months after the completion of each part of the project works, as required in article 5 hereof, in the manner prescribed for original maps of location, maps showing the final location of each part of the project works as constructed, if such final location varies from that shown upon maps originally filed or upon approved amendments thereof; and to file also within six (6) months of the completion of each part of the project works as aforesaid, in such manner as may be prescribed by the Secretary, detailed working plans of each part of the project works as constructed, except of such parts as have been constructed in compliance with the plans originally filed or approved amendments thereof.

BEGINNING AND COMPLETION OF CONSTRUCTION AND BEGINNING OF OPERATION.

ART. 4.* To begin the construction of the aforesaid project works on or before _____, and thereafter diligently and continuously to prosecute such construction, unless such construction is temporarily interrupted by climatic conditions or by some special or peculiar cause beyond the control of the permittee.

ART. 4.* To begin the construction of the following several parts of the aforesaid project works on or before the several dates in this article specified, and thereafter diligently and continuously to prosecute such construction, unless such construction is temporarily interrupted by climatic conditions or by some special or peculiar cause beyond the control of the permittee.

(1) On or before _____, Part I, consisting of

ART. 5.* To complete the construction and begin the operation of the aforesaid project works on or before-----.

ART. 5.* To complete the construction and begin the operation of the following several parts of the aforesaid project works on or before the several dates in this article specified.

(1) On or before -----, Part I, consisting of

ART. 6. That it is understood, if upon any one of the dates specified in article 4 hereof, unless the time is extended by the written approval of the Secretary, after showing by the permittee satisfactory to the Secretary, and filed with the district forester prior to said date, that such beginning of construction of that part of the project works required to have been begun on the specified date has been prevented by engineering difficulties that could not reasonably have been foreseen, or by other special and peculiar cause beyond the control of the permittee, that thereupon the permission to occupy and use National Forest lands for all parts of said project works the construction of which has not been begun on said date shall terminate and become void; and that the permit, in so far as such parts of said project works are concerned, shall become of no effect.

ART. 7. That it is understood that the dates specified in article 5 hereof for the completion of construction and the beginning of operation of the several parts of the project works will be extended only on the written approval of the Secretary, after a showing by the permittee satisfactory to the Secretary that the completion of construction and beginning of operation has been prevented by engineering difficulties that could not reasonably have been foreseen, or by other special and peculiar cause beyond the control of the permittee; and if such extension be not approved, that thereupon the permission to occupy and use National Forest lands for such parts of said project works shall terminate and become void; and that the permit, in so far only as such parts of said project works are concerned, shall become of no effect.

ART. 8. That except when prevented by unavoidable accidents or contingencies, the permittee will, after the completion of construction as required in article 5 hereof, operate in good faith and as continuously as may be possible under prevailing market requirements, the project works constructed, and, or,

* Use the first form of articles 4 and 5 when but one complete power project is to be constructed and it is inadvisable to separate it into two or more units of construction. When several distinct power projects are involved, or where it may be desirable to divide a single power project into two or more units of construction, use the second form of articles 4 and 5. Cancel form not used.

maintained, in whole or in part under the permit; that the permittee will neither discontinue the operation of said project works nor reduce the amount of power developed or transmitted by the same at such a time or in such a manner as to reduce the output of electric energy required by the consuming public, or to increase the market price therefor, or to discriminate between consumers, or to prejudice the public interests; and that if there is discontinuance of operation or reduction in amount of power generated or transmitted for a continuous period of more than thirty (30) days or for an aggregate period of more than ninety (90) days in any calendar year, the permittee will notify the district forester of the fact of such discontinuance or reduction and of the reasons therefor.

CAPACITIES OF POWER SITE.

ART. 9. That the total capacity of the power site, permission for the occupancy and use of which, in whole or in part, has been applied for, shall, for the purposes of this stipulation, be deemed and taken to be ----- horsepower, distributed as follows:

and that the part of the aforesaid total capacity which is due to the use of the nominal stream flow shall, for the purposes of this stipulation, be deemed and taken to be ----- horsepower, distributed as follows:-----

and that the part of the aforesaid total capacity which is due to the use of stream flow made available from storage by the project works under the permit shall, for the purposes of this stipulation, be deemed and taken to be ----- horsepower, distributed as follows: -----

it being understood that if any approved alteration or amendment of any map or plan, as provided for in article 2 and article 3 hereof, or any permanent change in the nominal stream flow, due to storage or otherwise, shall result in an increase or decrease in the total capacity of the power site, or of either part thereof, or of both, as said capacities are hereinbefore taken, said increased or decreased power capacities shall, from the beginning of the calendar year next succeeding the date of such approval, or of such change in nominal stream flow, be deemed and taken to be, for the purposes of this stipulation, the capacities of the power site occupied and used, in whole or in part, under the permit; and *it being further understood* that if at

any time not less than ten (10) years after the original or after the last preceding determination of the said total capacity of the power site, or of either part thereof, or of both, either the permittee or the Secretary on the ground of the inaccuracy, insufficiency, or inapplicability of the data upon which said original or said last preceding determination of said capacities was made, shall apply for or give notice of review of said original or said last preceding determination, then and thereupon such review shall be taken by the Secretary and a redetermination of the capacities shall be made, and the said redetermined capacities shall, for the purposes of this stipulation, and from the beginning of the next calendar year, be deemed and taken to be the capacities of the power site occupied and used in whole or in part under the permit.

RENTAL CHARGES.

ART. 10. To pay annually in advance from the 1st day of January, 191__, to the _____ National Bank of _____ (United States depository), or such other Government depository or officer as may be hereafter legally designated, to be placed to the credit of the United States, a rental charge for the occupancy and use of the lands of the United States described and shown upon the maps hereinbefore referred to, which rental charge shall be calculated from the "rental capacity of the power site," as defined in article 1 hereof, at the following rates per horsepower per year :

For the unexpired portion of the calendar year and for the first full calendar year of the survey-construction period, and similarly for the operation period-----	\$0. 10
For the second full calendar year of each of said periods-----	. 20
For the third year-----	. 30
For the fourth year-----	. 40
For the fifth year-----	. 50
For the sixth year-----	. 60
For the seventh year-----	. 70
For the eighth year-----	. 80
For the ninth year-----	. 90
For the tenth and each succeeding year-----	1. 00

it being understood that said estimated rental capacity may be adjusted annually by the Secretary to provide for changes in ownership of lands in reservoir sites and on water-conduit lines and for changes in length of primary transmission; and *it being further understood* that at any time not less than ten (10) years after the issuance of the permit, or after the last

revision of rates of rental charge thereunder the Secretary may review such rental rates and impose such new rental rates as he may decide to be reasonable and proper: *Provided*, That such rental rates shall not be so increased as to reduce the margin of income (including appreciation in land values) from the power project or projects under the permit over proper actual and estimated expenses (including reasonable allowance for renewals and sinking-fund charges) to an amount which, in view of all the circumstances (including fair development expenses and working capital) and risks of the enterprise (including obsolescence, inadequacy, and supersession), is unreasonably small; but the burden of proving such unreasonableness shall rest upon the permittee.

ART. 11. That it is understood, if the permittee completes the construction and begins the operation of each of the several parts of the aforesaid project works within the periods provided for in article 5 hereof or any approved extension thereof, that then and thereupon all payments for the occupancy and use of National Forest lands for said part of said project works so completed and operated which have been made for the survey-construction period will be credited to the permittee for the cancellation of charges as they become due in the operation period.

ART. 12. That it is understood, if any part of the power developed by the project works under the permit is used by the permittee itself for irrigation as auxiliary to irrigation works owned and operated by the permittee, for logging operations in connection with the purchase by the permittee of National Forest timber under a timber-sale agreement or for the manufacture into a merchantable product by the permittee of such timber so purchased, or for the temporary development of power to be used in the construction of permanent project works under permit issued to the permittee, that upon application by the permittee, accompanied by a showing of fact satisfactory to the Secretary, such a proportional part of the full schedule charge for any calendar year will be credited to the permittee as the power developed by the project works and used for the purposes above named bears to the total output of the project works for said year; and that any amount so credited will be applied to the cancellation of charges as they may thereafter become due.

ART. 13. That it is understood, if any part of the aforesaid rental charge, payable as hereinbefore provided, shall, after due notice has been given, be in arrears for ninety (90) days, that then and thereupon the permit shall be subject to revocation by the Secretary.

ART. 14. That the decision of the Secretary shall be final as to all matters of fact upon which the calculation of the capacities or rental charges depends.

RECORDS AND ACCOUNTS.

ART. 15. To install and maintain in good operating condition at ----- such electric meters and at ----- such weirs, gauges, or other water-measuring device, as shall be approved by the Secretary, free of all expense to the United States; to keep accurate and sufficient records of all measurements and of all meter or other readings and records to the satisfaction of the Secretary; and to make a return during January of each year, under oath, of such of the records of measurements for the year ending on December 31 preceding, made by or in the possession of the permittee, as may be required by the Secretary.

ART. 16. That the books and records of the permittee in so far as they contain information concerning the power project or projects under permit, or the power business conducted in connection therewith, shall be open at all times to the inspection and examination of the Secretary.

ART. 17. On demand of the Secretary, to maintain in such form as the Secretary may prescribe or approve, a system of accounting of the entire power business conducted in connection with the power project or projects under the permit, and to render annually such reports of said power business as the Secretary may direct: *Provided, however,* That if the laws of the State in which the said power business or any part thereof is transacted require periodical reports from public-utility corporations under a uniform system of accounting, copies of such reports so made will be accepted, to the extent that they furnish the necessary information, as fulfilling the requirements of this article.

MISCELLANEOUS REQUIREMENTS.

ART. 18. To protect all Government and other telephone, telegraph, and power-transmission lines at crossings of and at all places in proximity to the permittee's transmission lines in a workmanlike manner, according to the usual standards of safety for construction, operation, and maintenance in such cases; and to maintain said transmission lines in such manner as not to menace life or property.

ART. 19. To clear and keep clear all lands of the power project for such width and in such manner as the Secretary may direct.

ART. 20. To dispose of all brush, refuse, or unused timber on National Forest lands resulting from the construction, maintenance, and, or, operation of the project works as may be required by the Secretary.

ART. 21. To build and repair roads and trails as required by the Secretary, whenever any existing roads or trails are destroyed or injured by the construction work or flooding under the permit; and to build and maintain necessary and suitable crossings for all roads and trails which intersect the water conduit, if any, constructed, maintained, and, or, operated under the permit.

ART. 22. To do everything reasonably within its power and to require its employees, contractors, and employees of contractors to do everything reasonably within their power, both independently and upon request of the forest officers, or other agents of the United States, to prevent and suppress fires on or near the lands to be occupied under the permit.

ART. 23. To pay in advance to the United States depository or officer as above set forth in article 10 hereof, to be placed to the credit of the United States, the full value, as fixed by the Secretary, of all timber cut, injured, or destroyed on National Forest lands in the construction, maintenance, and, or, operation of the project works.

ART. 24. To pay, on demand of the Secretary, to the United States depository or officer, as above set forth in article 10 hereof, to be placed to the credit of the United States, full value for all damage to the lands or other property of the United States resulting from the breaking of, or the overflowing, leaking, or seeping of water from the project works constructed, maintained, and, or, operated under the permit, and for all other damage to the lands or other property of the United States caused by the neglect of the permittee or of the employees, contractors, or employees of the contractors of the permittee.

ART. 25. To permit the use of any reservoir for the temporary storage or for the transportation of logs, ties, poles, or lumber; and, upon demand of the Secretary, to construct, maintain, and operate a logway or other device approved by the Secretary and suitable for the passage of such logs, ties, poles, or lumber over or around any dam without undue hindrance or delay; and, unless otherwise approved by the Secretary, to furnish free of cost to users of such logway or other device the machinery and the power necessary for the operation of such logway or other device: *Provided, however,* That the permittee shall not

be required to furnish any labor other than that necessary in the operation of the power machinery used in connection with such logway or other device: *And provided further*, That the use of said reservoir or of such logway or other device by owners of such logs, ties, poles, or lumber shall be under such rules and regulations adopted by the permittee as may be approved by the Secretary.

ART. 26. To sell power to the United States, when requested, at as low a rate as is given to any other purchaser for a like use at the same time and under similar conditions, if the permittee can furnish the same to the United States without diminishing the quantity of power sold before such request to any other customer by a binding contract of sale: *Provided*, That nothing in this article shall be construed to require the permittee to increase its permanent works or to install additional generating machinery.

ART. 27. To abide by such reasonable regulation of the service rendered and to be rendered by the permittee to consumers of power furnished or transmitted by the permittee, and of rates of payment therefor, as may from time to time be prescribed by the State or by any duly constituted agency of the State in which the service is rendered; but if such regulation is not exercised by the State or by any duly constituted agency thereof, the Secretary may, upon the filing with him of formal complaint by the State, by a municipality, or by not less than twenty-five (25) customers or prospective customers of the permittee, cause an inquiry to be made concerning the service or rate of payment complained of; and if it shall appear upon such inquiry that the service or the rate of payment complained of is unreasonable, the Secretary may fix the character of the service and may name the rate of payment which shall be rendered or charged.

ART. 28. That upon demand therefor in writing from the Secretary the permittee will surrender the permit to the United States or transfer the same to such State or municipal corporation as the Secretary may designate, and on the conditions specified in this article, and will give, grant, bargain, sell, and transfer with the permit (upon such demand and upon said conditions) the following-described works, equipment, structures, and other property: -----

That the permittee will waive all right to demand or receive consequential damages for the severance of any of the property enumerated above and taken under the provisions of this article

from any property not taken. The Secretary may require such surrender if the United States shall desire to take over the permit and properties, or he may designate as such transferee any State or municipal corporation which shall desire such transfer: *Provided, however,* That no municipal corporation shall be so designated unless by proceedings in a court of competent jurisdiction it shall have been determined that such a municipal corporation has the right to acquire such property: *And provided further,* That no municipal corporation shall be so designated unless it also has the power to acquire the said property and rights of the permittee in accordance with the following conditions. Such surrender or transfer shall be on condition precedent that the United States or such transferee shall first pay to the permittee the reasonable value of all said works, equipment, structures, and other tangible property and, in addition thereto, a bonus of three-fourths of 1 per cent of such reasonable value for each full year of the unexpired term of the permit. Such reasonable value shall not include any sum for any permit, franchise, or right granted by the United States, by any State, or by any municipal corporation in excess of the amount (exclusive of any tax or annual charge) actually paid to the United States or to such State or municipal corporation as compensation for the granting of such permit, franchise, or right, or any sum for any other intangible properties or values whatsoever, it being the intent of this article that all such intangible values shall be covered by the bonus herein provided for. Such reasonable value shall be determined by mutual agreement between the parties in interest, and, in case they can not agree, by a board of arbitration of three members, one of whom shall be named by the permittee and one by the transferee; the third shall be either the Secretary or some representative whom he may name. The reasonable value, for the purposes of such determination, of such works, equipment, structures, and other tangible property shall be the actual and necessary cost thereof, or, if such original cost can not be determined with reasonable certainty, shall be the cost of reproduction of such works, equipment, structures, and other tangible property under substantially the same conditions as existed at the time of the original construction and at prices for labor and material which shall be the average of such prices for the five years next preceding the date of valuation, less a percentage of such original or such reproduction cost equal to the per cent of physical and functional depreciation of the existing works, equipment, structures, and other tangible property.

ART. 29. That in respect to the regulation by any competent public authority of the service to be rendered by the permittee or of the price to be charged therefor, and in respect to any purchase or taking over of the properties or business of the permittee or any part thereof by the United States, or by any State within which such properties are situated or business carried on, in whole or in part, or by any municipal corporation of such State, no value whatsoever shall at any time be assigned to or claimed for the permit, or for the occupancy or use of National Forest lands granted thereunder, nor shall the permit or such occupancy and use ever be estimated or considered as property upon which the permittee shall be entitled to earn or receive any return, income, price, or compensation whatsoever.

ART. 30. That the works constructed or to be constructed, maintained, and, or, operated under the permit will not be owned, leased, trusteeed, possessed, or controlled by any device or in any manner so that they form part of or in any way effect any combination in the form of an unlawful trust, or form the subject of any unlawful contract or conspiracy to limit the output of electric energy, or are in unlawful restraint of trade with foreign nations or between two or more States or within any one State in the generation, transmission, distribution, or sale of electric or other power.

ART. 31. That any approval of any alteration or amendment, or of any map or plan, or of any extension of time shall affect only so much of the stipulation or permit as is specifically covered by such approval; and that no approval of any such alteration, amendment, or extension shall operate to alter or amend, or in any way whatsoever be a waiver of any other part, condition, or provision of the stipulation or permit.

In witness whereof, the permittee has executed this stipulation on the ---- day of -----, 191---

[SEAL.] -----

By -----

Attest:

-----,
Secretary.

NOTE.—This stipulation will be prepared by the district forester and presented to the applicant for execution. After being properly executed, it should be returned to the district forester together with the Acknowledgment, and, where necessary, evidence of authority for the corporate officer to sign for the company. (See Form 319, p. 89.)

Form 61b. [Revised Mar. 1, 1913.]

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

ACKNOWLEDGMENT.

STATE OF _____ }
COUNTY OF _____ } ss:

On this ____ day of _____, 191__, before me, a notary public in and for said county, duly commissioned and sworn, my commission expiring _____, 191__, personally came _____, to me personally known, who, being by me duly sworn, did depose and say that he resides in _____, that he is the _____ of the _____ Company, that said company is the corporation which is described in and which executed the foregoing instrument, that he knows the seal of said corporation, that the seal affixed to such instrument is such corporate seal, that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order; and the said _____ acknowledged said instrument to be the free act and deed of said corporation.

Witness my hand and official seal the day and year first above written.

[NOTARIAL SEAL.] _____,
Notary Public.

NOTE.—This form of Acknowledgment should accompany all stipulations for final power permits, transmission-line permits, and right-of-way grants.

Form 62. [Revised July 1, 1915.]

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

[Designation to be inserted by District Forester.]

FINAL POWER PERMIT.

Whereas, in accordance with the regulations issued under the act of February 15, 1901 (31 Stat., 790), by the Secretary of Agriculture (hereinafter called the "Secretary"), _____ (hereinafter called the "permittee"), filed with the district forester at _____ on the ____ day of _____, 191__, an application for a final

power permit authorizing the occupancy and use of certain lands of the United States within the ----- National Forest in the State of -----, and the construction, maintenance, and, or, operation thereon of certain project works for the development, transmission, and distribution of power; said lands and said project works being described and shown by the maps, field notes, plans, estimates, and data contained in said application; and

Whereas the aforesaid maps and plans, as hereinafter specifically described, have been adopted by the permittee as the maps of the approximate final location and as the approximate plans of the project works which the permittee proposes to construct under this permit; and

Whereas the permittee has paid the rental charges required by the aforesaid regulations as a condition precedent to the issuance of this permit; and

Whereas the permittee on the ---- day of -----, 191--, executed a stipulation required by the Secretary as a condition to the issuance of this permit and has filed said stipulation with the district forester at -----:

Now, therefore, the permittee is authorized, subject to the aforesaid stipulation and to the provisions hereinafter set forth, to occupy and use the lands hereinbefore referred to and to construct, maintain, and, or, operate thereon, for the purposes in article 1 below set forth, the following project works:

Cancel such of the four following items (a), (b), (c), and (d) as may not be applicable.

(a) -----
(Masonry, earth, etc., diverting or storage.)

dams approximately ----- feet in maximum height and approximately ----- feet in maximum length, to form ----- reservoirs to flood approximately ----- acres at spillway level, respectively,* in section ----- meridian, of which approximately ----- acres are National Forest land, said dams and said reservoirs being designated, respectively, as follows: -----

(b) ----- water conduits approximately ----- miles in length, respectively,* crossing

* If surveyed, describe by section, township, and range. If unsurveyed, substitute in paragraphs (a), (b), (c), and (d) the following: "located on certain lands described and shown by the maps and field notes accompanying the application filed with the district forester on the ---- day of -----, 191--."

sections _____
 _____ meridian, of which approximately _____
 _____ miles will cross National Forest lands, said
 water conduits being designated, respectively, as follows: _____

(c) _____ power houses and appurtenant structures to occupy approximately _____ acres, respectively,* in section _____
 _____ meridian, of which approximately _____
 _____ acres are National Forest land, said power houses being designated, respectively, as follows: _____

(d) _____ transmission lines _____
 _____ miles in length, respectively,* crossing sections _____
 _____ meridian, of which approximately _____
 _____ miles will cross National Forest land, said transmission lines being designated as follows: _____

All as approximately shown upon certain maps and plans subscribed and sworn to by _____
 _____ on the _____ day of _____, 19____, which maps and plans are filed together herewith and designated as follows:

(Designate each original map or plan as "Exhibit A," "Exhibit B," etc., following each such designation by the title of the map or plan, as "Exhibit A, Map of Location of, etc.;" "Exhibit _____, Plan of, etc.") which maps and plans, together with certain field notes, estimates and data, evidence of water rights, articles of incorporation, etc., designated, respectively, _____

(Designate each exhibit by

letter and name, as "Exhibit M, Articles of Incorporation," etc.) _____ are hereby made a part of this permit.

ARTICLE 1. The project works to be constructed, maintained, and, or, operated under this permit shall be constructed, maintained, and, or, operated for the purpose of storing, conducting, and, or, using water for the development of power or for the purpose of the transmission, distribution, and use of power.

ART. 2. Unless sooner revoked by the Secretary, this permit shall terminate and become void on the _____ day of _____, 19____, but on said date will be deemed to be an application by

* See footnote on p. 73.

the permittee for a new permit to occupy and use such National Forest lands as are occupied and used under this permit: *Provided*, That the permittee will comply with then existing laws and regulations governing the occupancy and use of National Forest lands for power purposes and shall have notified the Secretary not less than two (2) nor more than twelve (12) years prior to said date that such new permit is desired.

ART. 3. Violation of any of the conditions of the aforesaid stipulation or of this permit shall be sufficient cause for the revocation of this permit: *Provided, however*, That this permit will not be deemed to be terminated except upon formal revocation thereof by the Secretary and until the permittee shall have had a reasonable time—not to exceed ninety (90) days—within which to show cause why such revocation should not be made. If this permit is revoked, priority maintained hereby will be lost, and no application, either preliminary or final, covering in whole or in part either the lands under this permit or adjacent lands, for a like use (except for transmission lines), will be accepted from the permittee until the expiration of one year after such loss of priority; and this restriction shall extend to transferees of the permittee and, if the permittee is a corporation, to reincorporations representing the same or associated interests, whenever in the judgment of the Secretary a transfer or reincorporation has been effected for the purpose or with the result of escaping the restriction of this regulation, it being the intent of such restriction to leave open to other applicants for a period of one year power sites upon which priorities have lapsed as herein provided.

ART. 4. This permit and the permission granted hereunder to occupy and use National Forest lands may be transferred to a new permittee under the following conditions, and not otherwise: The proposed transferee shall file with the district forester of the district in which the lands under this permit are situated the decree, execution of judgment, will, contract of sale, or other written instrument upon which the proposed transfer is based, or a properly certified copy thereof, also a written application for the transfer. A stipulation binding the proposed transferee to the performance of such of the old conditions and of such new and additional conditions as the Secretary may deem necessary will be prepared and submitted to the proposed transferee for execution and return to the district forester; and thereupon, if the Secretary approves of the transfer and issues a new permit, the transferee shall succeed to the rights and obligations of the permittee, subject, however, to such new and

additional conditions as shall have been embodied in such stipulation and permit.

ART. 5. The power project or projects authorized by this permit, or any part thereof, whether constructed or unconstructed, may be abandoned by the permittee upon the written approval of the Secretary after a finding by the Secretary that such abandonment will neither tend to prevent the subsequent development of such project or part thereof so abandoned, nor be contrary to the public interest, and after the fulfillment by the permittee of all obligations under the aforesaid stipulation and this permit, in respect to payment or otherwise, existing at the time of such approval.

ART. 6. Upon the voluntary abandonment of the occupancy and use of National Forest lands, as authorized by this permit (except as provided for in article 4 hereof), or upon the revocation of this permit, or upon the nonexecution of a new permit at the termination of this permit, all permanent project works which have been constructed under the authority of this permit, such as reservoirs, dams, and operating mechanism, water conduits and operating mechanism, power houses, and other buildings, shall become and remain the property of the United States: *Provided, however,* That if said revocation or abandonment shall, as provided for in the aforesaid stipulation, affect only a part of the project works, the construction of which is authorized by this permit, the provisions of this article shall apply only to such parts of said project works as are affected by such revocation or abandonment. The mechanical equipment of power houses shall remain the property of the permittee, and may be removed within a reasonable time, not to exceed six (6) months after such abandonment, revocation, or termination, unless other disposition of such equipment is approved by the Secretary.

ART. 7. This permit is subject to all prior valid claims and permits which are not subject to the occupancy and use hereby authorized.

In witness whereof, I have hereunto set my hand this ---- day of -----, 191---

-----,
Secretary of Agriculture.

NOTE.—This form will not be used by the applicant. After being executed by the Secretary, the final power permit in complete form will be forwarded to the applicant.

Form 63. (Revised July 1, 1915.)

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

[Designation to be inserted by District Forester.]

TRANSMISSION LINE PERMIT.

(Act of February 15, 1901.)

Whereas, in accordance with the regulations issued under the act of February 15, 1901 (31 Stat., 790), by the Secretary of Agriculture (hereinafter called the "Secretary") _____ (hereinafter called the "permittee"), filed with the district forester at _____ on the ____ day of _____, 191____, an application for a transmission-line permit authorizing the occupancy and use of certain lands of the United States within the _____ National Forest in the State of _____, and the construction, maintenance and, or, operation thereon of certain project works for the transmission and distribution of electric power, said lands and said project works being described and shown by the maps and field notes contained in said application; and

Whereas, the aforesaid maps, as hereinafter specifically described, have been adopted by the permittee as the maps of approximate final location of the transmission line__ which the permittee proposes to construct under this permit; and

Whereas, the permittee has paid the rental charges required by the aforesaid regulations as a condition precedent to the issuance of this permit; and

Whereas, the permittee, on the ____ day of _____, 191____, executed a stipulation required by the Secretary as a condition to the issuance of this permit and has filed said stipulation with the district forester at _____:

Now, therefore, the permittee is authorized, subject to the aforesaid stipulation and to the provisions hereinafter set forth, to occupy and use the lands hereinbefore referred to, and to construct, maintain, and, or, operate thereon _____ transmission line _____ miles in length, respectively,* crossing sections _____ meridian, of which approximately _____ miles will cross National Forest land,

* If surveyed, describe by section, township, and range. If unsurveyed, substitute the following: "located on certain lands described and shown by the maps and field notes accompanying the application filed with the district forester on the ____ day of _____, 191____."

said transmission lines being designated as follows: -----

as approximately shown upon -- certain map-- and as described in certain field notes subscribed and sworn to by ----- on the ---- day of -----, 191--, which maps and field notes are filed together herewith and designated as follows: -----

(Designate each original of map as "Exhibit A," "Exhibit B," etc., following each such designation by the title of the map, as "Exhibit A, Map of Location of," etc. Also designate field notes as "Exhibit -----," etc.)

which maps and field notes, together with certain other data designated as "Exhibit-----"

(Designate each exhibit -----)

by letter and name, as "Exhibit M, Articles of Incorporation," etc.) are hereby made a part of this permit.

ARTICLE 1. Unless sooner revoked by the Secretary, this permit shall terminate and become void on the ---- day of -----, 19--, but on said date will be deemed to be an application by the permittee for a new permit to occupy and use such National Forest lands as are occupied and used under this permit: *Provided*, That the permittee will comply with then existing laws and regulations governing the occupancy and use of National Forest lands for power purposes, and shall have notified the Secretary not less than two (2) nor more than twelve (12) years prior to said date that such new permit is desired.

ART. 2. Violation of any of the conditions of the aforesaid stipulation or of this permit shall be sufficient cause for the revocation of this permit: *Provided, however*, That this permit will not be deemed to be terminated except upon formal revocation thereof by the Secretary and until the permittee shall have had a reasonable time—not to exceed ninety (90) days—within which to show cause why such revocation should not be made.

ART. 3. This permit and the permission granted hereunder to occupy and use National Forest lands may be transferred to a new permittee under the following conditions, and not otherwise: The proposed transferee shall file with the district forester of the district in which the lands under this permit are situated the decree, execution of judgment, will, contract of sale, or other written instrument upon which the proposed transfer is based, or a properly certified copy thereof, also a written application for the transfer. A stipulation binding the proposed

transferee to the performance of such of the old conditions and of such new and additional conditions as the Secretary may deem necessary will be prepared and submitted to the proposed transferee for execution and return to the district forester; and thereupon, if the Secretary approves of the transfer and issues a new permit, the transferee shall succeed to the rights and obligations of the permittee, subject, however, to such new and additional conditions as shall have been embodied in such stipulation and permit.

ART. 4. The transmission line or lines authorized by this permit, or any part thereof, whether constructed or unconstructed, may be abandoned by the permittee upon the written approval of the Secretary after a finding by the Secretary that such abandonment will not be contrary to the public interest, and after the fulfillment by the permittee of all obligations under the aforesaid stipulation and this permit, in respect to payment or otherwise, existing at the time of such approval.

ART. 5. Upon the voluntary abandonment of the occupancy and use of National Forest lands, as authorized by this permit (except as provided for in article 3 hereof), or upon the revocation of this permit, or upon the nonexecution of a new permit at the termination of this permit, all permanent works which have been constructed under the authority of this permit shall become and remain the property of the United States.

ART. 6. This permit is subject to all prior valid claims and permits which are not subject to the occupancy and use hereby authorized.

In witness whereof, I have hereunto set my hand this ____ day of _____, 191__.

_____,
Forester.

NOTE.—This form will not be used by the applicant. After being executed by the Secretary, the transmission-line permit in complete form will be forwarded to the applicant.

Form 68. (Revised July 1, 1915.)

UNITED STATES DEPARTMENT OF AGRICULTURE FOREST SERVICE

[Designation to be inserted by District Forester.]

TRANSMISSION LINE STIPULATION.

(Act of February 15, 1901.)

Whereas, in accordance with the regulations issued under the act of February 15, 1901 (31 Stat., 790), by the Secretary of

Agriculture (hereinafter called the "Secretary"), _____
 _____ (hereinafter called the "permittee")
 filed with the district forester at _____ on the
 ____ day of _____, 191____, an application for a transmission-
 line permit authorizing the occupancy and use of certain lands
 of the United States within the _____ National
 Forest in the State of _____, and the construc-
 tion, maintenance, and, or, operation thereon of certain project
 works for the transmission and distribution of electric power,
 said lands and said project works being described by the maps
 and field notes contained in said application:

Now, therefore, in consideration of and as a prerequisite to
 the granting of the aforesaid permit, the permittee stipulates
 and agrees as follows, to wit:

ARTICLE 1. To construct its transmission line or lines on the
 location shown upon and in accordance with the maps con-
 tained in the aforesaid application, which said maps are hereby
 made a part of this stipulation, and to make no material devia-
 tion from said location unless and until maps showing such
 deviation shall have been submitted to the district forester and
 approved by the Secretary, or by his authorized representatives.

ART. 2. To file within six (6) months after the completion
 of the transmission line or lines, as required in article 3 hereof,
 in the manner prescribed for original maps of location, maps
 showing the final location of each line or lines as constructed, if
 such final location varies from that shown upon maps originally
 filed or upon approved amendments thereof.

ART. 3. To begin the construction of the aforesaid line or
 lines on or before _____ and to complete the
 construction of said line or lines on or before _____.

ART. 4. That it is understood that the dates specified in
 article 3 hereof for the beginning and completion of construc-
 tion will be extended only on the written approval of the Secre-
 tary, or his authorized representative, after a showing by the
 permittee satisfactory to said officer that such beginning or
 completion of construction has been prevented by engineering
 difficulties that could not reasonably have been foreseen or by
 other special and peculiar cause beyond the control of the
 permittee.

ART. 5. That except when prevented by unavoidable accidents
 or contingencies, the permittee will, after the completion of
 construction as required in article 3 hereof, operate in good
 faith and as continuously as may be possible under prevailing
 market requirements, the line or lines constructed, and, or,
 maintained in whole or in part under the permit; that the

permittee will neither discontinue the operation of said line or lines nor reduce the amount of power transmitted over the same at such a time or in such a manner as to reduce the output of electric energy required by the consuming public, or to increase the market price therefor, or to discriminate between consumers, or to prejudice the public interests; and that if there is discontinuance of operation or reduction in amount of power transmitted for a continuous period of more than thirty (30) days or for an aggregate period of more than ninety (90) days in any calendar year, the permittee will notify the district forester of the fact of such discontinuance or reduction and of the reasons therefor.

ART. 6. To pay annually in advance during the decade beginning January 1, 191___, to the _____ National Bank of _____, or such other Government depository or officer as may hereafter be legally designated, to be placed to the credit of the United States, a rental charge of _____ dollars (\$_____), being at the approximate rate of five dollars (\$5) per mile per annum, and during each succeeding decade an annual charge at such reasonable rate per mile as the Secretary may fix at the beginning of each such decade.

ART. 7. That meters and, or, other devices approved by the Secretary, adequate for the determination of the amount of power delivered over said transmission line or lines, shall be installed and maintained in good operating condition in such manner as may be approved by the Secretary at the following-described places: _____

(For each meter or other device, specify its loca-

tion and the line or portion thereof to which connected.) _____ and that accurate and sufficient records of the foregoing determinations will be kept to the satisfaction of the Secretary; and that a return will be made during January of each year, under oath, of said records of measurement for the year ending on December 31 preceding.

ART. 8. That the books and records of the permittee, in so far as they contain information concerning the power-transmission line or lines under the permit, or the power business conducted in connection therewith, shall be open at all times to the inspection and examination of the Secretary, or other officer or agent of the United States duly authorized to make such inspection and examination.

ART. 9. On demand of the Secretary to maintain, in such form as the Secretary may prescribe or approve, a system of account-

ing of the entire power business, conducted in connection with the power-transmission line or lines under the permit; and to render annually such reports of the said power business as the Secretary may direct: *Provided, however,* That if the laws of the State in which the said power business or any part thereof is transacted require periodical reports from public-utility corporations under a uniform system of accounting, copies of such reports so made will be accepted, to the extent that they furnish the desired information, as fulfilling the requirements of this article.

ART. 10. To protect all Government and other telephone, telegraph, and power-transmission lines at crossings of and at all places in proximity to the permittee's transmission line or lines in a workmanlike manner, according to the usual standards of safety for construction, operation, and maintenance in such cases; and to maintain said transmission line or lines in such a manner as not to menace life or property.

ART. 11. To clear and keep clear National Forest lands along the transmission line or lines for such width and in such a manner as the forest officers may direct.

ART. 12. To dispose to the satisfaction of the forest officers of all brush, refuse, or unused timber on National Forest lands resulting from the construction, maintenance, and operation of the transmission line or lines under the permit.

ART. 13. To do everything reasonably within its power and to require its employees, contractors, and employees of contractors to do everything reasonably within their power, both independently and upon request of the forest officers, or other agents of the United States, to prevent and suppress fires on and near the lands to be occupied under the permit.

ART. 14. To pay in advance to the United States depository or officer, as above set forth in article 6 hereof, to be placed to the credit of the United States, the full value as fixed by the district forester, of all timber cut, injured, or destroyed on National Forest lands in the construction, maintenance, and, or, operation of the transmission line or lines under the permit.

ART. 15. To sell power to the United States when requested at as low a rate as is given to any other purchaser for a like use at the same time and under similar conditions, if the permittee can furnish the same to the United States without diminishing the quantity of power sold before such request to any other customer by a binding contract of sale: *Provided,* That nothing in this article shall be construed to require the permittee to increase its permanent works or install additional generating machinery.

ART. 16. To abide by such reasonable regulation of the service rendered and to be rendered by the permittee to consumers of power furnished or transmitted by the permittee, and of rates of payment therefor, as may from time to time be prescribed by the State or by any duly constituted agency of the State in which the service is rendered; but if such regulation is not exercised by the State or by any duly constituted agency thereof, the Secretary may, upon the filing with him of formal complaint by the State, by a municipality, or by not less than twenty-five (25) customers or prospective customers of the permittee, cause an inquiry to be made concerning the service or rate of payment complained of; and if it shall appear upon such inquiry that the service or the rate of payment complained of is unreasonable, the Secretary may fix the character of the service and may name the rate of payment which shall be rendered or charged.

ART. 17. That the line or lines to be constructed, maintained, and, or, operated under the permit will not be owned, leased, trusteeed, possessed, or controlled by any device or in any manner so that they form part of or in any way effect any combination in the form of an unlawful trust, or form the subject of any unlawful contract or conspiracy to limit the output of electric energy, or are in unlawful restraint of trade with foreign nations or between two or more States or within any one State in the generation, transmission, distribution, or sale of electric energy.

ART. 18. That in respect to the regulation by any competent public authority of the service to be rendered by the permittee or of the price to be charged therefor, and in respect to any purchase or taking over of the properties or business of the permittee, or any part thereof, by the United States or by any State within which such properties are situated or business carried on in whole or in part, or by any municipal corporation of such State, no value whatsoever shall at any time be assigned to or claimed for the permit, or for the occupancy or use of National Forest lands granted thereunder, nor shall the permit or such occupancy and use ever be estimated or considered as property upon which the permittee shall be entitled to earn or receive any return, income, price, or compensation whatsoever.

ART. 19. That any approval of any alteration or amendment, or of any map or plan, or of any extension of time shall affect only so much of this stipulation or of the permit as is specifically covered by such approval; and that no approval of any such alteration, amendment, or extension shall operate to alter

or amend or in any way whatsoever be a waiver of any other part, condition, or provision of this stipulation or of the permit.

In witness whereof, the permittee has executed this stipulation on the ---- day of -----, 191---

[SEAL.] -----

By -----

Attest:

-----,
Secretary.

NOTE.—This stipulation will be prepared by the district forester and presented to the applicant for execution. After being properly executed, it should be returned to the district forester together with the Acknowledgment, and, where necessary, evidence of authority for the corporate officer to sign for the company. (See Form 319, p. 89.)

Form 69. (Revised July 1, 1915.)

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

[Designation to be inserted by District Forester.]

STIPULATIONS—TELEPHONE, TELEGRAPH, AND POWER-TRANSMISSION LINES.

(Act of Mar. 4, 1911.)

Whereas, in accordance with the regulations issued under the act of March 4, 1911 (36 Stat., 1253), by the Secretary of Agriculture (hereinafter called the "Secretary"), ----- (hereinafter called the "grantee") filed with the district forester at ----- on the ---- day of -----, 191--, an application for a ----- line grant authorizing the occupancy and use of certain lands of the United States within the ----- National Forest in the State of -----, and the construction, maintenance, and, or, operation thereon of certain project works (for the transmission and distribution of electric power, for the transmission of communications by telephone and, or, telegraph*), said lands and said project works being described by the maps and field notes contained in said application:

Now, therefore, in consideration of and as a prerequisite to the issuance of the aforesaid grant, the grantee does hereby stipulate and agree, and does bind himself, his heirs, executors, administrators, and assigns, and each of them, jointly and sev-

* Cancel the use not applicable to the application.

erally (themselves, their heirs, executors, administrators, and assigns, and each of them, jointly and severally) (itself, its successors, and assigns), as follows, to wit:

ARTICLE 1. To construct its line or lines on the location shown upon and in accordance with the maps contained in the aforesaid application, which said maps are hereby made a part of this stipulation, and to make no material deviation from said location unless and until maps showing such deviation shall have been submitted to the district forester and approved by the Secretary or by his authorized representative.

ART. 2. To file within six (6) months after the completion of the line or lines, as required in article 3 hereof, in the manner prescribed for original maps of location, maps showing the final location of the line or lines as constructed, if such final location varies from that shown upon maps originally filed or upon approved amendments thereof.

ART. 3. To complete the construction of the aforesaid line or lines on or before -----.

ART. 4. That except when prevented by unavoidable accidents or contingencies, the grantee will, after the completion of construction as required in article 3 hereof, operate in good faith and as continuously as may be possible under prevailing market requirements, or users' demands, the line or lines constructed, and, or, maintained in whole or in part under the grant; that the grantee will neither discontinue the operation of said line or lines, nor reduce the amount of power transmitted over the same, at such a time or in such a manner as to reduce the output of electric energy required by the consuming public, or to increase the market price therefor, or to discriminate between consumers, or to prejudice the public interests; and that if there is discontinuance of operation, or reduction in amount of power transmitted for a continuous period of more than thirty (30) days or for an aggregate period of more than ninety (90) days in any calendar year, the grantee will notify the district forester of the fact of such discontinuance or reduction and of the reasons therefor.

ART. 5. To pay annually in advance during the decade beginning January 1, 191--, to the ----- National Bank of -----, or such other Government depository or officer as may hereafter be legally designated, to be placed to the credit of the United States, a rental charge of ----- dollars (\$-----), being at the approximate rate of five dollars (\$5) per mile per annum, and during each succeeding decade an annual charge at such reasonable rate per mile as the Secretary may fix at the beginning of each such decade.

ART. 6. That meters and, or, other devices approved by the Secretary, adequate for the determination of the amount of power delivered over said transmission line or lines, will be installed and maintained in good operating condition in such manner as may be approved by the Secretary at the following described places: -----

and that accurate and sufficient records of the foregoing determinations will be kept to the satisfaction of the Secretary; and that a return will be made during January of each year, under oath, of said records of measurements for the year ending on December 31 preceding.

ART. 7. That the books and records of the grantee, in so far as they contain information concerning the power-transmission line or lines under grant or the power business conducted in connection therewith, shall be open at all times to the inspection and examination of the Secretary or other officer or agent of the United States duly authorized to make such inspection and examination.

ART. 8. On demand of the Secretary to maintain, in such form as the Secretary may prescribe or approve, a system of accounting of the entire power business, conducted in connection with the power-transmission line or lines under the grant; and to render annually such reports of the said power business as the Secretary may direct: *Provided, however,* That if the laws of the State in which the said power business or any part thereof is transacted require periodical reports from public-utility corporations under a uniform system of accounting, copies of such reports so made will be accepted, to the extent that they furnish the necessary information, as fulfilling the requirements of this article.

ART. 9. To protect all Government and other telephone, telegraph, and power-transmission lines at crossings of and at all places in proximity to the grantee's telephone, telegraph, and, or, power-transmission line or lines in a workmanlike manner, according to the usual standards of safety for construction, operation, and maintenance in such cases; and to maintain said telephone, telegraph, and, or, power-transmission line or lines in such a manner as not to menace life or property.

ART. 10. To clear and keep clear National Forest lands along the right of way for such width and in such a manner as the forest officers may direct.

ART. 11. To dispose to the satisfaction of the forest officers of all brush, refuse, or unused timber on National Forest lands resulting from the construction, maintenance, and operation of the line or lines under grant.

ART. 12. To do everything reasonably within its power, and to require its employees, contractors, and employees of contractors to do everything reasonably within their power, both independently and upon request of the forest officers, or other agents of the United States, to prevent and suppress fires on or near the lands occupied under the grant.

ART. 13. To pay in advance to the United States depository or officer as above set forth in article 5 hereof, to be placed to the credit of the United States, the full value, as fixed by the district forester, of all timber cut, injured, or destroyed on National Forest lands in the construction, maintenance, and, or operation of the transmission line or lines under the grant.

ART. 14. To sell power to the United States when requested at as low a rate as is given to any other purchaser for a like use at the same time and under similar conditions, if the grantee can furnish the same to the United States without diminishing the quantity of power sold before such request to any other customer by a binding contract of sale: *Provided*, That nothing in this article shall be construed to require the grantee to increase its permanent works or to install additional generating machinery.

ART. 15. To abide by such reasonable regulation of the service rendered and to be rendered by the grantee, whether in respect to the furnishing or transmitting of power or to the transmitting of communications by telephone or telegraph, and of rates of payment therefor, as may from time to time be prescribed by the State or by any duly constituted agency of the State in which the service is rendered; but if such regulation with respect to the furnishing or transmitting of power is not exercised by the State or by any duly constituted agency thereof, the Secretary may, upon the filing with him of formal complaint by the State, by a municipality, or by not less than twenty-five (25) customers or prospective customers of the grantee, cause an inquiry to be made concerning the service or rate of payment complained of; and if it shall appear upon such inquiry that the service or the rate of payment complained of is unreasonable, the Secretary may fix the character of the service and may name the rate of payment which shall be rendered or charged.

ART. 16. That the line or lines to be constructed, maintained, and, or, operated under the grant will not be owned, leased, trusted, possessed, or controlled by any device or in any manner so that they form part of or in any way effect any combination in the form of an unlawful trust, or form the subject of any unlawful contract or conspiracy to limit the output of electric energy, or are in unlawful restraint of trade with foreign nations or between two or more States or within any one State

in the generation, transmission, distribution, or sale of electric energy, or in the transmission of communications by telephone or telegraph.

ART. 17. That in respect to the regulation by any competent public authority of the service to be rendered by the grantee or of the price to be charged therefor, and in respect to any purchase or taking over of the properties or business of the grantee, or any part thereof, by the United States or by any State within which such properties are situated or business carried on, or by any municipal corporation of such State, no value whatsoever shall at any time be assigned to or claimed for the grant, or for the occupancy or use of National Forest lands granted thereunder, nor shall the grant or such occupancy and use ever be estimated or considered as property upon which the grantee shall be entitled to earn or receive any return, income, price, or compensation whatsoever.

ART. 18. That upon breach by the grantee of any of the terms or conditions set forth in this stipulation or in the grant, the United States may enforce appropriate remedy therefor by suit for specific performance, injunction, action for damages, or otherwise; and if any such breach shall be continued or repealed after thirty (30) days' notice thereof, given to the grantee by the Secretary, the right of way granted, together with all rights thereunder and all rental charges and other moneys paid thereon, may be forfeited to the United States by a suit for that purpose in any court of competent jurisdiction.

ART. 19. That the grantee will not assign or transfer to any other person or corporation whatsoever the right of way granted, except with the approval in writing first obtained from the Secretary of Agriculture or other proper officer of the United States, and upon terms and conditions prescribed in said written approval by said Secretary or other officer.

(Insert here any additional stipulations proposed in accordance with
Reg. L-24.)

In witness whereof, the grantee has executed this stipulation
on the ____ day of _____, 191__.

[SEAL.] _____

By _____

Attest:

Secretary.

NOTE.—This stipulation will be prepared by the district forester and presented to the applicant for execution. After being properly executed, it should be returned to the district forester together with the Acknowledgment, and, where necessary, evidence of authority for the corporate officer to sign for the company. (See Form 319, p. 89.)

(Reverse of Form 319.)

PROOF REQUIRED OF CORPORATE OFFICER'S AUTHORITY TO SIGN AGREEMENTS, PERMITS, AND BONDS AS PRINCIPAL.

When an agreement, bond, or other legal instrument is executed by a corporation, and evidence is required of the authority of the person who signs on behalf of the corporation, such evidence should be EITHER—

(1) A certified **copy** of the provisions in the articles of incorporation or by-laws of the company relating to the authority of its officers to sign contracts and other similar instruments. Such provision to be acceptable should be substantially as follows in effect:

" * * * The president (or other officer) shall sign and execute all bonds, contracts, agreements, and other obligations in the name of the company. * * * "

(2) A certified copy of a resolution of the board of directors giving the requisite authority to the signing officer. If there is no such existing resolution and one is required, it should be passed by the board of directors before the instrument is executed. The following is suggested as a form for such a resolution:

**"Resolved that the _____ of this company
(Officer's title.)
be, and he hereby is, authorized and empowered to make, sign, execute, and deliver, for and in behalf of this company, and as its act and deed, any and all options, deeds, contracts, stipulations, bonds, or other instruments between this company and the Secretary of the United States Department of Agriculture, or the Forester or other duly authorized representative of such Secretary."**

In every case, the copy of the resolution, article of incorporation, or by-law should be followed by a certificate by the secretary of the company, under the corporate seal. The following is given as a form for such certificate:

**I, _____, secretary of the _____ Company, do hereby certify that the foregoing is a true copy [of the article of incorporation (or of the by-law, as the case may be) which pertains to the powers of the _____ of said company;] or [of
(Title of officer.)**

a resolution, and of the whole thereof, passed by the board of directors at a directors' meeting, duly called and assembled, and at which a quorum was present;] that said article of in-

corporation (by-law or resolution, as the case may be) was
on the _____ in full force and effect; and that
(Date of executing contract.)
on said date _____ was
(Name of person signing instrument.)
the _____ of the said company.
(Title.)

IN WITNESS WHEREOF, I have hereunto subscribed my
name as secretary of the _____ Company and
affixed the corporate seal of said company this ____ day of
_____, 191__.

_____,
[CORPORATE SEAL.]

Secretary of the _____.

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