



ANALYSIS

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1958, No. 7—*Local*

An Act to validate an agreement between the Corporation of the Mayor, Councillors, and Citizens of the City of Invercargill, the Corporation of the Mayor, Councillors, and Citizens of the Borough of Bluff, the Bluff Harbour Board (now known as the Southland Harbour Board), the Southland Cooperative Phosphate Company Limited, and the Corporation of the Chairman, Councillors, and Inhabitants of the County of Southland; and to amend the Bluff Borough Council and Bluff Harbour Board Empowering Act 1952 [29 August 1958]

WHEREAS the Corporation of the Mayor, Councillors, and Citizens of the City of Invercargill, the Corporation of the Mayor, Councillors, and Citizens of the Borough of Bluff, the Bluff Harbour Board (now known as the Southland Harbour Board), the Southland Cooperative Phosphate Company Limited, and the Corporation of the Chairman, Councillors, and Inhabitants of the County of Southland have executed a memorandum of agreement, a copy whereof is set out in the Schedule to this Act, whereby the Invercargill City Council has agreed to construct and maintain a water-supply pipeline from Invercargill to Bluff and to supply

water to other parties to the said memorandum of agreement: And whereas it is necessary to obtain legislative authority to validate and confirm the said memorandum of agreement and to authorise and empower the local authorities who were signatories thereto to carry out and perform the terms of the said memorandum of agreement:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Bluff Water Supply Act 1958.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Bluff Corporation” means the Corporation of the Mayor, Councillors, and Citizens of the Borough of Bluff:

“Board” means the Southland Harbour Board, heretofore known as the Bluff Harbour Board:

“Invercargill Corporation” means the Corporation of the Mayor, Councillors, and Citizens of the City of Invercargill:

“Principal Act” means the Bluff Borough Council and Bluff Harbour Board Empowering Act 1952:

“Southland Corporation” means the Corporation of the Chairman, Councillors, and Inhabitants of the County of Southland:

“Water agreement” means the memorandum of agreement dated the sixteenth day of December, nineteen hundred and fifty-seven, made between the Invercargill Corporation, the Bluff Corporation, the Board, the Southland Cooperative Phosphate Company Limited, and the Southland Corporation.

3. Validating agreement with respect to the supply of water—(1) The water agreement is hereby validated and confirmed, and the Invercargill Corporation, the Bluff Corporation, the Board, and the Southland Corporation respectively shall always be deemed to have had power to enter into and execute the same, and the same is hereby declared to be binding on the Invercargill Corporation, the Bluff Corporation, the Board, and the Southland Corporation according to the tenor thereof.

(2) Notwithstanding anything in any Act, the Invercargill Corporation, the Bluff Corporation, the Board, and the Southland Corporation are hereby respectively authorised and required to carry out, perform, fulfil, and keep all the terms, conditions, and provisions set out in the water agreement.

4. Instalments of purchase price under principal Act suspended—From and after the commencement of the supply of water by the Invercargill Corporation to the Bluff Corporation under the terms of the water agreement, payment of such of the half-yearly instalments as shall remain to be paid by the Bluff Corporation to the Board pursuant to section three of the principal Act shall be suspended for five years from the respective dates provided for payment thereof:

Provided that the Bluff Corporation shall pay to the Board interest on the balance of the purchase price for the time being owing at the rate and on the instalment dates set out in the said section three, such interest to commence on the half-yearly instalment date immediately preceding the date of such commencement of supply and to be payable for a period of five years thereafter.

5. Price payable by the Board for water—(1) Notwithstanding anything in clause three of the Fourth Schedule to the principal Act, the price payable by the Board to the Bluff Corporation for water supplied to the Board by the Bluff Corporation shall be three shillings per thousand gallons during the period of six years from the date on which water is first supplied by the Invercargill Corporation to the Bluff Corporation under the terms of the water agreement. Upon the expiration of the said term of six years, and thereafter every five years, the price payable by the Board to the Bluff Corporation for water supplied shall be reviewed, and the price per thousand gallons for the ensuing period of five years shall be determined by agreement between the Board and the Bluff Corporation, and failing agreement there shall be deemed to be a dispute and the provisions of section eight of the principal Act shall apply.

(2) Pending determination, whether by agreement or otherwise, of the price payable by the Board for water supplied for any of the said periods of five years the Board shall pay to the Bluff Corporation the price last so payable:

Provided that if on the determination of the price per thousand gallons payable for any such period there shall be any increase or decrease in the price theretofore payable the Board shall pay to the Bluff Corporation the amount underpaid, or the Bluff Corporation shall repay to the Board the amount overpaid, as the case may be, from the commencement of such period.

6. Principal Act amended—(1) Clause two of the Fourth Schedule to the principal Act is hereby repealed.

(2) The provisions of clause three of the Fourth Schedule to the principal Act shall cease to apply as from the date on which water is first supplied by the Invercargill Corporation to the Bluff Corporation under the terms of the water agreement.

SCHEDULE

MEMORANDUM OF AGREEMENT

MEMORANDUM OF AGREEMENT made the 16th day of December 1957 BETWEEN THE CORPORATION OF THE MAYOR COUNCILLORS AND CITIZENS OF THE CITY OF INVERCARGILL (hereinafter called "the City Council") of the first part THE CORPORATION OF THE MAYOR COUNCILLORS AND BURGESSES OF THE BOROUGH OF BLUFF (hereinafter called "the Bluff Borough Council") of the second part THE BLUFF HARBOUR BOARD of the third part AND THE SOUTHLAND CO-OPERATIVE PHOSPHATE COMPANY LIMITED a company incorporated under the Companies Acts and having its registered office in Invercargill (hereinafter called "the Phosphate Company") of the fourth part AND THE CORPORATION OF THE CHAIRMAN COUNCILLORS AND INHABITANTS OF THE COUNTY OF SOUTHLAND (hereinafter called "the County Council") of the fifth part.

WHEREAS the City Council is developing for its own purposes a new water supply which it is believed will be more than adequate for the requirements of the City for many years AND WHEREAS the Bluff Borough Council, the Bluff Harbour Board and the Phosphate Company are in urgent need of greater supplies of water than are at present available to them AND WHEREAS under the provisions of the Local Government Commission Act 1953 the Local Government Commission met representatives of the parties hereto and other interested parties in Invercargill on the 29th day of May 1957 AND WHEREAS the said Local Government Commission has with the approval of the parties hereto recommended that certain decisions and agreements of the parties be embodied in this Agreement and that any of the matters agreed to which may be found not to be within the existing powers of the local bodies concerned shall be the subject of empowering legislation to be submitted to Parliament as soon as convenient NOW THIS AGREEMENT WITNESSETH and it is hereby agreed and declared by and between the parties hereto as follows:

(1) The City Council shall for the purposes of carrying out the terms of this agreement be the Water Supply Authority and shall construct and maintain a water supply pipeline from its existing waterworks within the City to a point (to be agreed upon) within the boundary of the Bluff Borough, such pipeline to be of a nominal internal diameter of ten inches (10").

(2) The City Council shall immediately apply for the necessary authority to raise a loan of sufficient money to construct the said pipeline, and shall raise such moneys when authority is granted and shall supply to all parties to this agreement an Audited detailed statement of loan disbursements.

Loan disbursements shall include the cost of the raising of the said loan by the City Council.

(3) The City Council shall establish a separate account in its books in connection with the said pipeline to which shall be debited the following items:—

- (a) The annual charges on the said loan together with any costs of loan redemptions payable by the City Council full itemised and as sanctioned by the Local Authorities Loans Board.

SCHEDULE—*continued*

(b) The cost of maintenance of the said pipeline by the City Council (including losses of water in course of transit). The City Council agrees to debit the said account with only the actual maintenance costs for the first five years, but after that period maintenance will be charged at the rate of 1% of the actual cost of the pipeline.

(4) The City Council shall supply the parties hereto and all other consumers with such quantities of water as such parties and other consumers within their districts shall require (within the capacity of the said pipeline augmented when necessary by additional pumping equipment) for the price of elevenpence (11d.) per thousand gallons for a period of five years from the commencement of supply, and thereafter at such price as shall be agreed upon between the parties following the completion of negotiations or arbitration as set out in Clause 13 of this agreement.

As Water Supply Authority the City Council shall ensure that any bulk draw-off from the pipeline shall not cause the delivery pressure to fall below 2 lbs/sq. inch at the end of the pipeline as defined in Clause 1 hereof.

(5) That in the event of any emergency the Invercargill City Council as the Supply Authority shall take immediate steps to remedy any defect and may draw water from the storage of the Bluff Borough Council to serve the needs of the other consumers on the pipeline as well as the City supply. All water so drawn from the Bluff Borough Council supply shall be measured through a water meter and shall be returned free of cost to the Bluff Borough Council by the Supply Authority.

The quantity of water so drawn from the Bluff Borough Council and the rate of the draw off shall be limited so as not to reduce the Bluff Borough Council storage or pressure to a dangerous level. The dangerous level is defined as a storage of less than 2,000,000 gallons and a pressure at the Bluff Borough Council yard of less than 50 lbs per square inch steady pressure. Other consumers requirements shall be restricted to their minimum needs during any such period of emergency.

(6) In order to reimburse to the City Council the capital and maintenance costs of the said pipeline, a "user payment" of One shilling (1/-) per thousand gallons shall be paid by the consumers supplied from the said pipeline in addition to the said price of elevenpence (11d.) per thousand gallons such "user payment" to be credited to the said special account in the books of the City Council to continue at the said rate of One shilling (1/-) per thousand gallons for a period of five (5) years from the commencement of supply and may then be reviewed by all parties to this Agreement if the financial position disclosed upon the operation of the provisions of Clause 13 of this Agreement shall make review necessary.

(7) The Bluff Borough Council hereby guarantees and agrees with the City Council that it will in each of the first five years from the commencement of supply of water hereunder pay to the City Council by way of user payment a minimum of Two Thousand Pounds (£2,000) being a guaranteed user payment for such amount of water as shall be supplied to the Bluff Borough Council in each of such years up to Forty million gallons, but if the supply shall exceed forty million gallons in any

SCHEDULE—*continued*

such year the user payment shall be increased accordingly at the rate of One shilling (1/-) for each thousand gallons or part thereof supplied in excess of the said quantity of forty million gallons.

(8) The Phosphate Company hereby guarantees and agrees with the City Council that it will in each of the first five years from the commencement of supply of water hereunder pay to the City Council by way of user payment a minimum of One thousand five hundred pounds (£1,500) being a guaranteed user payment for such amount of water as shall be supplied to the Phosphate Company in each of such years up to Thirty million gallons, but if the supply shall in any such year exceed Thirty million gallons the user payment shall be increased accordingly at the rate of One shilling (1/-) for each thousand gallons or part thereof supplied in excess of the said quantity of thirty million gallons.

(9) The County Council hereby guarantees and agrees with the City Council that it will in each of the first five years from the commencement of supply of water hereunder pay to the City Council by way of user payment a minimum of One hundred pounds (£100). This amount of the user payment made annually by the Southland County Council shall be reduced by the sum of all of the user payments received annually by the Supply Authority from users who are ratepayers of the Southland County Council other than the Southland Co-operative Phosphate Company who is a party to this agreement.

(10) The water supplied to consumers between the boundaries of the City and the Bluff Borough shall be metered at the point of supply on the main pipeline and the water supplied to the Bluff Borough Council shall be metered at the point where the main pipeline crosses the Bluff Borough boundary or at such point within the said boundary as shall be agreed upon between the City Council and the Bluff Borough Council, and the City Council shall be entitled to charge the users concerned reasonable meter rents for meters so installed.

(11) The City Council shall allow the officers of the Bluff Borough Council, the Phosphate Company and the County Council to inspect and check the readings of the respective meters which concern them.

(12) The Bluff Harbour Board hereby undertakes and agrees with the City Council that it will within 30 days after the delivery by the City Council to the Bluff Harbour Board of each year's duly audited account of the transactions recorded in the special account referred to in Clause 3 hereof during the period of five years from the commencement of supply pay to the City Council as a service charge for water supplied the amount of any deficiency disclosed by the annual balance of the aforesaid special account.

(13) The parties hereto will at the expiration of the said period of five years from the date of commencement of supply reconsider the matters of future payments, charges and guarantees and the disposition of any surplus in the said special account but if the parties themselves cannot reach agreement such matters shall be referred either to the Local Government Commission or to such other tribunal as shall be directed by the Minister of Internal Affairs to be set up for the purpose of determining such matters and assisting the parties hereto to reach a further agreement.

SCHEDULE—*continued*

During any reconsideration or arbitration to determine the future payments and charges, the following matters shall be taken into consideration and the Supply Authority shall keep accounts in such a way as to make all the appropriate figures readily available:

(a) The actual costs of the production of water for the preceding period including itemised working expenses and maintenance and interest on capital involved as well as Depreciation on Plant and also including that on new capital for additional development works but not including any expenditure on City reticulation.

(b) Any known increases in any part of the cost of production that will be incurred during the term of the revised agreement.

(c) Any other relevant matters or items.

After the initial period of five (5) years, revisions of payments and charges shall be effected every five (5) years.

The Common Seal of the City of Invercargill was hereunto affixed this 8th day of January 1958, in the presence of [L.S.]

“Adam L. Adamson”, Mayor.

“L. A. Best”, Town Clerk.

The Common Seal of the County of Southland was hereunto affixed this 28th day of February 1958, in the presence of [L.S.]

“Wm. Baird”, Chairman.

“H. C. Gimblett”, County Clerk.

The Common Seal of the Borough of Bluff was hereunto affixed this 6th day of February 1958, in the presence of [L.S.]

“H. J. Burke”, Mayor.

“B. O. S. Jones”, Acting Town Clerk.

The Common Seal of the Bluff Harbour Board was hereunto affixed this 28th day of January 1958, in the presence of [L.S.]

“E. N. Adams”, Chairman.

“J. Dixon”, Member.

“N. D. Cullen”, Secretary.

The Common Seal of the Southland Co-operative Phosphate Company Ltd. was hereunto affixed this 21st day of March 1958, in the presence of [L.S.]

“H. G. Pinkney”, Director.

“R. H. Lines”, Secretary.