

NASEBY. 5768 N

5768

No. 5768

Dated 2nd May 1938, 192

UNDER THE MINING ACT, 1926.

APR 25 1938

WARDEN

TO

HIS MAJESTY THE KING

License for a Dam.

DEPARTMENT OF MINES

Registered at the Office of the  
Mining Registrar **NASEBY**  
at **108** W. O. **4.5.38**  
A.S. No. **5768**  
**Anderson**  
DEPUTY Mining Registrar.

Application No: 43/37  
Filed: 8.12.37  
Marked out: 2.12.37 at 12.30 p.m.  
Solicitor: W.A.Harlow.

License No. 5768.

[Form 33 (Reg. 33).

Under the Mining Act, 1926.

## LICENSE FOR A DAM.

PURSUANT to the Mining Act, 1926, I, the undersigned, \_\_\_\_\_

Henry James Dixon, a Warden of the Otago

(1) Full name, residence, and occupation.

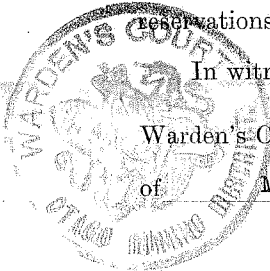
Mining District, do hereby grant to<sup>(1)</sup> His Majesty the King, \_\_\_\_\_

this License for a dam, as specified in the First Schedule hereto.

This License is granted for a term of 42 years, commencing on the date hereof, subject to the terms, conditions, reservations, and provisions set out in the aforesaid Act and the regulations thereunder, and also to such additional terms, conditions, reservations, and provisions as are specified in the Second Schedule hereto.

In witness whereof I have hereunto subscribed my name, and affixed the seal of the

Warden's Court at Naseby, this 2nd day of May, 1928



### FIRST SCHEDULE.

(2) Set out locality of dam, and nature of proposed work as set forth in application, modified, however, so as to accord with the grant, adding such other particulars as are necessary, including plan of land, if surveyed, and purpose for which water is to be used.

(2) On Crown Lands (Runs 227A and 586) in Block 111 St. Bathans District commencing at the Falls on the Manuherikia River and extending upstream for approximately 1½ miles to just short of <sup>the</sup> Gate Creek Junction and taking in all lands adjacent to the said river to 1845 feet contour. Pegs marked A  
Length of dam wall: 510 feet, Greatest height of same: 110 feet  
Breadth of same at base: 320 feet. Length and width of water area: 115 chains x 27 chains (average) 316 acres. Estimated time and cost of construction: 4 years £110,000 Purpose for which water is to be stored: Irrigation and domestic.

CONSENTED TO

at Wellington  
this 29th day of March 1928.

for H. K. A. Agan  
Minister of Mines

H. J. Dixon  
Warden

SECOND SCHEDULE.

(1) Set out additional terms, &c., if any.

(1)

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[ F.R. / 7/27-6372 ]

Warden.

Transfer  
 The Crown  
 to  
 Omakau Area Irrigation Co Ltd

Otago Regional Council	
Noted Permit Transfer	
No. ....	• 1357 W
On .....	8 July 1990
By .....	Ann 21



This is a Deemed Permit pursuant to Sections 413-417 of the Resource Management Act 1991.

Name: Omakau Area Irrigation Company Limited

Address: C/- Checketts McKay, 31 Tarbert Street, Alexandra

to dam the Manuherikia River

for the purpose of storing water for irrigation and domestic supply.

for a term expiring 1 October 2021

Location: Manuherikia River, above Fiddlers Flat.

Legal description of land adjacent to consent location: Pt. Run 227A and Section 12, Block III St. Bathans Survey District.

Map reference: NZMS 260 H41:653-881

This document is a deemed permit within the meaning of Section 413-417 of the Resource Management Act 1991. It is granted in substitution of Dam licence 5768N, which was granted at the Warden's Court in Naseby on 2<sup>nd</sup> May 1938.

**Note:**

1. That the dam authorised by this permit is for the following dimensions:  
Height of dam wall: 33.5 metres  
Surface area of stored water: 135 hectares

**Condition:**

Appended is a schedule of provisions from the former Water and Soil Conservation Amendment Act 1971 that may apply to this deemed permit.

Issued at Dunedin this 17<sup>th</sup> day of September 2002

Marian Weaver  
**Manager Consents**



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## Water and Soil Conservation Act Amendment 1971

In this context "current mining privilege" means:

- (a) Any mining privilege in respect of water which was subsisting or in force immediately before 1 April 1973 and which was granted under the Mining Act 1926 after 9 September 1966, and
- (b) Any mining privilege in respect of water which was so subsisting or in force and which was granted under the Mining Act 1926 or any former Mining Act on or before 9 September 1966 to the extent that it has been authorised under S 21(2) of the WSCA 1967 (as amended by WSCA amd 1969).

S4 **Water Race Licence** – Every current mining privilege that is a water race licence shall during its currency entitle the holder of the privilege to cut, construct, and maintain a water race, or to use as a water race any natural channel, on the land specified in and in accordance with the conditions of the licence; and also, by means of the race, to divert and use the quantity of water specified in the licence from any watercourse on or running through or adjoining the land in order to continue to supply, sell or dispose of the water for any of the purposes specified in the licence:

provided that where any such licence was granted before 10 September 1966 the diversion and use of water shall be restricted to the extent that it has been authorised under S 21(2) WSCA 1967 (as amended by WSCA amd 1969).

S5 **Dam Licence** – Every current mining privilege that is a dam licence shall, during its currency, entitle the holder of the privilege to excavate, construct, maintain and use a dam in accordance with conditions of the licence for the storage of water for any of the purposes specified in the licence:

provided that where any such licence was granted before 10 September 1966 the volume of water stored shall not exceed that authorised under S 21(2) WSCA 1967 (as amended by WSCA amd 1969).

S6 **Drainage Area Licence** – Every current mining privilege that is a drainage area licence shall during its currency, entitle the holder of the privilege to the exclusive right to collect and store the water that naturally lies within, or falls upon or percolates through the area of land specified in the licence:

provided that where any such licence was granted before 10 September 1966 the collection and storage of water shall be restricted to the extent that it has been authorised under S 21(2) WSCA 1967 (as amended by WSCA amd 1969).

S7 **Tail-Race Licence** – Every current mining privilege that is a tail race licence shall during its currency entitle the holder of the privilege to cut, construct, and use as a race in order to carry off water tailings, sludge, and other refuse or waste from mining operations within the meaning of the Mining Act 1971, or to serve as a ground sluice or race for saving gold:

provided that the holder of the privilege shall not be entitled to treat any portion of the tail race as a ground sluice or race for saving gold:

provided that where any such licence was granted before 10 September 1966 the carrying off of the water, tailings, sludge and other refuse or waste shall be restricted to the extent that it has been authorised under S 21(2) WSCA 1967 (as amended by WSCA amd 1969).

S8 **Main Tail-Race Licence** – Every current mining privilege that is a main tail race licence shall during its currency entitle the holder of the privilege to cut, construct, and maintain a race in order to carry off from such claims or tail races as are specified in the licence any water, tailings, sludge, and other refuse or waste from mining operations within the meaning of the Mining Act 1971:

provided that where any such licence was granted before 10 September 1966 the carrying off of the water, tailings, sludge and other refuse or waste shall be restricted to the extent that it has been authorised under S 21(2) WSCA 1967 (as amended by WSCA amd 1969).

S9 **Mining Debris, etc, not to enter public water supply –**

- (a) It shall not be lawful to allow the water in any water race, or any watercourse with which any such race is connected or by which it is fed, to be used for the carrying off of any tailings, mining debris, or waste water from mining operations within the meaning of the Mining Act 1971, if the race is held and used by a local authority for the purpose of supplying water to the public:

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- (b) (a) above shall not apply in the case of any watercourse duly proclaimed under the Mining Act 1926 or any former Mining Act as a watercourse into which tailings, mining debris, or waste water may be discharged, nor in the case of any tail race lawfully discharging into any watercourse below the point at which any water race is connected with or fed by the watercourse and the discharge of the tail race does not, except in unforeseeable circumstances, back up and enter any water race with which it is connected.
- S10 **Occupation of land for construction, etc of race or dam.** For the purposes of the construction, maintenance and improvement of any race or dam for which a current mining privilege has been granted, and for the deposit of soil and other matter removed from the race or dam, the privilege shall, during the currency thereof, entitle the holder of the privilege to occupy the land forming the course of the race or, as the case may be, the site of the dam, and also such other land as is specified in that behalf in the privilege.
- S11 **Retention of right of priority** – Every holder of a current mining privilege who holds a right that was conferred by the Mining Act 1926 or any former Mining Act, and was in force at April 1973 entitling him to exercise the privilege with priority over any other user of water shall retain that right of priority during the currency of the privilege and of any right granted to him under the WSCAA 1967 in substitution for the privilege on its expiry, until he agrees in writing to a lower order or priority in respect of the privilege and the agreement is notified in writing to the consent authority.
- S12 (1) On the application in writing of a holder of a current mining privilege, the consent authority shall supply the holder with a certificate in writing as to the order of priority, as disclosed by its records, of the privilege in relation to any other current mining privilege or right granted under the principle Act.
- (2) Every certificate given under this section shall be admitted by all Courts as sufficient evidence of the order of priority specified therein in the absence of proof to the contrary.
- S13 **Exercise of priority** – In any case where the water flowing in any watercourse is insufficient to supply fully all the races lawfully connected therewith, the holder of any right granted or authorised under WSCA 1967 or the holder of any current mining privilege in respect of the watercourse shall, on receipt of a notice in writing from the holder of a superior privilege stating that the supply of water in respect of the superior privilege is less than he is entitled to, forthwith cease to use the water or so much thereof is required to make up the full supply in respect of the superior mining privilege; and, if he fails or neglects to do so, he shall be deemed to be wrongfully using the water, in which case the holder of the superior privilege shall be entitled, in any Court of competent jurisdiction, to recover damages for loss of water, and also to restrain by injunction the holder from wrongfully using the same.
- S14 **Obligations of holders of current mining privileges** –
- (1) Except as otherwise provided in the WSCA 1967 or as authorised by a current mining privilege, the holder of any such privilege shall, as such holder:
- (a) Not alter the intake of the water, or use for diverting the water any race other than the race authorised by the privilege:
- (b) Not exercise the privilege except for the purpose authorised thereby:
- (c) Not exercise the privilege in such a manner as to injure directly any structure, building, bridge, or public road:
- (d) Take such action as the consent authority may direct to prevent any water that he may lawfully divert from running to waste:
- (e) Not have any right or remedy whatsoever against any person in respect of the discharge of tailings, debris, refuse, or waste water into any watercourse by that person in the lawful carrying on of mining operations within the meaning of the Mining Act 1971:
- (f) Comply fully with all conditions and restrictions attaching to the privilege, except to the extent that any may be dispensed with in writing by the consent authority for such period as the consent authority may specify:
- (g) Maintain in good repair, order, and condition, to the satisfaction of the consent authority, all bridges and culverts permitting public or private access over water races which have been constructed to enable the privilege to be exercised:
- (h) Record in such manner, and furnish to the consent authority such information in respect of the exercise of the privilege as the consent authority may from time to time require.
- S16 (1) No current mining privilege shall confer any right to the use of natural water as against any person requiring a reasonable quantity for his own domestic needs or for the needs of

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animals for which he has any responsibility or for or in connection with fire-fighting purposes.

- (2) *In the event of any dispute arising as to what constitutes a reasonable quantity of water for the purposes of subsection (1) of this section, the consent authority, after hearing the parties to the dispute, shall determine the matter; and the consent authority, after hearing the parties to the dispute, shall determine the matter; and the consent authority's decision shall be final and conclusive.*
- S19(1) *The Governor-General may take, purchase or acquire any current mining privilege as for a public work under the Public Works Act 1981 as otherwise, and hold, sell or lease or otherwise dispose of the privilege to any person in the same manner in as respects as if he were a private person.*
- S19(4) *A current mining privilege held by or on behalf of the Crown shall not be determinable by the effluxion of time, but shall notwithstanding anything in this Act, continue in force until surrendered by the Crown by notice in writing to the consent authority.*
- S19(5) *The Crown or any duly authorised person on the Crown's behalf may use or authorise the use of any current mining privilege held by the Crown for any purpose in connection with a public work or for any purpose for which it was being used at the commencement of this Part of this Act.*
- S23(1)(b) *A current mining privilege held by a local authority shall not be determinable by the effluxion of time, but shall continue in force notwithstanding the expiry of the term for which it was granted, until it is surrendered by the local authority by notice in writing to the consent authority.*
- S30 (1) *The consent authority shall, on payment of the prescribed fee, furnish to any person applying for it, a certified copy of any current mining privilege held by the consent authority under this Part of this Act.*
- (2) *Every such certified copy shall be received in evidence for all purposes for which the original privilege might be put in evidence.*
- S32 (1) *On the receipt by the District Land Registrar of:*
- (a) *A surrender under the principal Act of all or part of a current mining privilege; or*  
(b) *A copy of an order of the Court cancelling the current mining privilege – he shall note the particulars on his record copy of the privilege affected.*
- (2) *If a current mining privilege has been wholly surrendered, or has been cancelled by the Court, and notice of the existence of the privilege appears on a certificate of title, lease, licence to occupy, provisional register, or other instrument of title under the Land Transfer Act 1952, the District Land Registrar shall, on receipt of notice of the surrender or cancellation from the consent authority, note the certificate of title, lease, licence to occupy, provisional register, or other instrument, to the effect that the privilege has been surrendered or cancelled, as the case may be.*