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**ELIZABETHAE II REGINAE**

A.D. 1953

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**No. 39 of 1953.**

An Act to authorize the execution by the Premier of South Australia of an Agreement intended to be made between the Premier of New South Wales, the Premier of South Australia and the Broken Hill Water Board for the purpose of enabling the Government of South Australia to obtain a Water Supply for Radium Hill from the Broken Hill Water Board, and purposes incidental thereto.

[Assented to 17th December, 1953.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

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| Short title.                             | 1. This Act may be cited as the " Radium Hill Water Supply Agreement Act, 1953 ".   |
| Commencement.                            | 2. The provisions of this Act other than sections 1 and 2 thereof shall come into force on a day to be fixed by proclamation.   |
| Execution and ratification of agreement. | 3. The execution by the Premier of South Australia of an agreement in the form set out in the schedule to this Act is hereby authorized. Upon being duly executed an agreement in the said form shall be deemed to have been ratified by the Parliament of South Australia. |
| Powers to carry out agreement.           | 4. The Government of South Australia or such Minister or other authority as may be authorized for the purpose by the Government of South Australia may—   |

- (a) construct, reconstruct, operate and maintain in the State of New South Wales the pipeline pumping station by-pass and ancillary works referred to in clause 4 of the said agreement ;
- (b) construct and carry out any other works and operations, and enter into any transaction, and do or perform any acts matters and things necessary or convenient to be constructed, carried out, entered into, done or performed for the purpose of carrying the said agreement into effect.

5. Moneys appropriated by the Public Purposes Loan Act, 1953 or any subsequent Public Purposes Loan Act for uranium production may be expended for the purpose of defraying any expenditure incurred by the Government of the State under the said agreement, including expenditure for or in connection with works and operations constructed and carried out in the State of New South Wales.

Financial  
provision.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

R. A. GEORGE, Governor.

## THE SCHEDULE.

AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_ one thousand nine hundred and fifty three BETWEEN—THE HONOURABLE JOHN JOSEPH CAHILL Premier of the State of New South Wales for and on behalf of that State of the first part THE HONOURABLE THOMAS PLAYFORD Premier of the State of South Australia for and on behalf of that State of the Second part and THE BROKEN HILL WATER BOARD the body corporate constituted by the Broken Hill Water and Sewerage Act, 1938-1951 (hereinafter called "the Board") of the third part WHEREAS the Government of South Australia is desirous of obtaining a supply of water from the Board for use at Radium Hill within the State of South Australia and to that end has requested the Premier of the State of New South Wales and the Board to join in and execute this Agreement which they have agreed to do NOW IT IS HEREBY AGREED as follows :

Submission to Parliament.

1. Each of the Contracting Governments shall take every practicable step to have this Agreement ratified by its Parliament during the present Session of such Parliament, or if such Parliament is not in session at the date of this Agreement then at the first session of such Parliament held after the date of this Agreement.

Commencement and duration.

2. This Agreement shall come into force upon the date of commencement of the Acts of the Parliaments of the State of New South Wales and South Australia, ratifying the provisions hereof and shall continue in force for a period of ten years and thereafter unless and until determined by either of the Contracting Governments or the Board giving to the other parties hereto at any time twelve months previous notice in writing of determination which notice may be given at any time on or after the commencement of the last year of the said period of ten years.

New South Wales ratifying legislation.

3. (1) The Act ratifying this Agreement by the Parliament of the State of New South Wales shall—

(a) authorize the Government of South Australia to construct reconstruct operate and maintain within the State of New South Wales a pipeline and ancillary works between the Umberumberka Storage Area (being the land resumed by Notification published in the New South Wales *Government Gazette* on the 12th day of July 1911) and the South Australian Border, a pipeline pumping station and ancillary works within the Umberumberka Storage Area : and a pipeline to by-pass the Board's service reservoir situate at Blue Anchor Hill on land resumed by Notification published in the New South Wales *Government Gazette* on the 5th day of November, 1913 (which lastmentioned pipeline is hereinafter referred to as the "by-pass") :

(b) authorize the resumption by the Governor of New South Wales, under the Public Works Act, 1912, as amended by subsequent Acts, of all land and all easements rights or privileges in over or affecting land required in New South Wales but outside the Umberumberka Storage Area aforesaid for or incidental to any pipelines and ancillary works to be constructed under this Agreement and for the vesting of such land easements rights and privileges in the State of South Australia or any corporation constituted by or under any Act of the Parliament of the State of South Australia as may be nominated for that purpose by the Governor of South Australia.

(2) The Government of South Australia will at the request of the Minister for Public Works of the State of New South Wales pay to the said Minister for Public Works all and every sums and sum of money that may become due or payable by Her Majesty or the said Minister for Public Works in connection with or in respect of or incidental to any and every resumption effected under the preceding provisions of this Clause whether as compensation money interest costs charges expenses damages or otherwise howsoever.

South Australia ratifying legislation.

4. The Act ratifying this Agreement by the Parliament of the State of South Australia shall authorize the Government of South Australia to construct, reconstruct, operate and maintain the said pipeline, pumping station, by-pass and ancillary works within the State of New South Wales.

5. (1) The Board will grant free of charge to the Government of South Australia a licence to construct, reconstruct, operate and maintain such pumping station, pipelines and ancillary works within the said Umberumberka Storage Area as shall be necessary to enable it to fulfil this Agreement. The location of such works shall be subject to the approval of the Board.

Works constructed within Umberumberka storage area.

(2) Such licence shall include a right in the Government of South Australia to dismantle the said works and to carry away the same on the termination of this Agreement but so that the Government of South Australia shall in such dismantling and carrying away do no damage to the said Umberumberka Storage Area or shall forthwith make good any damage which it may occasion thereto AND such license shall be subject to a condition that upon the termination of this Agreement the Government of South Australia shall, if so required by the Board, dismantle and carry away all such works.

6. Subject to the provisions of this Agreement the Board shall give and the Government of South Australia shall take a supply of water at a point selected by the Board within the said Umberumberka Storage Area (which point is hereinafter referred to as "the point of supply") PROVIDED THAT the Board shall not at any time during the continuance of this Agreement be obliged to supply to the Government of South Australia more than two hundred thousand (200,000) gallons of water in any one day nor more than one million two hundred and fifty thousand (1,250,000) gallons in any one week.

Supply to be given by the board.

7. (1) The Government of South Australia shall at its own expense construct, operate and maintain the pipeline, pumping station, by-pass and all ancillary works necessary for taking supply of water at the point of supply.

South Australia to pay capital costs.

(2) The Government of South Australia will at its own cost, construct and maintain or at the option of the Board defray the cost to the Board of constructing and maintaining all works necessary to give the supply of water at the point of supply from the existing works operated by the Board.

(3) The Government of South Australia shall also defray the cost of installing or replacing meters rendered necessary for the purpose of the giving of the supply by the Board.

(4) A certificate under the hand of the Secretary-Manager of the Board or the person acting as such for the time being as to the amount of any costs incurred by the Board under sub-clauses (2) and (3) of this Clause shall be prima facie evidence thereof.

8. The Government of South Australia shall pay to the Board for water supplied under this Agreement at the rate of twenty one shillings (21/-) per thousand gallons of water supplied during the period of three years from the commencement of this Agreement and thereafter at such rates as may be prescribed as applicable to the supply under this Agreement by by-laws from time to time made under the provisions of the Broken Hill Water and Sewerage Act, 1938, as amended by subsequent Acts.

Price to be paid by South Australian Government for water.

9. The Board shall during the continuance of this Agreement deliver or post to the Government of South Australia monthly accounts showing the quantity of water supplied by the Board during the month immediately preceding and the amount payable therefor. The Government of South Australia shall, within twenty-eight days after the delivery or posting to it of each such account, pay to the Board the amount due in respect of water supplied during the month to which such account relates as shown by such account.

Rendering and payment of accounts.

10. (1) The quantity of water supplied to the Government of South Australia under this Agreement shall be measured by a tested meter to be supplied and controlled by the Board at the point of supply. The registration recorded by such meter shall be prima facie evidence of the quantity of water supplied. If the accuracy of the meter be questioned by either the Government of South Australia or the Board, the meter shall be tested by the Board and a person representing the Government of South Australia shall be entitled to attend such test. Should the test show that the meter registered inaccurately the Board shall pay the cost of such test and at its own cost have the meter adjusted so that it registers correctly or should adjustment prove to be impracticable the Board shall forthwith install another tested meter but should the test show that the meter registers correctly or within five per centum of the correct quantity (in which case it shall be deemed to register correctly) the cost of the test shall be borne by the party questioning the accuracy of the meter.

Supply by metering.

(2) In the event of a test showing that the meter registers incorrectly within the meaning of this Clause or in the event of the meter ceasing to register the quantity of water passing through it, an adjustment shall be made, as hereinafter in this Clause provided, in the amounts payable to the Board under this Agreement for water supplied, but no such adjustment shall be made in respect of any period preceding the month during which

the incorrect reading was recorded, or in which the meter ceased to register. If a reading of the meter was recorded for the corresponding period of the previous year the charge for water supplied shall be calculated on the basis of a daily consumption equal to the average daily consumption during the corresponding period of the previous year. If no reading was recorded during the corresponding period of the previous year the charge for water supplied shall be calculated upon the basis of a daily consumption equal to the average daily consumption during the month immediately preceding the month in which the incorrect registration was recorded or in which the meter ceased to register, as the case may be, and the period covered by the first monthly reading after the meter has been adjusted or replaced PROVIDED ALWAYS that in any such case the charge for water supplied may be adjusted upon such other basis as is mutually agreed upon between the Government of South Australia and the Board.

(3) No adjustment shall be made under sub-clause (2) of this Clause unless the accuracy of the meter shall have been questioned within two (2) months after the date of delivery or posting to the Government of South Australia of the account for the month in which the incorrect registration was recorded.

Interest on  
overdue  
payment.

11. In the event of any amount payable by the Government of South Australia to the Board under this Agreement not being paid within the time appointed for payment thereof such amount shall carry interest at the rate of five and one-half per centum from the due date until the date of payment thereof.

Termination  
of agreement  
on default.

12. If at any time during the continuance of this Agreement the Government of South Australia shall make default in the due payment of any moneys payable by it to the Board under this Agreement, or shall fail or neglect to observe or perform all or any of the terms and conditions herein contained and on the part of the Government of South Australia to be observed and performed and such failure default or neglect shall continue for a period of twenty-eight (28) days after written notice specifying such default failure or neglect shall have been given by the Board to the Government of South Australia, then and in any such case it shall be lawful for the Board (notwithstanding that it shall not have taken advantage of some previous default, failure or neglect of a like nature) at any time thereafter, by notice in writing to the Government of South Australia to discontinue the supply or at its option to determine this Agreement but such discontinuance or determination shall not affect any right claim or power which may have accrued to the Board or which may be enforceable by it against the Government of South Australia under or by virtue of these presents or otherwise.

Amounts to  
fall due on  
termination.

13. In case this Agreement is determined for any reason whatsoever then and in such case the whole of the moneys then owing to the Board by the Government of South Australia under this Agreement shall immediately become due and payable and that whether the time hereby appointed for payment thereof shall have arrived or not and shall be recoverable by the Board with interest at the rate of five and one-half per centum per annum.

Board not  
liable for  
failure to  
supply.

14. The Board shall not be liable in damages for any breach of this Agreement by reason of the total or partial failure or temporary cessation of the supply of water from any cause whatsoever or by reason of the fact that the water supplied is at any time unfit for dietetic purposes and the Board shall at all times be entitled to discontinue the supply whenever it deems it necessary for the efficient working of the Broken Hill Water Supply generally. The Board shall restore the supply as soon as reasonably practicable.

Arbitration.

15. If any dispute or difference shall arise between the Board and the Government of South Australia touching the meaning or construction of this Agreement or any clause herein contained or any matter or thing arising hereunder or incidental hereto or as to the rights liabilities or duties of either party hereunder the same shall be referred to two arbitrators one to be appointed by the Board and the other by the Government of South Australia in accordance with the provisions of the Arbitration Act, 1902, of the State of New South Wales, or any amendment thereof or in substitution therefor.

Notices.

16. (1) Any notice direction communication or certificate required to be or that may be given or made under this Agreement by the Board to the Government of South Australia shall be deemed to have been duly given or made if signed by the Secretary-Manager of the Board or by the person acting as such for the time being or by a person authorized by either of them and delivered to or left at the office of the Minister of Works, Victoria Square Adelaide or sent by prepaid post addressed to the Minister of Works at the said office.

(2) Any notice or communication required to be or that may be given or made under this Agreement by the Government of South Australia to the Board shall be deemed to have been duly given or made if signed by the said Minister of Works or by the person acting as such for the time being and delivered at the office of the Secretary-Manager of the Board at Broken Hill or sent by prepaid post addressed to the Secretary-Manager, Broken Hill Water Board, Broken Hill.

(3) Any notice direction communication or certificate sent by post shall be deemed to have been received at the time when the same would in the ordinary course be delivered.

17. The marginal notes placed opposite the several clauses of this Agreement and indicating or purporting to indicate the contents or objects of such clauses respectively shall not be taken as part of this Agreement or in any manner affect the construction hereof or of any clause or thing in this Agreement contained. Marginal notes.

IN WITNESS whereof the parties hereto have executed these presents the day and year first before written

SIGNED SEALED AND DELIVERED by the  
said THE HONOURABLE JOHN JOSEPH  
CAHILL the Premier of the State of New  
South Wales in the presence of :

SIGNED SEALED AND DELIVERED by the  
said THE HONOURABLE THOMAS  
PLAYFORD the Premier of the State of  
South Australia in the presence of :

THE COMMON SEAL OF THE BROKEN HILL  
WATER BOARD was affixed hereto in the  
presence of a quorum of the Board on  
the

day of  
1953

As witness the hands of

and  
two of the Members in whose presence  
the Seal was so affixed :