

[AS REPORTED FROM THE PLANNING AND DEVELOPMENT
COMMITTEE]

House of Representatives, 30 June 1992.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. W. Rob Storey

LAKE PUKAKI WATER LEVEL EMPOWERING

ANALYSIS

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A BILL INTITULED

An Act to authorise the Electricity Corporation of New Zealand Limited to control and operate Lake Pukaki, and to take and use water from Lake Pukaki, below the level of 518.00 metres above mean sea level

WHEREAS—

- (a) There is an extremely serious water shortage in the Electricity Corporation of New Zealand Limited's hydro reservoirs:
- 10 (b) The water permit for the control and operation of Lake Pukaki provides for a minimum level in the lake of 518.00 metres above mean sea level:
- (c) The lowering of the minimum level of Lake Pukaki to 513.00 metres above mean sea level will enable some 15 300 gigawatt hours of electricity to be generated to

meet the present extremely serious electricity shortage:

- (d) The Electricity Corporation of New Zealand Limited has applied to the Canterbury Regional Council to change the terms of the water permit to lower the minimum level fixed for Lake Pukaki:

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- (e) The application cannot be dealt with in sufficient time to meet the present serious electricity shortage:

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- (e) It cannot be assumed that the Canterbury Regional Council will grant the application:
- (ea) Even if the Canterbury Regional Council does grant the application, the time within which appeals may be lodged and the time it would take to determine any appeals may result in any final decision authorising the lowering of the minimum level of Lake Pukaki to be made in insufficient time to meet the present serious electricity shortage:
- (eb) It is recognised that Lake Pukaki is an important habitat for the endangered black stilt and other threatened bird species:

- (f) It is desirable in the national interest that the Electricity Corporation of New Zealand Limited be able to lower the minimum level of Lake Pukaki below that fixed in its water permit, subject to stringent conditions, before the application to the Canterbury Regional Council could be finally determined:

BE IT THEREFORE ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Lake Pukaki Water Level Empowering Act 1992.

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

“Corporation” means the Electricity Corporation of New Zealand Limited:

“Council” means the Canterbury Regional Council:

“Effect” has the same meaning as set out in section 3 of the Resource Management Act 1991:

“Minister” means the Minister for the Environment:

“Trans Power” means Trans Power New Zealand Limited.

5 **3. Authority to lower lake level**—(1) Notwithstanding anything in Water Right Number CRC905321 granted by the Council to the Corporation on the 15th day of April 1991 (which, under section 386 of the Resource Management Act 1991, is deemed to be a water permit under that Act), the Corporation is hereby authorised to control and operate Lake Pukaki, and to take and use water from Lake Pukaki, between the levels of 513.00 and 518.00 metres above mean sea level at or about Map Reference H38:820-649 (Lake Pukaki Control Structure).

15 (2) The authority to control and operate the level of Lake Pukaki, and use water from Lake Pukaki, conferred by subsection (1) of this section between the levels of 513.00 and 518.00 metres above mean sea level shall be exercised subject to the conditions set out in the First Schedule to this Act.

20 (3) Except as provided in subsections (1) and (2) of this section, the conditions (*in*) of the said Water Permit Number CRC905321 shall continue to apply; but in the event of any conflict between the provisions of this Act and the said conditions, the provisions of this Act shall prevail.

25 **4. Restriction on authorisation**—(1) The Corporation shall (*only*) exercise the authorisation conferred by section 3 of this Act *only* while all of the conditions set out in the Second Schedule to this Act are being satisfied.

30 (2) The Corporation shall not first exercise the said authorisation unless prior written notice of its intention to do so, and its reasons for doing so, have been given to the Minister and the Council.

35 (3) While the Corporation is exercising the said authorisation, it shall provide the Minister and the Council, every (*Monday and Thursday, before midday*) Thursday, with written confirmation that the conditions set out in the First and Second Schedules to this Act are being satisfied, and provide the Minister with such other relevant written information as the Minister may from time to time require.

40 **5. Right to apply for change of conditions of water permit not affected**—Nothing in this Act shall affect the right of the Corporation to apply under the Resource Management

Act 1991 for a change of the conditions of Water Permit Number CRC905321.

6. Application of Resource Management Act 1991—

(1) The provisions of the Resource Management Act 1991 do not apply to the authorisation conferred by **section 3** of this Act. 5

(2) Except as provided in **subsection (1)** of this section, the provisions of the Resource Management Act 1991 shall continue to apply in respect of Water Permit Number CRC905321, but controlling and operating Lake Pukaki and taking and using water from Lake Pukaki in accordance with **section 3 (1)** of this Act shall not be construed as a breach of that permit. 10

7. Offences—(1) If the Corporation or Trans Power fails to comply with or acts in contravention of any provision of this Act or any of the conditions set out in the **First Schedule** or the **Second Schedule** to this Act, the Corporation or Trans Power, as the case may be, commits an offence against this Act. 15

(2) Sections 339 and 340 of the Resource Management Act 1991, with the necessary modifications, shall apply in respect of any offence against this Act. 20

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(3) An information shall not be laid against any person alleged to have committed an offence against this Act except with the consent of the Attorney-General.

8. Expiry—(1) This Act shall expire with the close of the ~~(30th day of April)~~ 31st day of January 1993, or such earlier date as may be fixed by the Governor-General by Order in Council; and on the day following the date on which this Act expires, this Act shall be deemed to be repealed. 25

(2) Notwithstanding the repeal of this Act, in accordance with **subsection (1)** of this section, the conditions set out in the **First Schedule** to this Act ~~(and **section 7** of this Act)~~, and the provisions of **section 7** of this Act, shall remain in full force and effect until all residual adverse effects resulting from the exercise of the authorisation conferred by **section 3** of this Act have been remedied. 30 35

SCHEDULES

FIRST SCHEDULE Sections 3 (2), 4 (3), 7 (1), 8 (2)

CONDITIONS OF AUTHORISATION

1. The Corporation shall reimburse the Council for its (*reasonable*) expenses in monitoring any effects on the environment as the lake level is operated between 518.00 and 513.00 metres above mean sea level. The monitoring may include lake level, delta area (aerial photography), dust generation, sediment concentrations, visual effects, fauna and flora, structures, and effects on inflow streams and associated wetlands.

2. The Corporation shall avoid, remedy, or mitigate adverse effects caused by operating Lake Pukaki between the levels of 518.00 and 513.00 metres above mean sea level.

3. On the expiry of this Act, the Corporation shall provide the Council with a report on the (*adverse*) effects of operating Lake Pukaki between the levels of 518.00 and 513.00 metres above mean sea level, and of any further action required to remedy or mitigate any adverse effects which have not been remedied or mitigated on the expiry of this Act.

4. The Corporation shall carry out such remedial work as the Council, after considering the report provided to it under clause 3 of this Schedule, considers reasonably necessary to remedy any adverse effects caused by operating Lake Pukaki between the levels of 518.00 and 513.00 metres above mean sea level.

5. Before exercising the authorisation conferred by section 3 of this Act, the Corporation shall lodge a bond of \$1,000,000 with the Council.

6. If the Corporation fails to comply with the conditions set out in (*clauses 2 and 4*) clause 2 or clause 4 of this Schedule to the satisfaction of the Council, the Council may itself carry out the work it considers necessary and reimburse itself from the money payable under the bond.

7. The provision of the bond and the carrying out of any work by the Council pursuant to clause 6 of this Schedule shall not prejudice or affect the Corporation's obligation to comply with clauses 2 and 4 of this Schedule.

SECOND SCHEDULE

Sections 4 (1), (3), 7 (1)

CONDITIONS RELATING TO EXERCISE OF AUTHORISATION

1. Trans Power shall transmit electricity to the South Island through the Cook Strait high-voltage direct current links to the fullest extent possible consistent with reasonable and prudent system operating practice.

2. The Corporation shall provide Trans Power with all the electricity it may reasonably require to comply with clause 1 of this Schedule.

3. The Corporation shall use its best endeavours to achieve and sustain, in co-operation with its customers, all reasonable voluntary reductions in the use of electricity (*by those customers*).

4. The Corporation shall have used all other hydro storage in the South Island, which the Corporation is permitted to use, consistent with reasonable and prudent (*operating practice*) system operating and water-management practice:

SECOND SCHEDULE—*continued*CONDITIONS RELATING TO EXERCISE OF AUTHORISATION—*continued*

Provided that nothing in this clause shall be construed as requiring or permitting the Corporation to depart from the operating guidelines promulgated in the *Gazette* pursuant to section 4A of the Manapouri-Te Anau Development Act 1963.