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QUEEN'S VALLEY RESERVOIR (JERSEY) LAW, 1988.

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QUEEN'S VALLEY RESERVOIR (JERSEY) LAW, 1988.

A LAW to authorise and require the carrying out of a waterwork project in Queen's Valley by The Jersey New Waterworks Company Limited, to amend Article 6 of the Water (Jersey) Law, 1972 and to provide for ancillary matters, sanctioned by Order of Her Majesty in Council of the

23rd day of MARCH, 1988.

(Registered on the 17th day of June, 1988.)

STATES OF JERSEY.

The 13th day of May, 1986.

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

ARTICLE 1

Interpretation

(1) In this Law, unless the context otherwise requires –

“the authorised works” means the reservoir, silt pond and other works authorised and required by Article 2 and described in the First Schedule and any works, apparatus and conveniences constructed, provided or installed, and operations carried out, in connexion with, or for the purposes of, those works in pursuance of sub-paragraph (f) of paragraph (3) of Article 2 and the Second Schedule;

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“Board of Arbitrators” means the Board of Arbitrators mentioned in Article 7 of the Compulsory Purchase of Land (Procedure) (Jersey) Law, 1961;¹

“the Committee” means the Public Works Committee;

“the Company” means The Jersey New Waterworks Company Limited registered by Act of the Royal Court dated the 11th day of February, 1882 in accordance with the provisions of the “Loi(1861) sur les Sociétés à Responsabilité Limitée”;²

“deposited plan” means the plan referred to in Article 10;

“highway authority” has the same meaning as in the Roads (Administration) (Jersey) Law, 1960;³

“in”, in a context referring to works or apparatus, includes under, over, along or upon;

“land” includes houses, buildings and structures on land, water, interests in or under land or water and servitudes or rights in, on or over land or water;

“the project” means the project described in Article 2;

“Queen's Valley” means the valley described in Article 2;

“reservoir” means a reservoir for water as such and “the reservoir” means the reservoir referred to in Article 2;

“road” has the same meaning as in the Roads Administration (Jersey) Law, 1960;⁴

¹ Volume 1961–1962, page 395.

² Tomes I–III, page 232 and Volume 1968–1969, pages 111 and 118 to 120.

³ Tome VIII, page 875.

⁴ Tome VIII, page 875.

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“telegraphic line” has the same meaning as in the Telecommunications (Jersey) Law, 1972;⁵

“watercourse” includes all brooks, streams, ditches, channels, cuts, culverts, dykes, sluices and passages through which water flows.

(2) Where in this Law there is a reference to an Article or Schedule by number only, and without further identification, such reference shall be construed as a reference to the Article or Schedule of that number contained in this Law.

(3) Where in this Law there is a reference to a Work by number only, and without further identification, such reference shall be construed as a reference to the Work of that number contained in the First Schedule.

(4) Where in any Article or other division of this Law there is a reference to a paragraph, sub-paragraph or clause by number or letter only, and without further identification, such reference shall be construed as a reference to the paragraph, sub-paragraph or clause of that number or letter contained in the Article or other division of this Law in which such reference occurs.

(5) Unless the context otherwise requires, where this Law refers to any enactment, the reference is a reference to that enactment as amended, whether by this Law or by any other enactment, and includes a reference to that enactment as extended or applied by or under any other enactment, including any other provision of that enactment.

(6) Where any provision of the Company's Memorandum of Association or Articles of Association is inconsistent, or is in conflict, with the provisions of this Law, the latter shall prevail.

⁵ Volume 1970–1972, page 393 and Volume 1979–1981, page 299.

ARTICLE 2

Authorisation and requirement to carry out waterwork project in Queen's Valley

(1) Subject to the provisions of this Law, of the Island Planning (Jersey) Law, 1964⁶ and of the "Loi (1934) sur la Santé Publique",⁷ the Company is hereby authorised and required to carry out the project described in paragraph (2) and the First Schedule.

(2) The project consists of the construction of a reservoir, silt pond and other works in Queen's Valley in the Parishes of Grouville, Saint Martin and Saint Saviour as a source of supply forming part of the undertaking of the Company.

- (3) For the purposes of the project the Company may –
- (a) acquire land as provided in Article 3;
 - (b) require the appropriate highway authority to do the things provided for in Article 4;
 - (c) do temporarily in relation to any watercourse, sewer, drain, gas or water pipe, electricity cable or telegraphic line, the things provided for in Article 5;
 - (d) cause roads to be extinguished as provided for in Article 6 and the Third Schedule;
 - (e) vary the location or, as the case may be, the height of a work or part of a work described in the First Schedule where permitted to do so under Article 7;
 - (f) in connexion with, or for the purposes of, the works described in the First Schedule, carry out the works and operations and do the things described in the Second

⁶ Volume 1963–1965, page 349; Volume 1979–1981, pages 89, 319 and 320; and Volume 1982–1983, pages 245, 246, 247 and 252.

⁷ Tome VII, page 114.

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Schedule within the limits of land to be acquired shown on the deposited plan and to the extent necessary for Work No. 4, outside such limits;

- (g) impound, appropriate and use water as provided for in Article 8;
- (h) use water from the reservoir for the purposes of water supply;
- (j) from time to time within the limits of deviation permitted under Article 7 extend, enlarge, alter, replace or renew the works described in the First Schedule;
- (k) do all such other things not unlawful as may be required in order to carry out the project.

(4) Where water escapes from the reservoir the Company shall be prima facie liable for the damage which is the natural consequence of its escape.

(5) Liability under paragraph (4) shall be strict and it shall not be a defence that the water escaped without the Company's wilful act, default or neglect.

ARTICLE 3

Acquisition of land

(1) The Company may acquire by agreement any land required for the purposes of the project.

(2) The Company may acquire by compulsory purchase, in accordance with the provisions applied by paragraph (2) of Article 6 of the Water (Jersey) Law, 1972⁸ to the acquisition of land under that Article, any land required for the purposes of the project and situated within the limits of land to be acquired shown on the deposited plan.

⁸ Volume 1970–1972, page 316.

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(3) No person shall be required to sell a part only of his land if

- (a) the part which would be left (which may be outside the limits of land to be acquired shown on the deposited plan) is incapable of reasonably beneficial use;
- (b) he is willing and able to sell the whole; and
- (c) he serves notice on the Company requiring it to purchase the whole.

(4) The Company may acquire any land in the manner mentioned in paragraph (1) or in paragraph (2) belonging to the National Trust for Jersey or any other person notwithstanding that such land may be held inalienably.

(5) In this Article "the National Trust for Jersey" means the association incorporated by a Law passed by the States on 11th February, 1937 and confirmed by Order in Council dated 13th April, 1937.

(6) Where the Company acquires land in the manner mentioned in paragraph (2), paragraph (1) of Article 5 of the Compulsory Purchase of Land (Procedure) (Jersey) Law, 1961,⁹ shall not apply.

(7) On the date on which any land is acquired by the Company within the limits of land to be acquired shown on the deposited plan, any public footpath thereon shall be extinguished and the "fonds" thereof shall vest in the Company by operation of law and without conveyance.

(8) Paragraph (7) is in addition to and shall not derogate from Article 6.

(9) Where paragraph (2) applies paragraph (1) of Article 6 of the Water (Jersey) Law, 1972¹⁰ shall not apply.

⁹ Volume 1961–1962, page 393.

¹⁰ Volume 1970–1972, page 315.

ARTICLE 4

Road works; temporary closure of road or diversion of traffic

(1) Where the Company represents to a highway authority that in order to carry out the authorised works the widening or strengthening of a road is necessary or desirable, the highway authority shall with reasonable expedition carry out such works as may be required for such widening or strengthening.

(2) Where the Company represents to a highway authority that in order to carry out the authorised works a junction is required between an access road described in the First Schedule and another road, the highway authority shall with reasonable expedition carry out such works as may be required to provide such junction in accordance with plans and specifications of the access road at the said junction supplied to the highway authority by the Company.

(3) All costs reasonably incurred by a highway authority in carrying out works under paragraph (1) or (2) shall be paid to the highway authority by the Company and for the purposes of this paragraph "costs" includes direct costs, overhead expenses and cost of financing.

(4) If the highway authority does not proceed with the carrying out of works under paragraph (2) or, having begun those works, does not complete them with reasonable expedition the Company may itself carry out the works or, as the case may require, such part of the works as remains to be completed.

(5) Where the Company represents to a highway authority that in order to carry out the authorised works the temporary closure of a road or the temporary diversion of traffic from a road is necessary or desirable, the highway authority shall with reasonable expedition make the arrangements for such closure or diversion.

ARTICLE 5

Temporary diversion of watercourses and public utilities

(1) Subject to the provisions of this Article, in order to carry out the authorised works, including the excavation and disposal of materials, the Company may temporarily stop up, alter, divert or otherwise interfere with any watercourse, sewer, drain, gas or water pipe, electricity cable or telegraphic line.

(2) The powers of paragraph (1) shall not be exercised in relation to any watercourse, sewer or drain without providing a proper substitute before interrupting the passage of water or other matter therein, and the Company shall be liable to pay compensation for damage caused in the exercise of the powers aforesaid.

(3) The powers of paragraph (1) shall not be exercised in relation to any gas or water pipe, electricity cable or telegraphic line except in accordance with Article 12.

ARTICLE 6

Extinguishment of roads

(1) On and after the relevant date the several lengths of road situated within the limits of deviation shown on the deposited plan shall be extinguished.

(2) The relevant date referred to in paragraph (1) shall be ascertained in accordance with the provisions of the Third Schedule.

(3) This Article and the Third Schedule shall have effect notwithstanding the provisions of any other enactment passed before the commencement of this Law.

(4) Where, by reason of the extinguishment of a length of road under this Law, land ceases to be a road, that land (the "fonds" of the road) shall vest in the highway authority which shall forthwith make it available to the Company and sell it to it at such price as may be agreed

between them or, in default of agreement, as may be determined by a Board of Arbitrators constituted in accordance with Article 8 of the Compulsory Purchase of Land (Procedure) (Jersey) Law, 1961,¹¹ which Law shall then apply as if the land were acquired by the Company under paragraph (2) of Article 3 of this Law and notice had been given under paragraph (3) of Article 4 of the said Law of 1961.¹²

ARTICLE 7

Permissible limits of deviation

(1) Works Nos. 1 to 10 shall be constructed in the lines or situations shown on the deposited plan, but each such work may deviate from the line or situation so shown to the extent of the limits of deviation for that work so shown.

(2) Each of the following works shall be constructed to a height not exceeding the height hereinafter specified in relation thereto above the datum from which the Ordnance Survey's Bench Mark near the east pillar of the main gate at the entrance to St. Saviour's Hospital from La Route de la Hougue Bie was fixed at 53.82 metres, that is to say –

- (a) the sills of the overflow weirs forming parts of Works Nos. 1 and 3 – a height of 36 metres;
- (b) the sill of the inlet weir of the subsidiary embankment forming part of Work No. 1 – a height of 36.055 metres;
- (c) the main dam forming part of Work No. 1 – a height of 39.6 metres;
- (d) the said subsidiary embankment – a height of 38.25 metres;
- (e) the intermediate dam, Work No. 3 – a height of 39 metres;
- (f) the raising of the existing embankment forming part of Work No. 4 – a height of 40 metres;

¹¹ Volume 1961–1962, page 395.

¹² Volume 1961–1962, page 393 and Volume 1979–1981, page 373.

Provided that on constructing the works specified in subparagraphs (c) to (f), including any wall, fence or other structure on any such work, the Company may deviate upwards from the levels there specified to any extent not exceeding 2 metres.

ARTICLE 8

Power to impound water

The Company may impound, appropriate and use –

- (a) water from the catchment of the stream in Queen's Valley which may be taken or intercepted by means of the reservoir; and
- (b) water which belongs to the Company or which it is for the time being authorised to take, otherwise than under this Law, which it may bring to and discharge into the reservoir for storage therein.

ARTICLE 9

Discharge of water

(1) Subject to the provisions of this Article, the Company shall discharge a quantity of water continuously and at a uniform rate from the reservoir into the stream in Queen's Valley –

- (a) being not less than fifty thousand gallons in any period of twenty-four hours; or
- (b) being equivalent to the measured flow to the reservoir from its natural catchment,

whichever is the less.

(2) The quantities referred to in paragraph (1) and in subparagraph (b) of paragraph (3) shall be measured by a gauge in each case.

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(3) Nothing in this Article shall prevent or restrict the discharge of water into the stream below the reservoir –

- (a) for the safety of the structure of the dams forming part of Works Nos. 1 and 3; and either
- (b) continuously and at a uniform rate not exceeding two million five hundred thousand gallons in any period of twenty-four hours; or
- (c) being a quantity equivalent to the natural flow of water over the main dam overflow weir when the reservoir is full.

(4) Any damage or injury in the land below the main dam caused by the discharge of water under paragraph (3) or resulting from greater discharge than the amounts mentioned in sub-paragraphs (b) and (c) of that paragraph shall be the subject of compensation by the Company.

ARTICLE 10

Deposit of plan

(1) Two copies of the plan laid before the States on the eighteenth day of February, 1986 were signed for purposes of identification by the Greffier of the States and the Managing Director of the Company on the thirty-first day of December, 1985.

(2) On the commencement of this Law, one of such signed copies shall be deposited with the Greffier of the States and the other shall be deposited with the Secretary of the Company.

(3) The copy deposited with the Secretary of the Company shall be made available for inspection by the public without charge at the offices of the Company on the days and during the hours when such offices are open to the public for the payment of water rates.

ARTICLE 11

Compensation

- (1) Any person –
- (a) whose property is damaged; or
 - (b) who sustains damage by being disturbed in the enjoyment of any right in or over land;

in consequence of the exercise by the Company of its powers under this Law or the carrying out by the Company of its duties under this Law, shall be entitled to recover compensation from the Company in respect of that damage.

(2) Where any dispute arises as to the amount of any compensation payable under this Article, or as to the persons to whom it is payable, the dispute shall be determined by arbitration.

(3) This Article is in addition to and does not derogate from the provisions applied by paragraph (2) of Article 6 of the Water (Jersey) Law, 1972¹³ (land taken by compulsory purchase).

ARTICLE 12

Protection of public utility services

- (1) In this Article –

“protected service” means a supply of gas, water or electricity, or a service provided under the Telecommunications (Jersey) Law, 1972,¹⁴ to any premises which are not within the limits of land to be acquired shown on the deposited plan;

“relevant apparatus” means any pipes, mains, cables, wires, telegraphic line, or other works or apparatus provided and

¹³ Volume 1970–1972, page 316.

¹⁴ Volume 1970–1972, page 393 and Volume 1979–1981, page 299.

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maintained for the provision of a protected service not being works or apparatus to which Article 13 applies;

“undertakers” means any person authorised by or under any enactment to carry on an undertaking for, or for purposes which include, the provision of a protected service.

(2) The Company shall not acquire any relevant apparatus under this Law otherwise than by agreement.

(3) If the Company acquires under this Law any land in which relevant apparatus is situated, it shall not remove, or interrupt the operation of, that apparatus until alternative apparatus adequate to provide the service provided by the relevant apparatus has been provided and is in operation.

(4) If –

(a) the Company, for the purposes of this Law, requires the removal of any relevant apparatus and gives to the undertakers or other person owning the apparatus notice of its requirements; or

(b) in consequence of the exercise by the Company of the powers of this Law the undertakers or other person owning any relevant apparatus reasonably require its removal and replacement,

the Company shall, so far as it is reasonably practicable to do so, afford the necessary facilities for the provision and bringing into operation of such adequate alternative apparatus as is mentioned in paragraph (3):

Provided that if the Company is unable to afford such facilities the undertakers or other person concerned shall use their best endeavours to obtain the necessary facilities in other land.

(5) The Company shall pay to the undertakers or other person owning any relevant apparatus the amount by which any expenses reasonably incurred by them in connexion with any renewal or alteration

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of any relevant apparatus, or the provision of any new apparatus, which may be required in consequence of the exercise of the powers of this Law exceed the value (calculated after removal) of any relevant apparatus for which alternative apparatus is substituted and shall pay compensation to them for any damage caused to any relevant apparatus in the exercise of such powers.

(6) The temporary closure of a road under paragraph (5) of Article 4 shall not prevent the undertakers concerned from obtaining access to any relevant apparatus therein for the purpose of maintaining, inspecting, repairing, renewing or removing that apparatus.

(7) Any difference which may arise between the Company and any undertakers or other person under this Article shall be referred to and determined by an arbitrator to be appointed, in default of agreement, by the Committee.

ARTICLE 13

Protection of local sources of water supply

(1) In this Article –

- (a) “protected source” means any well, borehole, spring or stream, and any water supply apparatus connected therewith, within the limits of land to be acquired shown on the deposited plan, which is used at the commencement of this Law as an effective source for the supply of water to premises which are not within the said limits;
- (b) “unprotected source” means any well, borehole or spring, and any water supply apparatus connected therewith, not within the limits of land to be acquired shown in the deposited plan, which is used at the commencement of this Law as an effective source for the supply of water to premises which are not within the said limits.

(2) If the Company acquires under this Law any land in which a protected source is situated it shall take such steps as may be necessary

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to maintain the operation of that source until an adequate alternative water supply to the premises served by the source has been provided by the Company in accordance with the provisions of paragraph (3).

(3) If for the purposes of paragraph (2) the Company undertakes the provision of an alternative water supply to any premises –

- (a) access to the premises and facilities for the provision of any necessary apparatus shall be made available to the Company without charge; and
- (b) the supply shall be provided by the Company on such terms as may be agreed, or in default of agreement, determined by arbitration having regard to the cost of operating the protected source and any deficiency in the supply obtained from the source.

(4) Any difference which may arise between the Company and the owner, lessee or occupier of a protected source under this Article shall be referred to and determined by an arbitrator to be appointed, in default of agreement, by the Royal Court.

(5) Where it can be shown that an unprotected source has as a result of the doing of the authorised works been materially adversely affected as a source for the supply of water, paragraphs (2), (3) and (4) shall apply as though that unprotected source was a protected source.

ARTICLE 14

Land and works to form part of the undertaking of the Company

All land acquired by the Company for the purposes of the project and all works constructed by the Company for such purposes, shall form part of the undertaking of the Company.

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ARTICLE 15

Amendment of the Water (Jersey) Law, 1972

Article 6 of the Water (Jersey) Law, 1972,¹⁵ is hereby amended to the extent set out in the Fourth Schedule.

ARTICLE 16

Short title

This Law may be cited as the Queen's Valley Reservoir (Jersey) Law, 1988.

E.J.M. POTTER

Greffier of the States.

¹⁵ Volume 1970–1972, page 315.

FIRST SCHEDULE**(Article 2(1))**1. Work No. 1

A reservoir formed by a main dam across the unnamed stream in Queen's Valley between reference point 0569331E, 5449654N and reference point 0569509E, 5449608N and a subsidiary embankment across the said stream between reference point 0569893E, 5450549N and reference point 0569970E, 5450574N, with a draw-off tower and overflow weir at the main dam and an inlet weir at the subsidiary embankment.

2. Work No. 2

A stilling pond at reference point 0569427E, 5449518N and an outlet channel below the main dam commencing in the said stilling pond and terminating at reference point 0569417E, 5449430N.

3. Work No. 3

An intermediate dam across the reservoir between reference point 0569722E, 5450156N and reference point 0569827E, 5450175N with a weir, bridge and draw-off tower.

4. Work No. 4

A raising of the existing embankment across the tributary stream south of St. Saviour's Hospital between reference point 0569700E, 5450385N and reference point 0569731E, 5450438N and, subject to the grant of such rights as may be required for that purpose, the infilling of land upstream from the said embankment.

5. Work No. 5

A silt pond formed partly by excavation and partly by the subsidiary embankment (part of Work No. 1) with inlet chambers and a bypass pipe.

6. Work No. 6

A pumping station partly within the downstream slope of the main dam (part of Work No. 1) at or about reference point 0569450E, 5449570N.

7. Work No. 7

An access road commencing by a junction with La Rue du Moulin-de-Bas at reference point 0569407E, 5449425N, passing round the stilling pond (part of Work No. 2) and terminating at the pumping station (Work No. 6), with parking places for vehicles.

8. Work No. 8

An access road commencing by a junction with La Rue des Teurs Champs at reference point 0569500E, 5449545N and terminating at the western end of the main dam (part of Work No. 1).

9. Work No. 9

An access road commencing by a junction with La Rue D'ava (B.28) at reference point 0569982E, 5450577N and terminating at the silt pond (Work No. 5) at reference point 0569936E, 5450609N together with an access ramp and parking places for vehicles.

10. Work No. 10

A track around the reservoir and silt pond commencing at the termination of the access road (Work No. 8) and terminating by a junction with that road at the eastern end of the main dam,

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including tracks across the subsidiary embankment (part of Work No. 1) and the intermediate dam (Work No. 3).

*SECOND SCHEDULE***(Article 2(3)(f))**

1. Make and provide all necessary and convenient walls, banks, embankments, grout curtains, boreholes, borrow pits, quarries, aerators, tunnels, piling, fences, gates, gabions, culverts, drains, intakes, pumping inlets, weirs, gauges and measuring devices, overflows, chambers, manholes, channels, roads, bridges, footpaths and all such mains, pipes, cables, wires, lightning conductors, instruments, aerials, machinery, works and appliances as may be required.
2. Divert, alter, stop up and discontinue any watercourse to the extent that so much of such watercourse will be rendered unnecessary by reason of the carrying out of the authorised works.
3. Provide parking places for vehicles.
4. Excavate, remove and process, (whether by blasting or by other means) rock, soil and sub-soil.
5. Fell, grub up, remove and plant trees, shrubs, bushes and other vegetation.
6. Dispose of spoil and other material and carry out landscaping.
7. Remove, alter, divert or improve any buildings, structures, electricity cables, telegraphic lines, gas or water pipes, drains, sewers, septic tanks, soakaways, cesspits, manure pits, sewage pumping stations and water abstraction stations, boreholes or water treatment plants as may be required.
8. Execute any works for the protection of adjoining lands.

THIRD SCHEDULE**(Article 6)**

1. The relevant date for the purposes of Article 6 shall be the date specified in the advertisement referred to in paragraph 2 of this Schedule as the date on which the lengths of road referred to in paragraph (1) of Article 6 are to be extinguished and such extinguishment shall come into operation immediately on the expiration of the previous day.

2. The Company shall give notice of the extinguishment of such lengths of road by publishing on one occasion not less than fourteen days before the relevant date, in a newspaper circulating in the Island, information giving a description of the lengths of road to be extinguished and the date on which they are to be extinguished.

3. The notice referred to in paragraph 2 of this Schedule shall be certified by the Greffier of the States as being a notice published in pursuance of the requirements of this Law.

FOURTH SCHEDULE**(Article 15)****Amendment of Water (Jersey) Law, 1972**

For sub-paragraph (b) of paragraph (2) of Article 6 of the Water (Jersey) Law, 1972¹⁶ there shall be substituted the following sub-paragraphs –

- “(b) references in Article 6, in paragraph (2) of Article 9A, in paragraph (1) of Article 13 and in Article 17 to the States were references to the Company;
- (ba) references in the heading to, and paragraphs (1) and (2) of, Article 4A, in sub-paragraph (b) of paragraph (1) of Article 9, in paragraphs (1) and (4) of Article 9A, and in the heading to, and paragraph (1) of, Article 16 to the public were references to the Company;
- (bb) references therein to land were references which included interests under land or water.”.

¹⁶ Volume 1970–1972, page 316.