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The following Notification is, by command of His Excellency the Governor-General, published for general information.

C. N. SCOTT,  
Governor-General's Secretary.

**GOVERNMENT NOTICE**

**MISCELLANEOUS**

No. 106UU<sup>2</sup>

**THE RIO COBRE CANAL LAW**  
(Cap. 93, 1938 Edition of the Laws of Jamaica)

**LICENCE**

*Licence granted by the Minister pursuant to Part V of the Rio Cobre Canal Law authorizing the National Irrigation Commission to operate, manage and control the Rio Cobre Irrigation Works.*

WHEREAS it is deemed desirable to grant a licence to the National Irrigation Commission Limited, a company incorporated under the Companies Act (hereinafter called the Commission) to operate, manage and control the Rio Cobre Irrigation Works (hereinafter called the Works) and to carry out and implement the objectives herein mentioned:

THIS LICENCE IS HEREBY GRANTED:

- Citation. 1. This Licence may be cited as the Rio Cobre (National Irrigation Commission) Licence, 1988.
- Construction. 2. This Licence shall be read and construed subject in all respects to the Rio Cobre Canal Law (hereinafter called the Law) and the several words and expressions to which by the Law meanings are assigned shall have in this Licence the same respective meanings.
- Interpretation. 3. In this Licence the following words shall have the following meanings unless the context otherwise requires—  
“licensed area” means the area described in the Schedule and such additions thereto as may, pursuant to the Law, be purchased or acquired for the purposes of the Works;  
“uncontrollable forces” means Acts of God, action taken by or against the Queen’s enemies, riot, civil commotion, strikes and lockouts and other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, epidemics, landslides, hurricanes, lightning, earthquakes, storms, floods, wash-outs, arrests and restraints of Government, Government rationing of electricity or other wartime or other emergency Government controls, embargo, trade restrictions, inability to obtain any requisite Governmental permits, fires, explosions, breakdown of machinery or equipment or other forces or causes of a similar nature not within the control of the Commission and which by the exercise of due diligence it is unable to avoid or prevent;  
“Works” means the Rio Cobre Canal and Irrigation Works established under the Law and includes all other works or property connected therewith.
- Address of Commission. 4. The address of the Commission is, for the purpose of this Licence—  
3rd Floor, Jamaica Conference Centre, 14-20 Port Royal Street, Kingston.



Powers conferred on the Commission. (1) By this Licence the Commission is empowered, in accordance with section 42 of the Law, to perform the functions of the Superintendent of the Rio Cobre Irrigation Works under the Law, in lieu of that Commission Superintendent.  
by Licence. (2) This Licence shall be subject to the regulations and conditions specified herein.

Rights and powers. 6. (1) The Commission shall discharge its obligations and perform the duties imposed or authorized under the Law and shall enjoy the rights and exercise all powers conferred on it by such Law.

(2) Without prejudice to the generality of sub-paragraph (1) the Commission shall manage, operate and control the Works, and for that purpose shall—

(a) sell and supply water from the Works for public and private purposes;

(b) secure and maintain an adequate supply of water;

(c) take all steps it deems necessary—

(i) for the purposes of sub-paragraphs (a) and (b); and

(ii) to protect the Works and control access thereto or to any part thereof.

Trading in irrigation equipment, etc. 7. The Commission may trade in irrigation equipment and any associated equipment or in the repair thereof or in any other business authorized by the Commission's Memorandum of Association but no profits or losses resulting therefrom shall be taken into account in the fixing of rates.

Communication. 8. The Commission may, subject to any licence which may be required under any Act, maintain and use as a means of communication between the Commission and its employees and/or contractors, telegraphic and radio apparatus or any other means of signalling or communication.

Term of Licence. 9. Subject to the provisions herein contained, the term of this Licence shall be ten years from the 1st day of November, 1988 (hereinafter called the "date of the Licence").

External finance. 10. In seeking sources of finance external to Jamaica, the Commission shall obtain the approval of the Minister responsible for finance.

Supply obligation. 11. The Commission shall at all times during the term of this Licence or any extension thereof endeavour to furnish and maintain an efficient irrigation system throughout the licensed area in accordance with reasonable standards of dependability as understood in irrigation operations. The foregoing obligation shall be subject to any damage or to any temporary cessation that may be caused by uncontrollable forces or by any other circumstances which the Commission could not reasonably foresee. The Commission is hereby granted power within the licensed area to erect and carry out all necessary work of construction and maintenance and to operate the irrigation system subject to the provisions of the Law.

Written agreement required of customers. 12. Before any person shall be entitled to require the Commission to supply him with irrigation service pursuant to the Law or this Licence, he shall enter into a written agreement with the Commission in such form and subject to such conditions as may be established by the Commission from time to time and subject also to his punctuality performing and observing such terms and conditions (if any) of such agreement as may be required to be performed or observed before such supply.

Contracts for irrigation service existing at the date of this Licence shall remain in force until modified by the Commission. Any such modifications shall have immediate effect on notice being given by the Commission as prescribed in this Licence, so, however, that such notice shall not be necessary where, in the opinion of the Commission, the modification is of minor importance.

Application for supply. 13. The Commission shall, upon the request of any person in relation to land within the licensed area, not already provided with irrigation service, provide to that person such service on payment of such charges and rates as may be determined by the Commission from time to time on the understanding that the Commission may, where the circumstances so warrant having regard to the cost of any construction required to be carried out for the provision of such service, require that person to contribute to the cost of that construction on such terms and in such manner as the Commission may determine.

Land, way-leave and right of way. 14. The Commission may exercise such rights and shall observe such conditions, relating to way-leaves, entry on private property and construction above or below ground, as the Law may prescribe. In addition, the Commission shall have the right to trim trees or shrubbery which may overhang, endanger or interfere with any irrigation works.

Rights re public roads and open spaces. 15. (1) Subject to the provisions of this Licence and the Law, and subject to the consent of any authority, company or person whose consent is necessary for the purpose, the Commission may from time to time and at all times for the purposes of this Licence, construct, lay and maintain irrigation works under, along, over or across any public street, lane, road or open space within the licensed area.

(2) If in the construction, maintenance and repair of its irrigation system the Commission deems it necessary to disturb public ways and places or the plant of any other utility, the Commission shall restore or pay the cost of restoring such public ways and places and utility plant to at least as good condition as they were before such disturbance.

Fixing of rates. 16. The Commission may, with the approval of the Minister, fix irrigation rates and charges in accordance with the provisions of the Law and enforce collection of any such rates and charges.

Joint use of facilities. 17. The Commission shall be free to enter into any arrangement or contract for the joint use of facilities with any other public utility organization or any other person; and, if the public interest so requires, the Minister shall have the right to direct the Commission, after consultation with all parties, to use any facilities jointly with such other public utility organization or person so long as such use shall not infringe any other enactment. It shall be a condition of any such direction that the Commission shall receive such fair compensation for the use of the Commission's facilities by that other public utility organization or person as may be agreed by the parties or, in default of such agreement, fixed by the Minister.

Accounts and audit. 18. (1) The Commission shall keep proper accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which conforms with established accounting principles.

(2) The accounts of the Commission shall be audited annually by an auditor or auditors appointed annually by the Commission and approved by the Minister.

(3) The Auditor-General shall be entitled, on the general directions of the Minister, at all reasonable times to examine the accounts and other records in relation to the business of the Commission.



- Annual reports and estimates. 19. The Commission shall, in each year—  
 (a) on or before the 30th day of September, submit to the Minister a report of its activities during the twelve months ending on the preceding 31st day of March, including a statement of its accounts audited in accordance with the provisions of this Licence;  
 (b) on or before the 31st day of October, submit to the Minister for his approval its estimates of revenue and expenditure for the financial year commencing on the 1st day of April next following.
- Breaches and penalties. 20. Any neglect or wilful contravention of any of the provisions of this Licence shall subject the offender to a penalty not exceeding five thousand dollars and if the contravention continues after imposition of that penalty to an additional penalty not exceeding five hundred dollars for every day during which the contravention continues; and the same may be recovered and enforced in a summary manner in a Resident Magistrate's Court:  
 Provided that any person having any civil claim against the Commission shall in no way be prejudiced in enforcing the same by the fact that any penalty or penalties has or have been recovered against the Commission in respect of the same act or omission or default out of which the civil claim aforesaid arises.
- Protection of Commission in case of uncontrollable forces. 21. The Commission shall be excused for any non-compliance with this Licence caused by uncontrollable forces.
- Minister may grant relief in certain circumstances. 22. If the Minister is satisfied that any failure by the Commission at any time to comply with any of its obligations under this Licence is wholly or partially due to the Commission's inability to obtain financing on reasonable terms or to obtain necessary materials and equipment at reasonable cost, the Minister shall grant to the Commission relief from such obligations to the extent to which it has been prevented by those conditions from discharging such obligations.
- Revocation of licence. 23. This Licence may be revoked before the expiration of the term thereof or any extension thereof if the term be extended, if the Minister upon charges being preferred with proper particulars shall have determined that the Commission has, without just cause or excuse, failed to comply with this Licence or to carry out in good faith and with reasonable diligence its obligations under this Licence, which determination shall specify in exact detail the respects in which the Commission has so failed:  
 Provided that the Commission shall be given reasonable time and opportunity to remedy the failure so specified.
- Notices, etc. 24. Notices, orders and other documents under this Licence shall be in such form as the Commission may determine.
- Closure in the national interest. 25. If Government for reasons of national interest or security should take over or require the Commission to close down any part or the whole of its operations, the Commission shall be paid fair and adequate compensation for any loss occasioned to it.

## SCHEDULE

(Paragraph 2)

*Licensed Area*

All the land included within lines drawn from the Headworks westerly along the foot of the hills to the Old Harbour Branch Canal at Spring Garden Pen, thence a line running south-westerly  $12\frac{1}{2}^{\circ}$  to the sea at Bushy Park, thence easterly along the coast to the mouth of the Rio Cobre, thence up the Rio Cobre to the line between Hotchkin's Salt Pond Hut Pen and Crawle Pen, thence along that line to the foot of the hills, thence westerly along the hills to the Rio Cobre at Church Ford, and thence up the river to the headworks at the point of starting.

That area is for the purposes of this Licence to be deemed to be divided by a line running from the Rio Cobre at Church Ford due south through the cathedral to the sea and due north to the northern boundary of the area.

Dated this 1st day of November, 1988.

P. A. BRODERICK,  
Minister of Agriculture.

No. 32/2/56