

MEMORANDUM for the UNDER-SECRETARY, MINES DEPARTMENT, Wellington.

Re *Priority of Permits, &c., Kumara Sludge-channel.*

WITH reference to Alexander Miller's letter of the 6th instant on behalf of sixty-one miners who have permits to use the sludge-channel at Kumara, I have the honour to report on the same as follows:—

The first portion of the letter refers to the priority of rights to use the sludge-channel, and urges on the Government the necessity of upholding the present regulations. The second portion of the letter requests the Government to provide increased channel accommodation. In order that you may understand the questions clearly it will be better to refer to them seriatim.

PRIORITY OF RIGHTS.

The Kumara Sludge-channel was completed in March, 1882, and regulations, consisting of nine clauses, for using it were made and approved on the 17th March of the same year; but the clauses that affect the question of priority are the 5th and 7th.

The 5th clause provides that "No person shall run water or tailings into the sludge-channel, or be employed in any claim from which water and tailings are run, without the written permit of the Manager, stating the name of the person so authorized to use the channel."

Clause 7 provides that, "If the capacity of the sludge-channel shall at any time prove insufficient to carry off the tailings of all the tail-races discharging into it, priority of right to use the said channel is to be determined by the date of the application for the registration of the tail-races."

It will be seen by the clauses, quoted that clause 7 defines that priority to use the channel shall be determined by the date of the application for the registration of the tail-race, and clause 5 distinctly states that no person shall use the channel without a written permit from the Manager; therefore, if the date of the application for the registration of tail-race be taken as the basis to establish priority of use, then there was no great occasion for the provision in clause 5; the written permit of the Manager was not required; but, by reading the clauses conjointly, they appear to convey the meaning that, before any one could use the channel, he had first to obtain a written permit from the Manager, and on that permit there was a period stated that entitled the holder to use the sludge-channel. These permits were in the shape of a contract, entered into by the Manager of the sludge-channel, on behalf of the Government, with the several parties holding such permits, for a stated period, to get the use of the channel on payment of fees as stated in clause 1 of the regulations.

After permits were obtained, clause 7 would seem to imply that priority of use would be determined by the certificate of tail-race; but this can only apply to permits during the time that they are in force. There is no provision for the renewal of permits on the same conditions as the original permits were granted.

After the channel was in use for some time it was found that the first regulations did not provide for all contingencies, and that more parties had tail-races cut into the channel than could be accommodated with their system of working—viz., only using the channel in the daytime. It was deemed advisable to have a fresh code of regulations, doing away with all priority when the term for which permits were given had expired.

The Manager in issuing the first permits numbered them consecutively, and these numbers were held to be the number of priority for the use of the channel; and they have been always treated as such. Therefore, as the permits expired, the other permit-holders expected to be placed forward.

It would be unreasonable to suppose that, if it was found that the first regulations made were not altogether applicable, they should not be repealed, and other regulations made in lieu thereof, so long as any rights taken out under the old regulations were not infringed. That would be the case if the new regulations purported to take away the right of priority from the holders of permits taken out under the old regulations for a stated period. But nothing of this kind is intended. The new regulations only deal with rights acquired since they came into force; and they will be found to give satisfaction to the majority of persons using the sludge-channel, with the suspension of clauses 5 and 16. These clauses are suspended at the present time.

INCREASED CHANNEL ACCOMMODATION.

This is a subject which requires careful consideration. The present channel has been a total failure in a financial point of view, although it serves the purposes of the miners very well. In round numbers it costs the colony £3 to maintain it for £1 that is received in shape of fees from the miners, and any new channel that may be constructed is not likely to become a much more profitable investment. Plans have recently been received from Mr. Seddon, M.H.R., on behalf of the miners at Kumara, of a secondary channel, which they request the Government to construct, in order to relieve the present channel, and allow all parties to work full time.

The present channel would be capable of accommodating all parties if they were to use it night and day continuously; but this the miners say they cannot do, owing to the nature of the ground they are working; although in California, where hydraulic sluicing is carried on in a much more extensive scale, and higher faces, they work day and night continuously. But if the miners only use the channel during the hours of daylight, then it must be at once admitted that its carrying capacity is not sufficient to accommodate all parties who have tail-races cut into it if working full time. The Manager states that he told every one who had a permit above No. 24 that he could not give them permission to cut tail-races into the channel; and, if they did so, they would construct them at their own risk. But merely telling parties this amounts to nothing, inasmuch as they could not have got a certificate from the Warden for their tail-races unless the Manager certified that they could be safely allowed to be connected with the sludge-channel. (*Vide* clause 2 of old regulations.)