

**Before the Hearing Panel appointed by Canterbury  
Regional Council**

**IN THE MATTER OF** The Resource Management Act  
1991

**AND**

**IN THE MATTER OF** Application CRC041545 by A.N.  
Hope for a discharge permit to  
discharge unused irrigation water  
into an unnamed channel.

**Section 42A Officer's Report of Susannah Vesey**

**Date of Hearing: 21 September 2009**

1. This report should be read together with the introductory s42A report which gives an overview of all applications presented at this hearing (Report 1), the planning and technical reports on hydrology and minimum flows (Report 2A and 2B), the planning report outlining annual allocations (Report 3) and the reports on cumulative landscape and water quality effects in the catchment (Reports 4(A-F) and 5).

**INTRODUCTION**

2. Mr A. N. Hope (the applicant) has applied for a resource consent to discharge unused irrigation water to an unnamed channel at a maximum rate of 29 litres per second, at or about map reference NZMS 260 I38:0471-5823.
3. See Attachment One for a map of the location of the proposed activity.
4. Mr Peter Clarke (Registered Farm Management Consultant) submitted the original application on behalf of the applicant in January 2004. Mrs Keri Johnston of Irricon Resource Solutions has recently been contracted by the applicant to provide technical advice.
5. The applicant seeks an expiry date of 30 April 2025 which is consistent with the duration sought for their associated water permit CRC41542. This is an application for a new activity.

**Background**

6. The applicant has also applied for water permits CRC041542 and CRC041543 to take and use water from the Grays River and Snow River respectively. Refer to Report 20A for background information describing the applicant's proposal as a whole and also for the description of the affected environment.
7. I conducted a site visit on 27 January 2009 where Mr Peter Clarke (on behalf of the applicant) and Mr Guy King, (the applicant's Farm Manager) showed me the proposed discharge site.

## **Amendment**

8. On 7 August 2009, Mrs Johnston advised she wished to amend the discharge location from that which was notified of NZMS 260 I38:0262-6076 to a preferred location of NZMS 260 I38:0471-5823.
9. Mrs Johnston explained that the application was notified with the grid reference I38:0262-6076. This location approximately 0.5 kilometres below the third pivot, but in order to achieve the discharge, a channel would need to be constructed from the irrigation race below the pivot to the Gray's River.
10. The preferred location of I38: 0471-5823 means that the water can carry on through the irrigation race, and be discharged to an un-used waterway without any earthworks needing to be carried out, and subsequently into a "wet area", then to the Gray's River. The "wet area" buffers the discharge.
11. Mrs Johnston advises the "wet area" is on the property of Mr Mark Urquhart and he has no concerns with the applicant's proposed discharge.
12. On 24 August 2009, Mrs Johnston received confirmation through Mr Urquhart's consultant that he has given his approval for the discharge. I note the "wet area" is the Grays Hills Swamp which is consider a site of National Importance. The proposed discharge into his 'swamp' is likely to be beneficial for the ecosystems within the swamp given the quality of the water to be discharged is to be unchanged from that taken from the Grays River (discussed in more detail below).
13. Given the above, I agree with Mrs Johnston and make my recommendation that the amended location does not need to result in this application being re-notified.

## **Notification and Submissions**

14. Please refer to these sections of Report 20A for notification information of the proposal. No submissions made on the proposal made specific reference to the proposed discharge.

## **DESCRIPTION OF THE PROPOSED ACTIVITY AND THE AFFECTED ENVIRONMENT**

15. Refer to Report 20A for the description of the overall proposal and a description of the affected environment.
16. The applicant has not proposed any conditions or clearly outlined the activity specifically relating to the proposed discharge, however Mr Clarke has advised the discharge may flow through a soak-hole located at the end of the water race and start of the unnamed channel if required.
17. The applicant proposes to discharge water into an unnamed stream channel as shown below in Figure 1. This channel will transport the discharge water to the Grays Hill Swamp and may naturally find its way into the Grays River. The rate of discharge will not exceed 29 litres per second.



**Photo 1:** Proposed discharge channel located in foreground. Joins another channel at top arrow and flows to Grays Hills Swamp (photo taken 27/01/09 by Susannah Vesey).

## LEGAL AND PLANNING MATTERS

### Consent Requirements

18. An overview of the consent requirements under the Resource Management Act (RMA), Transitional Regional Plan (TRP) for discharge permit applications is provided in the introductory s42A report (Report 1).
19. As this application was lodged prior to the notification of Chapters four and five of the Proposed Natural Resources Regional Plan (PNRRP), it is the TRP which controls the activity status of this application pursuant to s88A of the RMA.
20. There are no provisions of the TRP which authorise the discharge of water into water as described by the proposed activity. As such the proposed activity is to be treated as a **discretionary** activity in accordance with section 77C(1)(a) of the RMA.

### ASSESSMENT OF PROPOSED ACTIVITY

21. The proposed discharge is a discretionary activity and must be considered in the context of s104 of the RMA.
22. Section 104(1) outlines matters that the consent authority must have regard to when considering an application for a resource consent, including any actual and potential effects on the environment, any relevant statutory provisions, and any other matter the consent authority considers relevant.

### Assessment of actual and potential effects (s104(1)(a))

23. The effects that have been considered for this type of activity (discharge of water to water) are presented in the introductory s42A report. That report includes the

presentation of the relevant planning provisions which direct us to consider these effects. Table 1 below summarises these effects. Where I am satisfied that subject to mitigation, effects will be minor and there are no outstanding matters of contention I have not discussed the particular effect further.

24. Where mitigation is referred to in Table 1, I am referring to the recommended conditions listed at the end of this report. The recommended conditions take into consideration those proposed by the applicant, however may have been re-worded or replaced by conditions commonly used by Environment Canterbury to ensure they are certain and enforceable.

<b>Adverse Effects</b>	<b>Applicant's assessment</b>	<b>IO audit</b>	<b>Conclusion</b>
Flood-carrying capacity and erosion of bed and banks	The discharge channel is an un-used waterway in the first instance. The un-used waterway resembles a grassed swale and at one time, would have carried overland flow to the "wet area". It is also noted that the rate of discharge at 29L/s is a small flow and will be energy of the water will be dissipated through the discharge process. Given this, effects on flood carrying capacity and erosion from the discharge are unlikely to occur.	Currently, the channel only carries water after rainfall. Given low discharge rate and nature of channel, consider effects on flood-carrying capacity likely to be minor. Condition (2) and (3).	Effects likely to be minor
Water quality and ecosystems	The quality of the water to be discharged will be unaltered from that of the Grays River. Mr Clarke advised the water may be discharged via a soak hole to avoid any issues of cloudy water.	I agree the water to be discharged is unused water taken simply for the conveyance of irrigation water to the irrigators' intake pumps and as such is unlikely to be differing quality to that in the Grays River. Soak hole will remove any sediment which may be in water, however I note there should not be sediment in the water. Note discharge water will flow into Grays Hill Swamp and then possibly into Grays River. While no information has been provided, I recommend that stock do not have access to the proposed water race from which water will be discharged. This will ensure water quality remains unaltered.	Effects minor
Downstream users and amenity values	The discharge will flow into the wet area on the Urquhart property, Grays Hill Station. Given that the quality of the water being discharged is unaltered from that being diverted, there is no effect on other users or amenity values.	I note that during periods of heavy rainfall water is likely to naturally flow down the unnamed stream channel and into the Gray's Hills' Swamp. I agree that the water quality is unaltered and the approval from Mr Urquhart has been obtained.	Effects acceptable
Tangata	No assessment provided	Submission did not specifically relate	Effects

Whenua values		to proposed discharge. No change in water quality to that taken from the Grays River under CRC041542.	acceptable.
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## Conclusion

25. With regard to s104(1)(a), the actual and potential effects of the activities have been discussed above. For this consent, I can confirm that under s104(1)(a), the actual and potential effects of the proposed activity are acceptable when taking account the proposed mitigation.

## Statutory Assessment (s104(1)(b))

### Regional Policy Statement (RPS)

26. Under Section 104(1)(b)(iii) of the RMA, the consent authority shall have regard to any relevant regional policy statement. The Canterbury Regional Policy Statement has been operative since 26 June 1998.
27. Of significance to these applications is Chapter 9, which relates to the management of the regions water. The WCWARP and PNRRP take into account policies in the RPS and address the issues outlined in more detail. Any assessment of effects has been made using these documents and therefore I have had regard to the RPS throughout this assessment.

### Proposed Natural Resources Regional Plan (PNRRP)

28. Section 88A(2) RMA states that notwithstanding subsection (1) which relates to the type of activity, any proposed plan which exists when the application is considered must be had regard to in accordance with section 104(1)(b).
29. The objectives and policies of the PNRRP that are relevant to each potential adverse effect have been identified in the introductory s42A report. A discussion of the relevant objectives and policies is provided below.

(a) Objective WQL1.1 – Water quality outcomes for rivers

This objective aims to maintain and improve water quality, physical and chemical characteristics of the rivers. Subject to the recommended mitigation it is likely that the proposed discharge into the unnamed channel will be consistent with the outcomes required by this objective.

(b) Policy WQL1 – Point source discharges into surface water

This policy refers to consideration of whether the discharge is necessary, or whether other options are available. Consideration of the zone of non-compliance, the assimilative capacity of the receiving body, effects on cultural values and ecosystems are also referred to. The proposed soak hole and nature of water discharge (unchanged from that diverted) means there is unlikely to be a significant zone of non-compliance. The proposed discharge does not result in mixing of waters between catchments and the quality of the water to be discharged will be unaltered from that taken under application CRC041542.

## Conclusion

30. With regard to s104(1)(b), the relevant provisions of the RPS and PNRRP have been discussed above, and I consider the proposed activity is consistent with the Chapters, Objectives and Policies discussed above.

## Part II Purpose and Principals

### Purpose of the RMA (s5)

31. Under Section 104, the consent authority must consider applications “subject to part II” of the RMA. The purpose of the RMA (Section 5(1)) is to:
- “promote the sustainable management of natural and physical resources.”*
32. Section 5(2) defines the meaning of “sustainable management”, which is to manage resources in a manner that provides for the social, economic and cultural wellbeing of communities while protecting the life-supporting capacity of the environment for the needs of future generations. This section also states that this should be achieved by “avoiding, remedying or mitigating” the adverse effects of activities.
33. The proposal will allow the development of land to occur, which may provide for the economic and social well-being of the community.

### Sections 6-8

34. Section six lists matters of national importance. I consider that subject to the proposed and recommended mitigation, the proposed discharge will not affect any of these matters.
35. In achieving the purpose of the RMA, the consent authority is directed to have particular regard to a number of matters as set out in (a) – (j) of Section 7.
36. Sub-section (d) and (f) is specifically relevant to this application. I consider sufficient mitigation has been proposed to ensure effects on ecosystems and the quality of the water in the Grays Hills swamp and Grays River.
37. Section 8 of the RMA requires the consent authority to take into account the principles of the Treaty of Waitangi. The site lies within the rohe of Waihao Runanga. Runanga were informed separately when ECan received the application and later when the application was notified. Submissions have been received from Ngai Tahu on this application.

## RECOMMENDATION

### Grant or Refuse

38. Section 104B applies to any application which is a discretionary activity and states that the consent authority may grant or refuse the application and may impose conditions under s108.
39. Having considered all relevant matters outlined in section 104(1), I am satisfied that the actual and potential effects of the proposed activities are acceptable.
40. A discussion of duration sought for applications to be heard is included in Report 2A. I note a duration until 30 April 2025 is sought for this application. Given the scale of the proposed activity and subject to the recommended mitigation, I consider it is

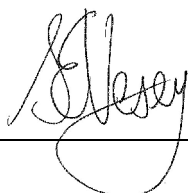
appropriate to grant this application for the duration sought. This duration is the same as that being sought for associated water permit CRC041542.

## RECOMMENDED CONDITIONS

41. I have recommended mitigation measures in Table 1. If the Commissioners decide to grant this application, I have included a set of draft recommended conditions which are specific for this application below in Table 2. It is subject to these conditions that I consider potential adverse effects of the proposed activity to be minor.
42. I emphasize that these conditions should provide sufficient mitigation for those potential adverse effects which I consider will be minor.
43. A number of the conditions below have 'codes' located next to them. Please refer to Appendix 6 of the introductory report (Report 1) to view the conditions in full. Any proposal specific details or conditions are included below.

<b>Table : Recommended draft conditions for discharge permit CRC041545</b>		
<b>No.</b>	<b>Consent Code</b>	<b>Details</b>
<b>Scope</b>		
1	DP01	<i>Waterbody from:</i> Grays River <i>Waterbody to:</i> unnamed stream channel <i>Map reference:</i> NZMS 260 138:0471-5823 <i>Discharge rate:</i> 29 litres per second <i>Plan:</i> "Plan A.N. Hope" <i>Other:</i> The water shall be unused conveyance water and shall contain no contaminants.
<b>Operation and Maintenance</b>		
2	DP02	<i>Waterbody:</i> Unnamed stream channel
3	LU13 modified	The discharge shall not occur in a manner likely to cause erosion of, or instability to, the banks or bed of the unnamed stream channel; or reduce the flood-carrying capacity of the waterway
4	DP03	
5	DP04	
<b>Administrative Conditions</b>		
6	AD03	Review
7	AD04	Lapse date

Signed:



Date: 26 August 2009

Susannah Vesey  
**Consents Investigating Officer**

## REFERENCES

Canterbury Regional Council 1998. Regional Policy Statement. Report No R98/4. ISBN 1-86937-337-5.

Canterbury Regional Council 1991. Transitional Regional Plan. October 1991.

The Resource Management Act 1991. Consolidated version including the Resource Management Amendment Act 1995. August 2005.

Waitaki Catchment Water Allocation Board 2006. Waitaki Catchment Water Allocation Regional Plan. ISBN: 0-9582620-7-1.

# ATTACHMENT ONE – A.N. HOPE'S PROPOSAL

