

**Before the Commissioners appointed by Canterbury
Regional Council**

IN THE MATTER OF The Resource Management Act
1991

AND

IN THE MATTER OF Applications CRC011940 and
CRC011939 by DW McAughtrie
for a Water Permit to take & use
surface water and a Discharge
Permit to discharge water to
water.

Section 42A Officer's Report of Claire Penman

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 overview and technical reports on hydrology and minimum flows (Report 2A and 2B), the overview report outlining annual allocations (Report 3) and the reports on cumulative landscape and water quality effects in the catchment (Reports 4A – F, and 5).

INTRODUCTION

2. D W McAughtrie (the applicant) have applied for a resource consent to:
 - (a) Take and use water from a water race fed from Wairepo Creek at a maximum rate of 85 litres per second with an annual volume of 527,640 cubic metres for stock water and spray irrigation of 85 hectares of pasture (CRC011940); and
 - (b) To discharge irrigation bywash water to Willowburn Swamp at a rate not exceeding 85 litres per second (CRC011939);

At Willowburn Station, State Highway 8, between Quailburn Road and Lake Ohau Road. See Attachment One for a map of the location of take and irrigation area.

3. The applicant engaged Mr Bob Hall of GHD Ltd (formerly R J Hall) to prepare the application and assessment of environmental effects on their behalf. Subsequently, Ms Keri Johnston of Irricon Resource Solutions has been engaged to respond to further information requests.
4. A 35 year duration is sought. This is an application for a replacement consent.
5. A site visit was undertaken during the audit of this application on 11 December 2008.

Background

6. The consents that these applications are replacing – WTK691631A, WTK691631B and WTK691631C – expired on 1 October 2001 (A copy can be found in Attachment

Two). As this application was lodged 6 months prior to the expiry of the above consents, the applicant is currently operating under s124 continuation.

7. Applications CRC011939 and CRC011940 were lodged on 28 March 2001 and considered to be notifiable on 10 November 2004. Requests for further information have been sent covering effects including, but not limited to, water quality, landscape, irrigation volumes, minimum flows, balance pond and derogation approvals.
8. There have been no changes to the rate of take and use, since the application was lodged. However, the irrigation area was reduced from 170 hectares to 85 hectares prior to public notification in 2007 and the total annual volume now being sought has been reduced from 935,000 cubic metres (as notified) to the currently proposed 527,640 cubic metres.
9. No other applications have been lodged as part of this proposal.
10. Willowburn Station has two separate blocks of land – “Top Block” and “Homestead Block”. “Top Block” is subject to irrigation under this application (see map in Attachment One), while the “Homestead Block” is located to the south on the other side of The Glens property, and is only provided with stockwater under this application.
11. The applicant is also a member of the “Quailburn Government Race” which is seeking replacement consent (applications CRC991473, CRC991474, and CRC991475) for irrigation of the “Homestead Block” on Willowburn Station under the name of McAughtrie, DW, Ellis-Lea Farms 2000 Ltd and Greenfield Rural Opportunities Ltd (see Report 27).

Notification

12. Details of the notification and wording are contained in Appendix 4 of the introductory s42A report (Report 1). Application CRC011940 was publicly notified in the December 2003 “ministerial call-in” and August 2007 with 200 other applications for similar activities in the Waitaki catchment. Application CRC011939 was publicly notified in August 2007 only.

Submissions

13. In the 2007 public notification, a total of 16 submissions were received on CRC011939 with 1 in support, 13 in opposition and 2 neither support nor oppose. A total of 19 submissions were received on CRC011940 with 1 in support, 16 in opposition and 2 neither support nor oppose.
14. In the 2003 “ministerial call-in”, a total of 314 submissions were received on application CRC011940.
15. Details of submissions made in response to all applications which were publicly notified at the same time in 2007 and 2003 are contained in Report 1, Appendix 5. Additionally, Table 1 below summarises only those submissions made individually on this application, or submissions which raise particular concerns in relation to this proposal. Please note that all submissions hold equal importance, even if not specifically listed in the table below.
16. Overall, the key effects of concern to submitters include effects on: ecosystems, water quality, allocations, minimum flows, natural character and landscape, efficiency and cultural values.

Submitter	Issues	Support/ Neutral/ Oppose	To be heard
A & W Sutherland ²	Wairepo Creek cannot sustain another 85l/s take. Submitter holds consent to take 85l/s already.	Oppose	Yes
Fish & Game NZ ^{1,2}	Important to consider Ahuriri catchment flows and importance for habitat for Lake Benmore trout.	Oppose	Yes
Meridian Energy Ltd ^{1,2}	Concerned about water quality, metering and reasonable use	Oppose	Yes
Department of Conservation ^{1,2}	High proportion of flow in creek to be taken, potential effects on instream ecosystems, fish screens, water quality.	Oppose	Yes
Canterbury Aoraki Conservation Board ^{1,2}	Consent duration, runoff control in terms of water quality, potential effects on instream ecosystems, natural character of water bodies, and landscape.	Oppose	Yes
B Hutton ²	Need to protect smaller streams from irrigation extraction, should be from canals and larger water bodies	Support	Yes
S A Ross ²	Consents should be granted	Support	No
J J Ryan ²	Long-standing water right should be continued to allow for pastoral development	Support	Yes

Table 1: Summary of submissions on applications CRC011939 & CRC011940

¹ August 2007

² Call-in 2003

DESCRIPTION OF THE PROPOSED ACTIVITY

17. The applicant proposes to take water from the water race which flows from the Wairepo Creek through the Sutherland's property (Benmore Station) to irrigate an area of 85 hectares within a command area of approximately 330 hectares within Willowburn Station (see photos of take point in Attachment Three).
18. The damming and diversion of water into the race occurs under the Sutherland's consents CRC940233A and CRC940233B. A copy of these consents are appended in Attachment Four. Water is diverted at a rate of 90 litres per second into the race for the purposes of irrigation. Any unused water continues down the race into Willowburn Station. A condition on consent CRC940233B requires that a minimum of 30 litres per second shall continue through the race at the boundary between Willowburn and Benmore Stations. Therefore, the applicant will have access to a minimum of 30 litres per second and a maximum of 90 litres per second for irrigation and stockwater purposes. There is no minimum flow on Wairepo Creek for the Sutherland's consent so they can potentially divert the entire creek flow at this point.
19. The applicant has not lodged any application to undertake works in the bed or banks of Wairepo Creek (s13) associated with any diversion structure as they consider that none is required given that the diversion occurs under Sutherland's consent CRC940233B.
20. Water will be conveyed from the diversion point through a race system that serves as a stockwater race for Willowburn Station and The Glens property. Water will be used for irrigation via a k-line spray system from the top end of the race. The race also

provides stockwater for The Glens, but no specific allocation is sought as it just runs through their property. The discharge of unused irrigation and stockwater diverted through the race system discharges into Willowburn Swamp (see location in Attachment One) at a rate of up to 85 litres per second. However, this discharge does not occur for much of the year and most of the water is taken and used.

21. The proposed annual volume includes provision for 10,840 cubic metres per year stockwater. However, the applicant considers that the provision of stockwater is covered by section 14(3)(b) of the RMA.
22. However, the applicant has not withdrawn this activity from the application. As such, I have included an assessment of the proposed stock water volume that is provided for in the derogation approval should the Commissioners decide that it needs to be covered by this consent.
23. The applicant proposes the following activities:

CRC011940

- (a) To take and use water from a water race at a maximum rate of 85 litres per second, with a volume not exceeding 527,640 cubic metres per year (of which 10,840 cubic metres is stockwater), between map references NZMS 260 H39:701-430 and H39:696-396, and for stockwater only between map references NZMS 260 H39:696-378 and H39:690-346.
- (b) Water shall be used for spray irrigation of up to 85 hectares of crops and pasture excluding dairy cows, within a command area of 370 hectares.
- (c) A fish screen will be installed on the intake, however, details of this have not been provided.
- (d) The take of water will be metered.

CRC011939

- (a) To discharge water into Willowburn Swamp at a maximum rate of 85 litres per second and 7,344 cubic metres per day, at or about map reference NZMS 260 H39:690-346.
- (b) The discharge shall only be unused irrigation water and stockwater, diverted in accordance with CRC011940.
- (c) The discharge shall not cause erosion to the bed or banks of Willowburn Swamp.

LEGAL AND PLANNING MATTERS

Consent Requirements

24. An overview of the consent requirements under the Resource Management Act (RMA), Transitional Regional Plan (TRP) and Waitaki Catchment Water Allocation Regional Plan (WCWARP) for applications is provided in the introductory s42A report (Report 1). These applications were lodged in 2001 therefore the TRP is the regional plan which controls the activity type for the discharge permit application (pursuant to

s88A(1) of the RMA) and the WCWARP is the regional plan which controls the activity type for the water permit application (as outlined in Report 1).

25. A summary of the requirements for these applications is provided below.

TRP

Take - The TRP permits the abstraction of surface water from any surface waterway provided the annual volume abstracted is less than 10 cubic metres per day, and the rate of take is limited to 5 litres per second. Given that the proposed take exceeds these limits, consent is required as a discretionary activity.

Discharge – The TRP does not provide for the discharge of water into water as described in the proposed activities. Resource consent is therefore required as a discretionary activity pursuant to s77C of the RMA.

WCWARP

- (a) Rule 2, clause (1) – This rule is not applicable to this application as the take is from a man-made water race that is supplied with water under an existing consent which has been included in the allocation limits (CRC940233B).
- (b) Rule 6 – The activity is within the allocation limit of 275 million cubic metres for agricultural activities upstream of Waitaki Dam (see Report 3 for annual allocation and priority tables). While the instantaneous abstraction rate is not included within the Rule 2 allocation limits as discussed above, the annual volume still needs to be included in the Rule 6 allocations as there is no control on the use of water proposed under this application under the consent to divert water (CRC940233B).
- (c) Rule 19 - Classifying rule – discretionary activity
26. Overall, the proposed water permit is a **discretionary** activity under Rule 19 of the WCWARP (and TRP) and resource consent is required in accordance with section 14 of the RMA.
27. The proposed discharge permit is a **discretionary** activity under the TRP and resource consent is required in accordance with section 15 of the RMA.
28. The applicant considers that consent is not required under section 13 of the RMA to undertake works in the bed and banks of Wairepo Creek (see paragraph 17).

Priority

29. In terms of instantaneous allocation under Rule 2, this is not applicable to this application.
30. For Rule 6, annual allocations refer to Report 3 for a full list of all existing consents and applications in priority order.
31. For application CRC011940, the allocation limits are not exceeded and there are no priority issues.

Derogation Approval

32. Meridian Energy Limited (MEL) has provided approval for Birchwood Run Ltd to derogate from its consents (see Attachment Six). This is not considered to be affected party approval under s94 of the RMA.

CONSULTATION

33. The applicant undertook brief consultation with Fish & Game and Department of Conservation prior to the first notification of this application in December 2003.
34. I am unsure if any consultation has occurred since notification with any party.

DESCRIPTION OF THE AFFECTED ENVIRONMENT

35. A description of the values of the Waitaki Basin and upper catchment tributaries in general is provided in the introductory s42A report (Report 1).
36. In addition to the above overall summary, the applicant notes the following:
- (a) The water race has no natural inflows other than the diversion from the Wairepo Creek.
 - (b) Native fish and small trout have on occasions been observed in the race, however the erratic flow patterns do not provide good aquatic habitat for fish.
 - (c) The Willowburn Swamp is approximately 260 hectares in extent.
37. I note that Willowburn Swamp is identified as an SSWI, RAP and Site of National Significance on CRC's GIS system. This *Carex* wetland has slow moving streams and an extensive willow area. Black stilt have been recorded in the area and it is a banded dotterel and marsh crake breeding site.
38. I note that there is no further available information on this water race.
39. I also note that the proposed irrigation area is predominantly flat land at the base of gently rolling hills, located adjacent to State Highway 8. It is highly visible to traffic travelling up and down this route.
40. In addition to the Sutherland's consent upstream of this application, there are no other consented users of water from this race system. However, The Glens property utilise the race for stockwater purposes. The Glens also hold consent CRC012389.2 to abstract water from a man-made race, however, it is not the same race system as that subject to this application.

ASSESSMENT OF PROPOSED ACTIVITY

41. The proposed water permit and discharge permit are discretionary activities and must be considered in the context of s104 of the RMA.
42. 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))

43. The effects considered for this type of activity (surface water diversion and abstraction) are presented in the introductory s42A report (Report 1). That report includes the presentation of the relevant planning provisions which direct us to consider these effects. A summary table regarding the assessment of individual effects for this application is provided below and a detailed discussion of those outstanding matters or areas of concern is provided in the following sections.

Take and Use of Water

Adverse Effects	Applicant's assessment	IO assessment	IO Conclusion
Ecosystems	Consider with fish screen that effects minor.	No minimum flow from Table 3 required as not taking water from natural waterway, instead from a man-made race and flow is sourced from existing consent so no control on min flows in Wairepo Creek. Fish screen proposed .	Effects minor.
Other water users	One other users are upstream so no effects. Other user for stockwater downstream. No residual flow proposed as supply always available and work together. Water meter proposed.	Water meter proposed . No residual flow proposed at boundary but not likely to be any adverse effects on downstream user as applicant needs to ensure continual flow for their own stockwater use downstream of the neighbouring property as well. MEL have provided derogation approval for this application.	Effects minor.
People, communities & recreational values	No change to contour of land, or method of irrigation. Greening effects of irrigation part of agricultural landscape. Cumulative effects too remote, unnecessary to determine application & beyond scope of Regional Council. Recreational & amenity effects have not been assessed.	The irrigation area is visible from the State Highway. The command area follows the base of the hill slopes so as to avoid overlap with the designated Outstanding Natural Landscape area. Conclusions of Chris Glasson on landscape effects (Report 5) agree that the effect of irrigation on the flat land provided it follows the base of the hill will be acceptable. <i>NB: It appears that the reference in text of Mr Glasson's evidence is incorrectly referred to so I have relied on the table appended to his report.</i> No min flow required for Wairepo Creek. No users of race for recreational purposes and man-made drain not valued aesthetically.	Effects acceptable.
Inefficient take and use	Applicant proposes 516,800m ³ /yr for irrigation.	Disagree that this is an efficient volume. Consider 421,388m ³ /yr more appropriate using the methodology outlined in Report U05/15.	Effects may be more than minor.

Water quality	MWRL report for cumulative effects.	Not satisfied given conclusions in s42A report on cumulative effects (Report 4A - F). There are a number of submitters to be heard on this matter.	Effects may be more than minor.
Tangata Whenua values	No assessment provided.	Submissions concerned & have not been addressed by applicant.	Effects uncertain.

Adverse effects of inefficient take and use on other users

44. The taking of water in excess of that required for the intended use may contribute to water levels being unnecessarily reduced and less water available for other users. A number of submitters have identified this issue.

Irrigation volumes

45. The applicant proposes to take water at a rate not exceeding 85 litres per second, and use up to 516,800 cubic metres of water per year for irrigation of 85 hectares and stockwater. As this is a replacement consent, the irrigation volume has been calculated in conjunction with Rob Potts for MEL as 608mm per hectare per year for spray irrigation of 85 hectares (6,080m³ x 85ha).
46. In the application, the applicant provided details on the soils and application rates. A 9.8 out of 10 day return period for irrigation has been proposed. They note that the soils have an average water holding capacity of 65 millimetres and the amount of water applied for equates to 8.46 millimetres per day over the 85 hectares.
47. I note that at 80% efficiency, the maximum application depth would be 6.7 millimetres per day. The applicant expects the evapotranspiration rates to be over 6 millimetres per day in the peak summer months. They therefore consider that the proposed volume and rate is efficient, particularly as some of the proposed 85 litres per second will be used for stockwater (up to 15 litres per second at peak).
48. I have used CRC's GIS system and the method outlined in Report U05/15 to determine an appropriate annual volume for irrigation of the proposed area. I based this calculation on arable land use with 80% heavy soil (PAW >110mm), 5% medium soil (PAW 75-110mm) and 15% light soil (PAW <75mm), and Effective Summer Rainfall of 200mm.
49. Using the above figures, an annual volume 421,388 cubic metres would be a more appropriate and efficient volume of water for spray irrigation of this area compared with the applicant's proposed volume of 516,800 cubic metres per year.
50. I also consider that an efficiency condition (WP05) is appropriate to ensure that water is not applied to the soils above their average water holding capacity, nor onto unproductive areas of land.

Stockwater volumes

51. Up to 15 litres per second (of the 85 litres per second being sought) is attributed to stockwater requirements. The applicant has outlined that they do not require consent for stock water as they are relying on their rights prescribed in the RMA under s14(3)(b) which allows for the taking of water for "*the reasonable needs of an individual's animals for drinking water*" as a permitted activity (s92 response dated 5 December 2008).

52. However, the applicant has detailed their stockwater requirements as follows:
- (a) 1575 cattle stock units¹; 263 @ 45 litres per day = 4,320 cubic metres per year
 - (b) 1800 sheep stock units¹; 1500 @ 3 litres per day = 1,640 cubic metres per year
 - (c) 1125 deer stock units¹; 526 @ 30 litres per day = 5,760 cubic metres per year
 - (d) Total of approximately 11,720 cubic metres per year.
53. The applicant's proposed volume, which was calculated in conjunction with MEL, is slightly less than the above which, I assume is from some slight difference in stock numbers as a result of the conversions.
54. While the applicant does not consider that a consent is required for the stockwater component, I consider that the proposed volume for stockwater of 10,840 cubic metres per year would be appropriate given the stock types and numbers on the property.

Conveyance / distribution efficiency

55. The applicant has not allowed for any conveyance losses. However, I note that the majority of the irrigation water will be taken at the head of the race on Willowburn Station, so race losses would only affect stockwater supply.
56. Therefore, in relation to Policy 19 of the WCWARP, the assumption is that the race system is as well sealed as a pipe system. The inclusion of an annual volume will ensure the applicant will operate the scheme as efficiently as possible given the importance of every cubic metre of water.
57. I consider that the applicant's analysis of the conveyance efficiency is appropriate and that the race network appeared to be well maintained during my site visit.

Efficiency conclusions

58. I consider that a recommended volume of 432,228 cubic metres per year for irrigation and stockwater is appropriate (421,388 cubic metres for irrigation; 10,840 cubic metres for stockwater), compared with the applicant's proposed 527,640 cubic metres per year.
59. Given the above discussion, I am not satisfied that that the proposed seasonal allocation is reasonable for the proposed irrigation area.

Adverse effect of use on water quality

Local effects

60. In terms of effects at the local scale, as this is a replacement application, the applicant has considered that effects on water quality will continue to be minor. They note that the areas currently irrigated are done so with spray systems. They conclude that given the use of water will be efficient which minimises leaching, effects on water quality should be minor.

¹ 1 cattle = 6 stock units
1 sheep = 1.2 stock units
1 deer = 2 stock units

61. I do not agree that this is an appropriate starting point for the assessment of the water quality effects associated with these applications. In my view there can be no presumption that the effects of the use of water authorised under the previous consents will continue to be authorised under any new consent.
62. No nitrates assessment for the property has been provided and depth to groundwater is unknown. There may be some conveyance of contaminants through the race system which is accessible to stock and which runs through the proposed irrigation area, therefore some form of buffer strip along its length may be appropriate to protect the surface water quality from runoff and leaching of nutrients as a result of irrigation, while still providing access for stock drinking water. Conditions to this effect have not yet been provided by the applicant.
63. No submissions were received on the local effects on water quality of this proposal.
64. Given the above, I cannot be satisfied that the adverse effects on water quality from the proposed activity will be minor.

Cumulative effects

65. An assessment of cumulative effects on water quality was requested to address the above concerns and in reference to Policy 13 of the WCWARP. The applicant has been involved with the study by Mackenzie Water Research Ltd (MWRL) on cumulative effects within the catchment.
66. There are a number of submissions which identify water quality as a result of land use intensification as a concern, including a submission from Meridian Energy Ltd who effectively hold consent to use all the water in the Upper Waitaki catchment. Those submitters and their concerns are outlined in more detail in Appendix 5 of Report 1.
67. The report by MWRL has been audited and a separate s42a planning report prepared by Dr Mike Freeman (see Report 4F) as well as numerous technical s42A reports (see Reports 4A-F).
68. The conclusion of Dr Mike Freeman and other experts (as outlined in Reports 4A-F) is that given the significant level of uncertainties involved in, and technical concerns with, critical aspects of the MWRL/GHD assessment of the adverse effects, together with the lack of mitigation measures yet proposed by resource consent applicants means that it is premature to make adequate conclusions about the potential adverse cumulative effects.

Adverse effect on Tangata Whenua values

69. The applicant has not provided an assessment of the effects of the proposed activity on cultural values. The sites of the proposed activities are within the rohe of Te Runaka O Waihao, Te Runaka O Arowhenua and Te Runaka O Moeraki. All three runanga and Te Runanga O Ngai Tahu were served notice of the applications in August 2007.
70. Submissions were received in opposition to this application from Te Runanga o Ngai Tahu and Ngai-Tahu Mamoe Fisher People. The concerns of the Ngai-Tahu Mamoe Fisher People seem to relate specifically to the resource consent process, rather than this specific application.

71. Te Runanga o Ngai Tahu have raised concerns relating to mixing of waters between catchments, deterioration of water quality, dewatering and residual flows, changes to sediment flow and deposition and impacts on sites of cultural significance.
72. Given that there are a submissions which identify cultural values, I cannot determine the scale of the actual and potential effects on the cultural values of the area.

Discharge of Water

Adverse Effects	Applicant's assessment	IO assessment	IO Conclusion
Flood-carrying capacity & erosion	No assessment provided.	On inspection of the discharge during my site visit I did not observe any erosion of the bed or banks and the swamp and it appeared to have capacity for any discharge that may occur. Given the maximum proposed rate will not likely be discharged for much of the time and the swamp does not receive high storm inflows, I consider that with the recommended conditions the effects of the discharge of flood-carrying capacity and erosion would be minor.	Effects minor.
Water quality & ecosystems	Discharge is water that is not required for irrigation or stockwater purposes. Consider water will not be subject to contamination that would not occur anyway. However, there is potential for contaminants from stock access to race for drinking water. However, consider that as water is not likely to significantly change by being diverted down race and swamp has good assimilative capacity before reaching Ahuriri River, effects on water quality would be minor.	I agree with the applicant that the level of contaminants in the discharge is likely to be low and/or similar to that already in Willowburn Swamp as a result of surrounding agricultural purposes. I agree that effects on water quality are likely to be minor given the available mixing in the swamp prior to its mixing with the Ahuriri River.	Effects minor.
Downstream users and amenity values	No assessment provided.	The discharge has been occurring for a number of years without complaint from any users of the catchment waterbodies. Given the effects on water quality are considered to be minor, and the discharge occurs on the applicant's property within the swamp area, I am satisfied that effects on downstream users and amenity values would be minor.	Effects minor.
Tangata Whenua values	No assessment provided.	As effects on water quality considered minor, I am satisfied that effects on Tangata Whenua values minor.	Effects minor.

Overall Conclusion

73. With regard to s104(1)(a), the actual and potential effects of the activities have been discussed above.
74. In particular, for the water permit application there is uncertainty regarding the following effects:
- (a) The localised and cumulative impacts on water quality;
 - (b) Whether the proposed annual volumes is a reasonable and efficient volume of water for the intended purpose
 - (c) Whether there are any adverse effects on Tangata Whenua values.
75. I consider that the effects of inefficient use can be mitigated, if the recommended conditions are included as part of the consent, if granted. For the other effects, I am unsure if these can be mitigated given the absence of mitigation proposed by the applicant at the time of writing this report.
76. For the discharge permit application, I am satisfied that all actual and potential effects will be minor.

Statutory Assessment (s104(1)(b))

77. Section 88A(2) of the RMA states that any plan or proposed plan which exists when an application is considered must be had regard to in accordance with section 104(1)(b). For this reason, it is appropriate to consider the objectives and policies of the PNRRP that are relevant to the application to discharge water, despite the fact that this application was lodged in 2001. A discussion of the relevant plan provisions is provided below.

Regional Policy Statement (RPS)

78. 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.
79. Of significance to this application is Chapter 9, which relates to the management of the Region's water resources. 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.

Waitaki Catchment Water Allocation Regional Plan (WCWARP)

80. The objectives and policies of the WCWARP that are relevant to each potential adverse effect for the take and use of water have been identified in the introductory s42A report. A table of all those objectives and policies considered to be relevant to this application is appended in Attachment Five. A discussion of the objectives and policies which are particularly relevant to this application is provided in the following paragraphs..

Objectives

81. Objective 1 is a key objective in relation to the proposed taking of water. I have considered whether Objective 1 can be met in terms of sustaining the quality of the river and surrounding environment. While the proposal may not entirely be consistent with Objective 1 and the associated policies (particularly policy 13 relating to water quality and policies 15 & 16 relating to efficient use), it is difficult to determine if the inconsistencies are significant enough to make the proposal contrary to Objective 1.
82. The proposed activity will impact on the matters outlined in Objective 1. In particular, (a) relating to spiritual and cultural values, given that effects on Tangata Whenua have been raised as a concern by submitters and have not yet been addressed by the applicant, and (b) life-supporting capacity of river and ecosystems, given that the potential adverse effects on water quality remain an outstanding concern. There have been a wide range of people who have submitted against the proposed activity due to concerns about impacts on these values. Given this, and that no mitigation has been proposed by the applicant, I cannot determine whether the proposed activity is contrary to these values at the time of preparing this report.
83. The proposed activity is within the allocation limits set by the WCWARP, therefore, it may be considered to be consistent with Objective 2.
84. Objective 4 aims to achieve a high level of technical efficiency in the use of water. The applicant has not provided sufficient information to confirm that the annual volume of water requested is reasonable to meet the demands of the soils within the irrigation area, therefore, the proposal may not be consistent with Objective 4.
85. As the proposal seeks to take water from a man-made water race it will not affect the reliability of supply to other users downstream and is therefore consistent with Objective 5 of the WCWARP.

Policies on water quality

86. Policy 13 deals with water quality issues resulting from land use intensification and enables the consent authority to have regard to the water quality objectives in the PNRRP. The WCWARP incorporates by reference Objectives WQL1, 2 and 3 of the PNRRP which contain particular outcomes to be achieved in the regions waterbodies. Report 4A, by Dr Mike Freeman, addresses this policy in more detail, particularly on the cumulative scale. Given his conclusions, I cannot determine if this application is contrary to this policy.

Policies on efficient and effective use

87. Policies 15 – 20 deal with efficient and effective use and all are applicable to this application.
88. Policy 15 ensures that the rate of abstraction and the annual volume is reasonable for the intended use. As discussed in the assessment of effects section of this report, I am not satisfied that the annual volume is reasonable for the intended use.
89. Policy 16 provides guidance for determining reasonable and efficient use for agriculture activities. As discussed in the assessment of effects, I am not satisfied that the requested volume of water is required under these consent applications.

Replacement consents

90. Policy 28 provides guidance as to matters which must be considered when deciding whether to grant or refuse an application for replacement of existing consents.
91. These include consideration of attempts to meet the efficiency expectations of the plan, recognition of the value of the investment by the consent holder and maintenance of the consent in any allocation limits and priority bands if granted.
92. I consider that the applicant has made attempts to show that they are meeting the efficiency expectations of the plan, however, as conclusions cannot yet be made on the annual volume, I cannot conclude the proposal is consistent with this policy.

Policies for other rivers and streams in the upper catchment

93. Policy 40 deal with the environmental flow regime in the rivers and streams in the upper catchment (see Map 2 in the WCWARP). Policy 40 enables access to water for the activities identified in Objective 2, to the extent consistent with Objective 1.
94. As the environmental flow and level regime in the plan is not applicable to this activity, and as it is within the allocation for agricultural and horticultural activities identified in Rule 6, Table 5, the proposal would be considered to be consistent with this policy.

Proposed Natural Resources Regional Plan (PNRRP)

95. Section 88A(2) of the RMA states that any plan or proposed plan which exists when the application is considered must be had regard to in accordance with section 104(1)(b). For this reason it is appropriate to consider the objectives and policies of the PNRRP that are relevant to the application to discharge of water. A discussion of the relevant objectives and policies is provided below.

Objective WQL1.1 – Water quality outcomes for rivers

This objective aims to maintain and improve water quality, physical and chemical characteristics of the rivers. The proposed discharge into Willowburn Swamp will likely be consistent with the outcomes required by this objective.

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 discharge is in the most appropriate location for the system, however it will be in a different sub-catchment to that which the water originates from (i.e water from the Wairepo catchment discharging into the Ahuriri catchment). But all water will remain in the wider Lake Benmore catchment.

The discharge into the Willowburn Swamp falls through a gap in the relevant planning documents for water quality. It is within the Ahuriri catchment, but is specifically excluded from the discharge requirements under the Ahuriri WCO as it does not form part of the “protected waters”. However, as it is incorrectly identified on the PNRRP planning maps as being covered by the Ahuriri WCO, it does not have any specified water quality standards in accordance with the classifications in the PNRRP. Given the lack of any notified water quality standards, I have referred to a review of the PNRRP water quality objectives and standards undertaken by surface water quality

scientists at CRC². In this review, which is not CRC policy, they consider the water quality standards for the Quail Burn should be “*Hill-fed – lower*”. The proposed discharges would meet these recommended water quality standards outside the zone of non-compliance.

Conclusion

96. With regard to s104(1)(b), for the water permit application the relevant provisions of the RPS and WCWARP have been considered above. I do not consider that this application is consistent with Objective 1, and Policies 13, 15, 16 of the WCWARP.
97. For the discharge permit application, I am satisfied that the application is consistent with the relevant plan provisions of the RPS and PNRRP. There are no policies or objectives in the TRP.

Other Matters (s104(1)(c))

98. With regard to s104(1)(c), the consent authority can consider any other matter relevant and reasonably necessary to determine the applications. I consider that the high court decision *Aoraki Water Trust and Others v Meridian Energy Limited*³ is relevant to the water permit application (see discussion in Report 1).

PART 2 PURPOSE AND PRINCIPALS

99. Part 2 of the RMA contains sections 5 to 8 which define the purpose and principals of the RMA

Purpose of the RMA (s5)

100. 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.”

101. 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 while “safeguarding the life-supporting capacity of water” and “avoiding, remedying or mitigating” the adverse effects of activities.
102. The proposal will allow the development of land to occur, which may provide for the economic and social well-being of the community. The applicant however has not proposed measures to “safeguard the life-supporting capacity of water” and “avoid, remedy or mitigate” the potential impacts on surface water quality as required in Section 5(2)(c), or provided information to confirm that the proposed annual volumes requested are reasonable and consistent with the objectives of Section 5(2)(a), which aims to provide for the needs of future generations.

² Hayward, Meredith & Stevenson (2009) “*Review of proposed NRRP water quality objectives and standards for rivers and lakes in the Canterbury region*” Environment Canterbury Technical Report.

³ [2004] NZMRA 251

Matters of National Importance (s6)

103. Sub-sections (a) and (e) of Section 6 of the RMA are particularly relevant to this application. The proposal may result in effects on water quality and ecosystems that have not been adequately mitigated. The applicant has not yet proposed measures to address these effects. The applicant has not assessed the impacts on cultural values, and runanga have submitted in opposition on this application.

Other Matters (s7)

104. 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.
105. Sub-sections (b) and (f) are specifically relevant to this application and should be considered when deciding the acceptability of effects resulting from the proposed take and use of water from the Wairepo water race. Section (b) relates to the efficient use of water and as discussed above there is currently insufficient conclusive evidence to confirm that the applicant's requested annual volume is reasonable.
106. Section (f) refers to the maintenance and enhancement of the quality of the environment. The applicant has not proposed mitigation measures to ensure that this objective is achieved, particularly with regards to water quality.

Principles of the Treaty of Waitangi (s8)

107. 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 Te Runaka O Waihao, Te Runaka O Arowhenua and Te Runaka O Moeraki. Runanga were informed separately when ECan received the application and later when the application was notified. Submissions have been received from Ngai Tahu and runanga on this application.

RECOMMENDATION

Grant or Refuse

108. Section 104B applies to any application which is a discretionary or non-complying activity and states that the consent authority may grant or refuse the application and may impose conditions under s108.
109. For the water permit application (CRC011940), I am not satisfied that the actual and potential effects of the proposed activity are acceptable. In particular there are a number of outstanding matters as follows:
- (a) *Water quality* - No impact assessment or measures to address the water quality impacts that could arise from irrigation at this site. Given the conclusion regarding the potential cumulative adverse effects on water quality, it is premature to make any recommendation to grant or refuse this application as it relates to cumulative water quality;
 - (b) *Efficient & reasonable use* – There is a lack of conclusive information to support the annual volume requested in accordance with the direction provided by Policies 15-20 of the WCWARP;

(c) *Cultural values* – The applicant has not provided any assessment on cultural values and there are outstanding submissions from runanga in opposition to this proposal.

110. I have recommended conditions to address (b) above. However having considered all relevant matters outlined in section 104(1), I am not satisfied that the actual and potential effects of the proposed activity are acceptable due to concerns regarding effects on water quality and cultural values, or that the proposal is consistent with the relevant plan provisions. On this basis, I cannot recommend that application CRC011940 be granted.

111. For the discharge permit application (CRC011939), I am satisfied that there are no outstanding adverse effects of the proposed activity that have not been addressed through appropriate mitigation measures. When considering the matters outlined in section 104(1) of the RMA, I am satisfied that the actual and potential effects of the proposed activity are acceptable and the application can be granted subject to the recommended conditions set out in the next section of this report.

RECOMMENDED CONDITIONS

112. Comments on the mitigation proposed by the applicant are provided earlier in this report.

113. If the Commissioners decide to grant the water permit application, a list of conditions that are usually included in a water permit are provided in Appendix 6 of the introductory s42A report. A list of conditions specific to this application is provided below.

114. It should be noted that the investigating officer is not satisfied that these conditions would adequately mitigate that adverse effects that are of key concern, as discussed in paragraph 109 above.

115. If the Commissioners decide to grant the discharge permit application, a list of conditions that are usually included in a discharge permit are provided in Appendix 6 of the introductory s42A report. A list of conditions specific to this application is provided below.

Table 4: Recommended draft conditions for water permit CRC042661		
No.	Condition Code⁴	Details
Divert		
1	WP01	<p><i>Name of waterbody:</i> Wairepo water race</p> <p><i>Map reference:</i> for irrigation between NZMS 260 H39:701-430 and H39:696-396, and for stockwater only between map references NZMS 260 H39:696-378 and H39:690-346</p> <p><i>Instantaneous rate:</i> 85 litres per second</p> <p><i>Volume:</i> 7,344 cubic metres per day</p>
Use		

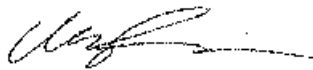
⁴ See Report 1, Condition 6 for condition code and wording.

2	WP04	<i>Instantaneous rate:</i> 85 litres per second <i>Volume:</i> 421,388 cubic metres per year <i>Type of irrigation:</i> Spray irrigation <i>Number of hectares:</i> 85 hectares within a command area of 370 hectares <i>Use:</i> crops and pasture for grazing stock excluding milking dairy cows <i>Plan No:</i> "CRC011940" (Attachment 1)
3	WP05	Efficiency of use
4	WP06	Backflow preventer
Mitigation		
5	WP09	Fish Screen
Measuring & Metering		
6	ME03	Open channel
7	ME04	
8	ME05	
9	ME06	<i>Waterway:</i> Wairepo water race
Administrative Conditions		
10	AD01	
11	AD03	
12	AD04	Lapse date

Table : Recommended draft conditions for discharge permit CRC011939		
No.	Consent Code	Details
Scope		
1	DP01	<i>Waterbody from:</i> Irrigation race <i>Waterbody to:</i> Willowburn Swamp <i>Map reference:</i> NZMS 260 H39:690-346 <i>Discharge rate:</i> 85 litres per second <i>Plan:</i> "CRC011939" <i>Other:</i> The water shall be unused conveyance water and shall contain no contaminants.
Operation and Maintenance		
2	DP02	<i>Waterbody:</i> Willowburn Swamp
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 Willowburn Swamp; or reduce the flood-carrying capacity of the waterway

4	DP03	
5	DP04	
Administrative Conditions		
6	AD03	Review
7	AD04	Lapse date

Signed:



Date: 31st August 2009

Claire Penman
Consents Investigating Officer

REFERENCES

Canterbury Regional Council 2004. Proposed Natural Resources Regional Plan – Chapter 4: Water Quality.

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

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Department of Conservation 2003. Bog Roy Station Tenure Review - Conservation Resources Report.

Gabites, S, & Horrell, G. 2005. Seven day mean annual low flow mapping of the tributaries of the Waitaki River. Canterbury Regional Council Report R05/16. ISBN: 1-86937-570-X.

Keller, J & Pfluger, Y. 2005. Working papers about the Natural and Physical Resources of the Waitaki catchment by locality. Report provided to the Waitaki Catchment Water Allocation Board.

Ministry for the Environment, 2006. Waitaki Catchment Water Allocation Regional Plan.

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

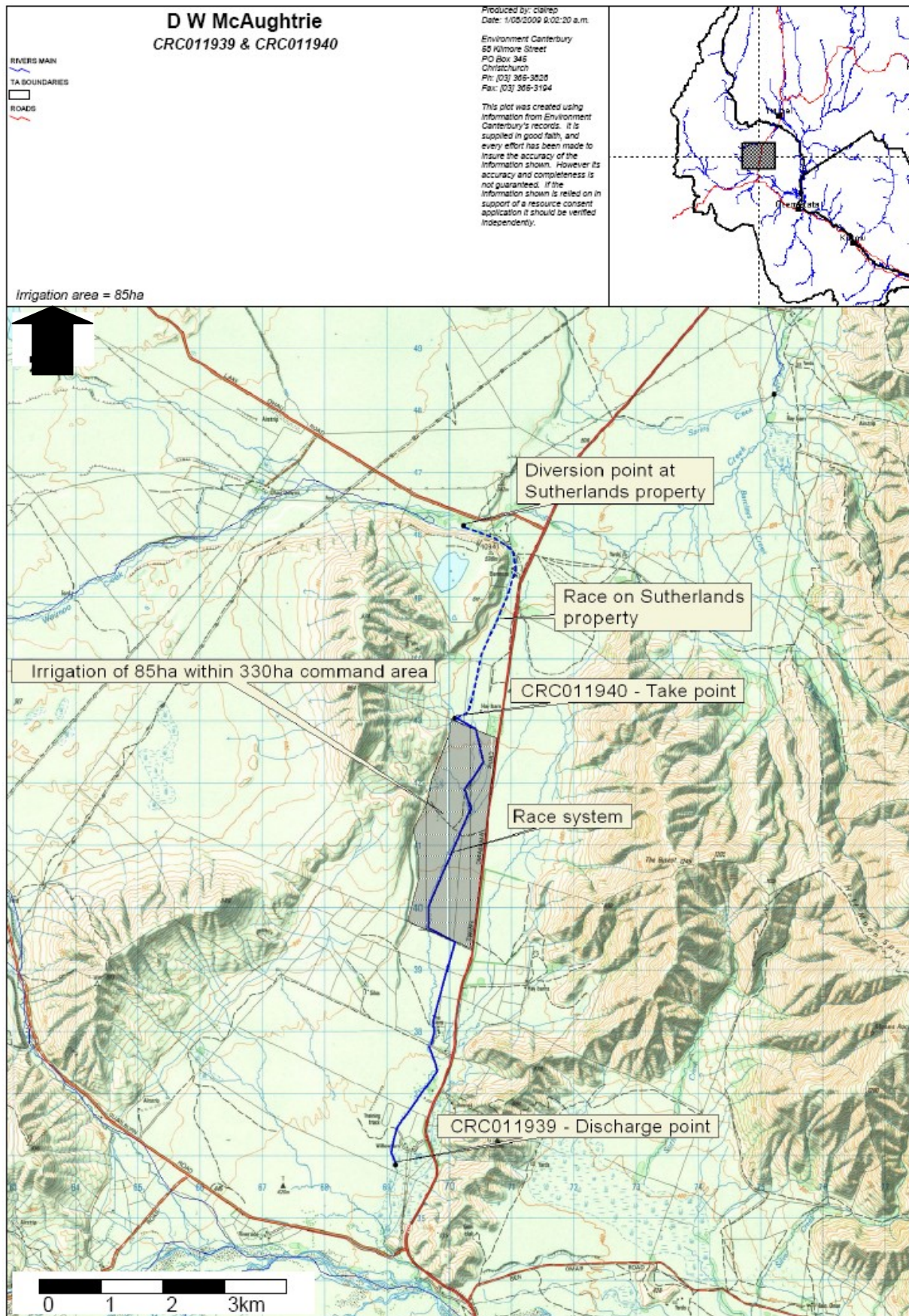
Waitaki Catchment Water Allocation Board 2006. Waitaki Catchment Water Allocation Regional Plan. ISBN: 0-9582620-7-1.

Waitaki Catchment Water Allocation Board 2006. Waitaki Catchment Water Allocation Regional Plan, Material Incorporated by Reference. ISBN: 0-9582620-6-3.

Waitaki Catchment Water Allocation Board 2006. Waitaki Catchment Water Allocation Regional Plan, Annex 1 – Decision and principal reasons for adopting the Plan provisions. ISBN: 0-9582620-4-7.

Waitaki Catchment Water Allocation Board 2006. Waitaki Catchment Water Allocation Regional Plan, Section 32 Report. ISBN: 0-9582620-5-5.

ATTACHMENT ONE – LOCATION MAP



ATTACHMENT TWO – PREVIOUS CONSENTS

RecordNo WTK691631A

Type Consent

Source Existing Use Wtr

PermitType Water Permit

FileNo CO6T/00871

ClientID 1635

ClientName W H Mcaughtrie

To To divert up to 51 megalitres of water per week from the wairepo stream at aa maximum arte of 85 litres per second, at map reference S109:686-556 (H39:703-461) for stock and irrigation water.

Location

Status Continuation until new application determined

Events 29/May/1969 Consent Issued
28/May/1971 Given Effect To
29/May/1971 Lapse Date if not Given Effect To
23/Mar/2001 1st Expiry Reminder
01/Oct/2001 Sec 124 continuation starts
01/Oct/2001 Consent Expires

Consent Summary



RecordNo WTK691631B

Type Consent

Source Existing Use Wtr

PermitType Water Permit

FileNo CO6T/00871

ClientID 1635

ClientName W H Mcaughtrie

To To take up to 51 megalitres of water per week from the Wairepo Stream at a maximum rate of 85 litres per second, at map reference S109:686-556 (H39:703-461) for stock and irrigation water.

Location

Status Continuation until new application determined

Events 29/May/1969 Consent Issued
28/May/1971 Given Effect To
29/May/1971 Lapse Date if not Given Effect To
23/Mar/2001 1st Expiry Reminder
01/Oct/2001 Sec 124 continuation starts
01/Oct/2001 Consent Expires

Consent Summary



RecordNo WTK691631C

Type Consent

Source Existing Use Wtr

PermitType Discharge Permit

FileNo CO6T/00871

ClientID 1635

ClientName W H Mcaughtrie

To To discharge up to 51 megalitres of water per week to a tributary of Willow Burn at a maximum rate of 85 litres per second, at map reference S109:677-470 (H39:696-382) to dispose of surplus.

Location

Status Continuation until new application determined

Events

- 29/May/1969 Consent Issued
- 28/May/1971 Given Effect To
- 29/May/1971 Lapse Date if not Given Effect To
- 23/Mar/2001 1st Expiry Reminder
- 01/Oct/2001 Sec 124 continuation starts
- 01/Oct/2001 Consent Expires

Consent Summary



ATTACHMENT THREE – PHOTOS OF INTAKE SITE TAKEN ON 11 DECEMBER 2008 BY CLAIRE PENMAN



Buffer pond at intake site



Water race looking upstream from intake site onto Sutherland's property



Control gate at intake



Looking downstream from intake site along race system

ATTACHMENT FOUR – SUTHERLAND’S DAM AND DIVERT CONSENTS

RecordNo CRC940233A

Type Consent

Source Applic /New

PermitType Water Permit

FileNo CO6T/01377

ClientID 2559

ClientName Messrs W H & A J Sutherland

To to dam Wairepo Stream, at or about map reference H39:703-461.

Location Lake Ohau Road, OMARAMA

Status Current

Events

29/Nov/1993	Consent Issued
17/Dec/1993	Consent Commenced
20/Dec/1993	Given Effect To
17/Dec/1995	Lapse Date if not Given Effect To
22/May/2007	1st Status Query Letter
18/Nov/2028	Consent Expires

Consent Summary



Subject to the following conditions:

- 1) The height of the dam shall not exceed 600mm above the bed level and the crest length shall not exceed 2 metres.
- 2) The Canterbury Regional Council may annually, on or about the last working day of June each year, serve notice of its intention to review the conditions of this consent for the purposes of:(i) dealing with any adverse effect on the environment which may arise from the exercise of the consent;(iii) complying with the requirements of a regional plan.
- 3) Charges, set in accordance with section 36(2) of the Resource Management Act 1991, shall be paid to the Regional Council for the carrying out of its functions in relation to the administration, monitoring and supervision of resource consents and for the carrying out of its functions under section 35 of the Act.

RecordNo CRC940233B

Type Consent
Source Applic /New

PermitType Water Permit

FileNo CO6T/01377

ClientID 2559

ClientName Messrs W H & A J Sutherland

To to take water from Wairepo Stream, at or about map reference H39:703-461 for irrigation of up to 120 hectares.

Location Lake Ohau Road, OMARAMA

Status Current

Events 29/Nov/1993 Consent Issued
17/Dec/1993 Consent Commenced
20/Dec/1993 Given Effect To
17/Dec/1995 Lapse Date if not Given Effect To
22/May/2007 1st Status Query Letter
18/Nov/2028 Consent Expires

Consent Summary



Subject to the following conditions:

- 1) The rate at which water is taken shall not exceed 90 litres per second, with a maximum volume not exceeding 54,600 cubic metres per week.
- 2) The taking of water in terms of this permit for irrigation shall cease whenever the flow in the Wairepo Water Race at the Benmore Station/Willowburn Boundary (map reference H39:701-430), as estimated by the Canterbury Regional Council, falls below 30 litres per second.
- 3) The hours and rate at which water is taken for irrigation shall be measured to within an accuracy of 10 percent and recorded weekly in a log kept for that purpose, and a copy of the records submitted to the Canterbury Regional Council before 31 January each year, for the previous period August-December inclusive and before 31 May each year for the previous period January-April inclusive.
- 4) This consent shall not be exercised concurrently with consent WTK861603.
- 5) The Canterbury Regional Council may annually, on or about the last working day of June each year, serve notice of its intention to review the conditions of this consent for the purposes of:(i) dealing with any adverse effect on the environment which may arise from the exercise of the consent;(ii) complying with the requirements of a regional plan.
- 6) Charges, set in accordance with section 36(2) of the Resource Management Act 1991, shall be paid to the Regional Council for the carrying out of its functions in relation to the administration, monitoring and supervision of resource consents and for the carrying out of its functions under section 35 of the Act.

ATTACHMENT FIVE – OBJECTIVES & POLICIES

Objective / Policy	Description	Assessment
Objective 1	To sustain the qualities of the environment of the Waitaki River and associated beds, bars, margins, tributaries, islands, lakes, wetlands and aquifers.	The proposed activity will impact on the matters outlined in Objective 1, particularly (a), (b) and (c). There have been a wide range of people who have submitted against the proposed activity due to concerns about impacts on these values. I therefore cannot determine whether the proposed activity is contrary to these values at the time of preparing this report.
Objective 2	Provide water for different activities.	The proposed activity is within the annual allocation limit for agricultural and horticultural activities outlined in Rule 6. Therefore, this application would not affect availability of water to other users.
Objective 3	Recognise that there are beneficial and adverse effects on the environment at a national and local scale.	These factors have been considered in the assessment of effects.
Objective 4	Achieve a high level of technical efficiency in the use of water.	The applicant has not demonstrated that the use of water for irrigation is technically efficient.
Objective 5	Provide for practical and fair sharing of allocated water during times of low water availability.	No minimum flow is required as flows will be maintained in the race for other stockwater users downstream.
Policy 1	Recognising connectedness between all parts of the catchment	Taking from a man-made drain using water diverted under another consent so not applicable.
Policy 3	Setting of environment flow and level regimes for all activities in Objective 2 and consistent with Objective 1.	Not relevant as no minimum flow required.
Policy 4	Outlines a number of matters that must be considered when setting an environmental flow and level regime	Not relevant as no minimum flow required.
Policy 8	Promoting water harvesting when flows are low	Water harvesting is not proposed.
Policy 9	Discouraging further mixing of water between catchments	Water will be taken and discharged in a separate sub-catchment, but still within the wider Lake Benmore catchment.
Policy 10	Enabling small amounts of water to be taken or diverted where effects are minor.	The proposed volume exceeds what is considered to be a small amount
Policy 11	Consider effects on Tangata Whenua values, local and national effects when allocating water to activities	Submissions received on Tangata Whenua values, but application falls within allocation limits for agricultural and horticultural activities
Policy 12	Outlines matters that must be considered when establishing allocation limits.	Application falls within allocation limit for activities in Objective 2
Policy 13	Addresses water quality objectives in the NRRP	Addressed in more detail in Report 4A
Policy 15	Ensuring take and use of water is reasonable for its intended use	Applicant is seeking what I consider to be an unreasonable volume of water
Policy 16	Requiring irrigation applications to	As above – applicant has not provided an

	meet the specified reasonable use test	adequate assessment
Policy 18	Requiring the volume of water on existing consents to reflect actual use.	Through the replacement of the existing consent an annual volume will be specified in the conditions
Policy 19	Encouraging piping or sealing of water distribution systems to minimise water losses and maintain water quality.	The proposed conveyance via open water race will mean here is some water loss via evaporation, but the applicant considers it to be well sealed and has not allowed for any losses in their proposed annual volume.
Policy 20	Promoting the integration of multiple uses of water.	Multiple uses of water are not proposed
Policy 21	Requiring the installation and use of water-measuring and recording devices.	A suitable water metering device is proposed to be installed
Policy 23	Restricting taking or diverting of water (surface and shallow and connected groundwater) upstream of Lake Benmore during times of low flow except for essential uses	Not relevant as no minimum flow required.
Policy 25	Allowing for sharing of available water within a water-users group	No flow sharing required as not from natural water body.
Policy 26	Setting priority bands for upper or mid-catchment tributaries and the Ahuriri catchment.	Not relevant as not on natural water body.
Policy 27	Giving priority during low flows or levels to integrated schemes where water used for more than one purpose.	There are no integrated schemes with this sub-catchment
Policy 28	Considerations for granting or refusing replacement consents	While there has been considerable investment by the consent holder, I do not consider that they have adequately addressed the efficiency expectations of the plan
Policy 40	Setting an environmental flow and level regime for these rivers and streams	Not relevant as not on natural water body.

ATTACHMENT SIX – DEROGATION APPROVAL



meridian

17 June 2009

Gillian Ensor
Environment Canterbury
PO Box 345
Christchurch

EC - CHCH	
FILE REF: CO6C - 17864	
DOCUMENT No:	
59474	18 JUN 2009
	ACTION
	INFO
G. Ensor	

Dear Gillian

Application by Mr DW McAughtrie

- 1 We write to you to outline the basis of Meridian Energy Limited (*Meridian*) providing its derogation approval to the application numbered CRC01 1940 by Mr DW McAughtrie. We refer to the letter to ECan from Chapman Tripp dated the 26th of June 2008 setting out Meridian's position on derogation approvals generally.
- 2 Meridian has read and considered the application CRC01 190 by Mr DW McAughtrie and provides derogation approval on the following basis:
 - 2.1 Mr DW McAughtrie shall only be entitled to take and use water from a water race (at map reference H39: 701-430 and H36: 696-396 and any point on the water race between H:39 -378 and H39: 690-346) at a maximum rate of 85 litres per second for the spray irrigation of 85 hectares and provision of stockwater supply identified in the application; and
 - 2.2 The maximum daily volume shall not exceed 7,344 cubic metres per day and the annual volume shall not exceed 527,640 cubic metres per annum, of which 10,840 cubic metres per annum is allocated for stockwater, and this shall be allocated as an agricultural and horticultural activity upstream of Waitaki Dam but not upstream of the outlets of the glacial lakes under Rule 6, Table 5 of the Waitaki Catchment Water Allocation Regional Plan.
- 3 Any amendment or modification to the above will require further written derogation approval from Meridian. On the same basis any subsequent variation, transfer or replacement application that is relevant to the volume or location of the take may also require further approval.
- 4 This letter is not an affected party approval to the consent application under section 94 of the Resource Management Act. Meridian may choose to submit in support or oppose the application on grounds which do not relate to the derogation of its rights, or not to submit at all.

- 5 This letter does however record (subject to the above) that Meridian will not oppose the granting of the Mr DW McAughtrie application on the grounds that it will reduce the quantity of water available under Meridian's existing consents.
- 6 Please advise if any basis for Meridian's approval outlined in paragraph 2 will not be met by the resource consent.

Yours sincerely



rl

Mike Roan
Markets and Production Director