

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

IN THE MATTER OF The Resource Management Act
1991

AND

IN THE MATTER OF Application CRC021749 by
Rosehip Orchards NZ Limited for
a Water Permit to take & use
surface water.

Section 42A Officer's Report of Yvette Rodrigo

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. Rosehip Orchards NZ Limited (the applicant) has applied for a resource consent to:
 - (a) Diver, take and use up to 117,332 cubic metres (m³) per week, and a maximum annual volume not exceeding 2,490,000 m³ of water, at a rate not exceeding 194 litres per second (l/s) from the Twizel River between map references NZMS 260 H38:846-516, State Highway 8 (SH8), Twizel.
3. Water will be used for spray irrigation of up to 415 hectares (ha) of rosehips and crops, such as Lucerne, and pasture grazed by stock, such as cattle and sheep. Attachment One of this report shows the location of the take and the proposed irrigation area.
4. This is an application for a new activity.
5. The applicant requests a duration to 2025.
6. Ms Haidee McCabe from Irrigation Resource Solutions Limited was engaged by the applicant to prepare the application and assessment of environmental effects of the proposed activity. Aqualinc and more recently Mr Peter Glasson have subsequently been engaged by the applicant to provide further information on the application.
7. A site visit was undertaken by Environment Canterbury (ECan) staff in February 2009.

Background

8. The applicant's property consists of a 930 ha block of gently sloping flat land located between the Twizel and Tekapo Rivers. Some of this land is currently irrigated and

used to grow rosehips, with the remainder being undeveloped barren grassland that is lightly grazed (i.e. less than 0.5 stocking units per hectare (SU/ha)).

9. Application CRC021749 was lodged on 16 April 2002 and considered to be notifiable on the 21 August 2002. Further information was requested from the applicant on the effects of the proposed activity on water quality and landscape, minimum flows and whether derogation approval from Meridian Energy Limited (MEL) had been obtained.
10. In addition to this application, the applicant has also applied for a land-use consent to disturb the bed and banks of the Twizel River for the installation of an intake structure (CRC021750). That application is discussed in a separate report (Report 32D).
11. The applicant currently holds an existing consent to take and use groundwater at a rate of 92 l/s from bore H23/0035 (CRC030175), which was granted in 2002. This application (CRC021749) relates to take water from the Twizel River to irrigate the remaining land not irrigated under the existing consent (CRC030175).
12. The applicant also applied for water permit (CRC072118) and land-use (CRC072117) applications relating to an abstraction from the Ohau C canal to irrigate the area of land that would be irrigated by application CRC021749 and CRC030175. Should the abstraction from the Ohau C canal be granted, then both the take authorised by the existing consent and the take from the Twizel River would not be required. The existing consent could then be surrendered and the applications for the Twizel River take, be withdrawn.

Notification

13. Details of the notification and wording are contained in Appendix 4 of the introductory s42A report (Report 1). This consent was notified in 2003 as part of the ministerial "call-in" of all applications to take water in the Waitaki Catchment. The application was also publicly notified in August 2007 with 200 other applications for similar activities in the Waitaki catchment.

Submissions

14. Details of the submissions lodged on all applications notified at the same time as this application are contained in Report 1, Appendix 5. Overall, the key effects of concern relating to applications within the Waitaki catchment including this application include those on ecosystems, water quality, existing and other allocations, minimum flows and natural character.

DESCRIPTION OF THE PROPOSED ACTIVITY

15. The following description of the proposed activity relates specifically to the take and use of water. Details relating to the land-use permit for the installation and maintenance of the intake structure (CRC021750) are described in a separate report.
16. The applicant proposes to take and use water under the following conditions:

Abstraction Limits

- (i) Water will be taken at a rate not exceeding 194 l/s and a weekly volume not exceeding 117,332 m³ from the Twizel River, at or about map reference NZMS 260 H38:846-516.

Use of Water

- (ii) Water abstracted and/or stored will be used to irrigate an area of 415 ha of rosehips, crops such as Lucerne and pasture. The plan attached to this report in Attachment One show the irrigation area and location of the abstraction point.
 - (iii) Pasture will be grazed by non-dairy stock, such as sheep and cattle. Stock will not be allowed to access the Twizel River in the area of the proposed irrigation development.
 - (iv) Water will be conveyed to the irrigation area via a closed pipeline and irrigated onto land via centre pivot.
 - (v) An application rate of 4 mm/day is proposed, however as the application rate for centre pivot irrigators is between 28.3 mm/day, a return period of 7 days is also proposed.
 - (vi) A fish screen will be installed at the intake.
17. The proposed annual volume does not include any provision for stock water for the property. The applicant states that stockwater is obtained under the rights prescribed in the RMA in s14(3), as acknowledged on page 14 of the WAB decision.

LEGAL AND PLANNING MATTERS

Consent Requirements

18. The consent requirements under the Resource Management Act (RMA), Transitional Regional Plan (TRP) and Waitaki Catchment Water Allocation Regional Plan (WCWARP) for water permit applications are outlined in the introductory s42A report (Report 1). A summary of the requirements for these applications are provided below:
19. TRP
- (a) The TRP permits the abstraction of surface water from any surface waterway provided the volume abstracted is less than 10 m³/day, and the rate of take is limited to 5 l/s. Given that the proposed take exceeds these limits, consent is required as a discretionary activity.
20. WCWARP
- (a) Rule 2, clause (1a) – The abstraction occurs downstream of State Highway 8 and is not upstream of the Pukaki Canal, therefore is subject to the minimum flow and flow-sharing regime set out in Table 3, row (vii). The applicant has not proposed a minimum flow or flow sharing regime as required under this rule. The applicant has undertaken consultation with F&G and DoC regarding minimum flows. In a letter from Aqualinc (dated 5 December 2008) they stated that ECan would be advised in February 2009 regarding the outcomes of consultation regarding appropriate minimum flows for the river. At the time of writing this report, the applicant has not advised ECan that they propose to adopt the flow restriction set by the WCWARP or any other minimum flow.
 - (b) Rule 6 – The activity is within the allocation limit of 275 million cubic metres for agricultural activities upstream of Waitaki Dam.

- (c) Rule 16 – Classifying rule, non-complying activity.
21. In summary, the proposed take and use of water is a non-complying activity under Rule 16 of the WCWARP and requires consent pursuant to section 14 of the RMA.
 22. A land-use consent under Section 13 of the RMA is also required to undertake works in the bed of the Twizel River to install and maintain an intake structure (CRC021750).
 23. No discharges are associated with the system and therefore no consent under section 15 of the RMA is required.

Priority

24. In terms of instantaneous allocation under Rule 2, a detailed list of all consents and applications who fall within Table 3 can be found in Report 2A. All applications upstream of the Waitaki Dam and downstream of the glacial lake outlets are currently within annual allocations limits set in the WCWARP, therefore priority in relation to the plan, is not an issue for this application.

Derogation Approval

25. At the time of writing this report derogation approval has not been provided by Meridian Energy Limited (MEL) for this application.

CONSULTATION

26. The applicant consulted extensively with Fish and Game and the Department of Conservation regarding various aspects of the application, including determining an appropriate minimum flow.

DESCRIPTION OF THE AFFECTED ENVIRONMENT

27. A description of the values of the Mackenzie Basin in general is provided in the introductory s42A report (Report 1).
28. The applicant states that the Twizel River is approximately 8 metres wide at the extraction point and less than 0.5 metres deep. During floods, this can increase substantially.
29. The base of the stream consists of greywacke stones to gravels and is contained by low banks on either side.
30. Below the extraction point, the Twizel River flows into the Ohau River, which then enters Lake Benmore, after approximately 1 kilometre.
31. My investigations, using Environment Canterbury's GIS System, have provided the following additional information on the affected environment:

Irrigation Area

- (a) The area proposed for irrigation is classified as an 'Area of Outstanding Regional Significance'.
- (b) The irrigation area is not within a Statutory Acknowledgement Area or a Silent File Area.

- (c) Transpower's "BEN-ISL-A" power line and supporting structures run through the middle of the proposed irrigation area in a general north to south direction.

Twizel Rivers

- (d) The Twizel River is a popular fishing location and there is a public access track along the river, which provides access to the river for fishing and walking. Wetland type areas were observed during the site visit along the margin of the Twizel River but not within the area proposed for irrigation.
- (e) Salmonid habitat has been recorded in the Ohau River and Twizel River.
- (f) The Twizel River is a Site of Special Wildlife Importance, native bird habitat, a trout and salmon spawning area and an area of native vegetation.
- (g) The whole area is categorised as a Land of Regional Importance.
- (h) The area is not a Statutory Acknowledgement Area, or within a Silent File Area and there are no documented archaeological sites within the vicinity of the proposed works.

ASSESSMENT OF THE PROPOSED ACTIVITY

- 32. The proposed water permit is a discretionary activity and must be considered in context of section 104 of the RMA.
- 33. Section 104(1) outlines matters that the consent authority must have regard to when considering an application for 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 (Section 104(1)(a))

- 34. The effects that have been considered for this type of activity (surface water 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.

Adverse effect on people, communities and amenity values

- 35. The applicant has stated that the proposed activity would result in positive social and economic benefits for the community, however has not provided an assessment of the effects on landscape or amenity values at a local scale.

Landscape and Amenity Values

- 36. Mr Chris Glasson (Landscape Architect) was engaged by ECan to audit the applicant's assessment of effects on landscape values associated with the proposal. The key conclusions of his audit in relation to this application are:
 - (a) The absence of a buffer between the irrigation area and the Twizel, Tekapo and Pukaki rivers could result in significant landscape effects;
 - (b) Irrigation within the proposed area in a "spotty" or discontinuous manner will create significant effects.

37. Mr Glasson further stated that the site could potentially accommodate irrigation provided:
- (a) A sufficient buffer distance was provided between the terrace risers of the rivers and the irrigation area;
 - (b) A greater separation distance was provided between the irrigation area and the river delta; and
 - (c) The northern boundary of the irrigation area followed the shape of the land.

Cumulative Impacts

38. The applicant has not assessed the cumulative impacts of the activity on the on natural character and amenity values of the catchment resulting from increased irrigation within the Mackenzie Basin. A number of submitters have raised concerns with regard to this effect on natural character and amenity values. This matter is discussed in a separate report by Dr Mike Freeman, which addresses the cumulative landscape effects (Report 4F) of irrigation within the catchment.
39. The irrigation area is included in "Landscape Unit 3: Pukaki" in Mr Glassons audit. For this unit, Mr Glasson concludes that the cumulative impacts of irrigation resulting from all applications could result in adverse landscape effects. These effects could be mitigated to acceptable levels if the recommended mitigation measures for each site are implemented.

Recreation & Amenity Values

40. The applicant has stated (in the AEE) that appropriate minimum flows will ensure that recreation and amenity values of the Twizel River adequately protected. As stated above, while consultation has occurred with DoC and F&G, the applicant is not proposing the flows specified in the WCWARP for this reach of the Twizel River.
41. Given that once the intake structure is installed, it is unlikely that the actual take and use of water will result in adverse effects on recreation and amenity values, provided an appropriate minimum flow and flow sharing regime is proposed and implemented by the applicant.
42. The effects on recreation and amenity values are more likely to result from the works within the Twizel River bed during installation of the pipeline and will be discussed in Report 32D.

Transpower Infrastructure

43. The map attached to this report in Attachment One indicates the presence of Transpower structures and electrical conductor lines that dissect the irrigation area in a north to south direction. The applicant has not assessed the impacts of irrigation on this infrastructure.
44. It should be noted that Transpower did not submit on the application when it was notified. They did however advise ECan on a number of other similar applications in the Waitaki Catchment, that the proposed activities including the irrigation of water onto land could result in adverse effects on their assets. They have also provided guidelines (NZECP34:2001) on appropriate mitigation measures that should be implemented to ensure the protection of these assets and the National Grid.
45. These mitigation measures include:

- (a) Avoiding the placement of structures, buildings, planting of trees or encroaching vegetation within 12 horizontal metres either side of any structure;
 - (b) Maintaining a distance of at least 4 metres from any irrigation equipment to the conductors (power lines), towers and poles; and
 - (c) Preventing the spray of water onto conductors by adjusting nozzles, turning jets off when the boom passes by the towers and keeping the boom well away from conductors.
46. The applicant may wish to provide an assessment of the impacts of their proposed activity (irrigation) on these structures at the hearing. Alternatively a condition has been recommended for this application (WP13), should the Commissioners decide to grant consent for this activity, that require the above measures, including separation distances to be maintained.

Positive Effects

47. It is noted that the use of water for irrigation could improve the productivity of the land, resulting in economic benefits to the wider community.

Summary

48. Given the conclusions reached by Dr Freeman and Mr Glasson, the nature of the proposed activity, I am not satisfied that the adverse effects on people, communities and amenity values will be adequately mitigated or acceptable. The applicant may wish to address the effects on landscape values at the hearing.
49. In addition, I recommend that should the Commissioners decide to grant consent, a condition relating to the provision of adequate separation distances between the irrigation operation and Transpower structures, is included.

Adverse effects on other users

50. The applicant states that there are no other users abstracting water downstream of the proposed abstraction. I have checked ECan's GIS and agree with this statement. The take of water from this reach of the Twizel River (downstream of State Highway 8) is subject to minimum flows and a flow-sharing threshold, specified in the WCWARP. The applicant has not provided details of any other users that may be abstracting water within this reach or assessed the impacts of their abstraction on these users given the requirements of the WCWARP.
51. On this basis I cannot confirm that the effects on other users from the applicant's proposal will be acceptable. The applicant may wish to address this issue at the hearing.

Adverse effects of inefficient use

52. 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.

Annual Volumes

53. The proposed annual volume of 2,490,000 m³ is based on the volume adopted by Mackenzie Irrigation Company of 6000 m³ per hectare per year and a seasonal application depth of 600 mm.

54. In addition, the applicant has used the method outlined in Policy 16(c)(ii) of the WCWARP (WQN9v2) to calculate the annual volume, using an effective irrigation seasonal rainfall of 160 mm per hectare per year, a soil PAW of 30 mm (< 75 for a light soil) and intensive pasture land use. This provided an annual volume of 2,718,250 m³ or an application depth of 655 mm per season. I agree with the applicant's assessment. The annual volume calculated using the method outlined in Policy 16(c)(ii) of the WCWARP (WQN9v2) is higher than the annual volume requested by the applicant. On this basis, it may be considered that the requested volume is reasonable to meet the irrigation demand of the soils at the site.

Technical Efficiency

55. The applicant states that the weekly application rate of 28.3 mm represents an extremely efficient use of water in this particular area due to the soil type and climatic conditions within the catchment. Given the method of irrigation, the proposed irrigation could be carried out in a manner that will meet the technical efficiency requirements of the WCWARP.

Summary of effects from inefficient use

56. Given the annual volumes requested are consistent with the volumes calculated using WQN9v2 and based on the method of irrigation, application rates and return periods proposed, I am satisfied that the proposed seasonal allocation is reasonable for the proposed irrigation area and the applicant's proposal to use this water can be carried out efficiently. In addition, the applicant has proposed to install a water meter and monitor the actual amount of water taken and used from the river.

Adverse effect of use on water quality

57. The proposed activity can have an impact on water quality in the immediate vicinity of the site or in combination with other activities in the catchment, result in cumulative adverse effects.
58. A number of submissions on this effect were received by ECan, including a submission from Meridian Energy Ltd. Those submitters and their concerns are outlined in more detail in Appendix 5 of the s42A introductory report (Report 1).
59. An assessment of cumulative effects on water quality was requested to address the above concerns, in relation to Policy 13 of the WCWARP. The applicant has contributed to the study by Mackenzie Water Research Ltd (MWRL) on cumulative effects within the catchment.
60. The report by MWRL has been audited and a separate s42A report prepared (see Report 4(A) – (F)). The conclusion of Dr Mike Freeman and other experts (as outlined in Reports 4(A) – (F)) is that given the significant level of uncertainties involved in, and technical concerns with, critical aspects of the MWRL/GHD assessment relating to the extent of adverse effects, together with the lack of mitigation measures proposed by resource consent applicants means that it would be premature to make robust conclusions about the potential adverse cumulative effects.
61. At the time of writing this report, the applicant has not provided a farm management plan or details of mitigation measures that will be implemented to ensure that the impacts on water quality will be adequately mitigated.
62. On this basis, I cannot confirm that the impacts of irrigation on surface water quality will be acceptable.

Adverse effects on ecosystems

63. The applicant has not proposed a minimum flow and while it is stated in the application that the intake will be fitted with a fish screen, details have not been provided to confirm that the screen will be designed in accordance with recommended guidelines.
64. The application was lodged prior to the development of the NIWA Fish Screen Guidelines, and should the Commissioners decide to grant consent for this activity, it is recommended that the fish screen installed at the intake is designed in accordance with these guidelines.
65. Given the high ecological values associated with the Twizel River, the lack of a minimum flow and the uncertainty regarding the applicant's proposed measures to mitigate the impacts on ecological values of the Twizel River, I cannot conclude that the effects on ecosystems within the Twizel River will be minor.

Adverse effects on Tangata Whenua values

66. The applicant did not include an assessment of the proposed activity on cultural values. The sites of the proposed activities are within the rohe of Te Runanga O Moeraki. Both runanga and Te Runanga O Ngai Tahu were served notice of the applications in August 2007.
67. Submissions were received in opposition to this application from Te Runanga O Ngai Tahu and Ngai Tahu-Mamoe Fisher People. The concerns of Ngai Tahu-Mamoe Fisher People seem to relate specifically to the resource consent process, rather than this specific application.
68. 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.
69. Given that there are a number of submissions which identify cultural values, I cannot conclude that the actual and potential effects on cultural values of the area will be minor.

Conclusion

70. With regard to s104(1)(a), the actual and potential effects of the activities have been discussed above. For this consent, I cannot confirm that the actual and potential effects of the proposed activity are minor when taking account the proposed mitigation. In particular, there is uncertainty regarding the following aspects of the application:
 - (a) The extent of the impacts on ecosystems, recreation and amenity values given that the proposed activity is not subject to a minimum flow as yet;
 - (b) The applicant has not confirmed that the fish screen proposed will adequately mitigate impacts on fishery values in the Twizel River; and
 - (c) The localised and cumulative impacts on surface water quality and landscape values.

71. The impacts on Transpower assets can be mitigated, if the recommended conditions requiring appropriate separation distances are included, should the Commissioners decide to grant consent for this activity.

Statutory Assessment (Section 104(1)(b))

Regional Policy Statement (RPS)

72. 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.
73. 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)

74. The objectives and policies of the WCWARP that are relevant to each potential adverse effect 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 Two. A discussion of the key objectives and policies that I consider particularly relevant when deciding this application is provided in the following paragraphs

Objectives

75. Objective 1 of the WCWARP provides direction on the key issues that need to be addressed to sustain the quality of the Waitaki River and surrounding environment in relation to the taking and using of water. The proposed activity could potentially impact on the matters set out in (a), (b) and (c) of this objective.
76. I cannot confirm that the proposal will not compromise cultural values (Objective 1(a)) or the ecological and fishery values (Objective 1(b)) of the Twizel River. In addition, the cumulative impacts of the proposal on the natural character and landscape values of the catchment (Objective 1(c)) may be compromised by the proposal.
77. The applicant is not proposing a minimum flow therefore the proposal may compromise Objective 2b and 5.
78. The proposed activity is within the allocation limits set by the WCWARP and the applicant has demonstrated that the amount of water applied for is reasonable and can be applied for in an efficient manner. Therefore it may be considered that the take and use of water from the Twizel River is consistent with Objectives 3 and 4 of the WCWARP.

Environmental Flow and Level regimes

79. The applicant is not proposing a minimum flow, as required by either Rule 2 of the WCWARP, therefore it is considered that the application may be contrary to Policies 3 and 4.

Surface Water Quality

80. 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 4F, by Dr Mike Freeman, addresses this policy in more detail, particularly on the cumulative scale. Given his conclusions, I consider that this application may be contrary to this policy, unless adequate mitigation measures are proposed and implemented.

Conclusion

81. With regard to s104(1)(b), the relevant provisions of the RPS and WCWARP have been considered above. In my view, the applicant's proposal may be contrary to Policy 13 due to there being likely effects on water quality and policies 3 and 4, as no minimum flow is being proposed.

Other Matters (Section 104(1)(c))

82. 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 is relevant to this application (see discussion in Report 1).

Part II Purpose and Principals

Purpose of the RMA (s5)

83. 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."

84. 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.
85. 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 "avoid, remedy or mitigate" the potential impacts on surface water quality, ecological values, and landscape values as required in Section 5(2)(c) or provided information to confirm that the proposal will not compromise the potential for hydro-electric generation in accordance with the objectives of Section 5(2)(a), which aims to provide for the needs of future generations.

Matters of National Importance (s6)

86. Sub-section (b), (c) and (e) of Section 6 of the RMA are particularly relevant to this application. The proposal will include a change in the visual aesthetics in an area of high amenity and could result in adverse effects on ecological values of the Twizel River. The applicant has not proposed measures to address these effects. The applicant has not assessed the impacts on cultural values.

Other Matters (Section 7)

87. 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.
88. Sub-section (c), (d) 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 Twizel River.
89. Section (c) refers to the maintenance and enhancement of amenity values and subsection (f) refers to the maintenance and enhancement of water quality. The applicant has not proposed mitigation measures to ensure that this objective is achieved. However, maintaining buffer distances between the irrigation areas and sensitive landscape areas such as the Pukaki, Twizel and Ohau rivers, may ensure that the amenity values of this area are not compromised.
90. The proposal may also compromise the objectives of section subsection (d) as minimum flows and the design of the fish screen have not been provided to confirm that these values will be adequately protected.

Principles of the Treaty of Waitangi (s8)

91. 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 Arowhenua Runanga. Runanga were informed separately when ECan received the application and later when the application was notified. Concerns regarding the impacts of the taking and use of water were raised by submitters, who have requested to be heard at the hearing. The applicant has not assessed the impacts on cultural values, and therefore I cannot comment on whether the application is consistent with the principles of the treaty.

RECOMMENDATION

Grant or Refuse

92. 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.
93. The applicant proposes to spray irrigate land, thereby meeting the technical efficiency objectives of the plan. No minimum flow has been proposed and this issue needs to be resolved to determine the status of the application and to determine the effects, resulting from the take and use of water from the Twizel River.
94. There are also a number of other outstanding issues associated with this proposal as listed below:
 - (a) *Surface water quality* - The applicant has not confirmed whether measures proposed when the application was lodged with ECan are adequate to mitigate impacts on water quality, and consistent with the findings of the MWRL study. The impacts on water quality may therefore not be acceptable;
 - (b) *Landscape and amenity* - The irrigation area is close to sensitive amenity areas and will be visible to the public using the lake, a camping ground and the State Highway.

- (c) *Transpower infrastructure* – The applicant has not assessed the impacts of irrigation on Transpower’s assets that are located within the proposed irrigation area;
- (d) *Minimum flow* – The applicant has not proposed the minimum flow in the WCWARP or proposed an alternative minimum flow and an assessment to confirm that these alternative flows will protect recreation and amenity values, other users and ecological values of the Twizel River; and
- (e) *Fish screen design* – The applicant has not provided details of the structure or confirmed that it will be consistent with recommended guidelines.

95. I have recommended conditions to address (c) 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 the effects on water quality, landscape effects or the effects (listed as (a) and (b)) or the issues listed as (d) and (e) above.

96. When considering the matters outlined in section 104(1), and based on the information provided by the applicant, I cannot conclude that under section 104(D), the adverse effects of the proposed activity are minor and the application will not be contrary to the objectives and policies of the relevant plans. On this basis, I cannot recommend that this application be granted.

RECOMMENDED CONDITIONS

97. Comments on the mitigation proposed by the applicant for each application are provided earlier in this report.

98. If the Commissioners decide to grant this application, a list of conditions that are usually included in a water permit are provided in Appendix 6 of the introductory s42A report (Report 1). A list of draft recommended conditions for this application is provided below. The wording for these conditions is detailed in Appendix 6 of Report 1.

99. 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, for example, adverse effects on water quality, landscape and the maintenance of supply for hydro-electric generation, as a result of the proposal.

No.	Condition Code ¹	Details
Take		
1	WP01	<p><i>Name of waterbody:</i> Twizel River</p> <p><i>Map reference:</i> between NZMS 260 H38:846-516.</p> <p><i>Instantaneous rate:</i> 194 litres per second</p>

¹ See Report 1, Appendix 6 for condition code and wording.

		<i>Volume: 2,490,000 cubic metres</i>
2	WP03	<i>Instantaneous rate: 194 litres per second</i> <i>Volume: 16,762 cubic metres per day</i> <i>Seasonal volume: 2,490,000 cubic metres</i>
Use		
3	WP04	<i>Type of irrigation: Spray irrigation</i> <i>Number of hectares: 415 hectares</i> <i>Use: Pasture for grazing sheep and beef cattle, and for the purposes of growing rosehips.</i> <i>Plan No: CRC021749</i>
4	WP05	
5	WP06	
Mitigation		
6	Minimum Flow Condition Required	The applicant has indicated that a minimum flow should be included, however has not proposed to adopt the minimum flow required by the WCWARP or provided an alternative flow.
7	WP08	The applicant may wish to confirm the minimum flow recorder site.
8	WP13	
9	WP14	Infiltration gallery fish screening condition.
Measuring & Metering		
10	ME01	
11	ME03	
12	ME04	
13	ME05	
14	ME06	<i>Waterway: Twizel River</i>
Administrative Conditions		
15	AD01	
16	AD02	<i>Number of working days: 5</i> <i>Month 1: May</i> <i>Month 2: October</i> <i>Waterbody: Twizel River</i>

		<i>Cross reference to Condition: 6</i>
17	AD04	



Signed:

Date: 31st August 2009

Yvette Rodrigo
Consents Investigating Officer

REFERENCES

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

Canterbury Regional council 2004. Proposed Natural Resources Regional Plan – Chapter 5: Water Quantity.

Canterbury Regional council 2004. Proposed Natural Resources Regional Plan – Chapter 6: Beds and margins of Lakes and Rivers

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.

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. Workign 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.

Te Maire Tau, Anake Goodall et al., 1990. Te Whakatau Kaupapa: Ngai Tahu Resource Management Strategy for the Canterbury Region. ISBN: 0-908925-06-9.

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 TWO – OBJECTIVES & POLICIES

Objective / Policy	Description	Assessment
Objective 1	To sustain the qualities of the environment of the Waitaki River and associated beds, banks, margins, tributaries, islands, lakes, wetlands and aquifers.	The proposal may compromise sections c. and e. of this objective.
Objective 2	Provide water for different activities.	The proposed activity is within the WCWARP allocation for agricultural and horticultural activities.
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 proposed abstraction represents a high level of technical efficiency.
Objective 5	Provide for practical and fair sharing of allocated water during times of low water availability.	No minimum flow has been proposed and this may compromise other users of the Twizel River.
Policy 1	Recognising connectedness between all parts of the catchment	The cumulative effects of the proposal in relation to water quality, landscape and amenity values of the catchment have been assessed.
Policy 3	Setting of environment flow and level regimes for all activities in Objective 2 and consistent with Objective 1.	Minimum flows have not been proposed.
Policy 4	Outlines a number of matters that must be considered when setting an environmental flow and level regime	Subsection c., e., h. and p. may be compromised as the applicant is not proposing to adopt the minimum lake levels for Pukaki and Oh.
Policy 11	Consider effects on Tangata Whenua values, local and national effects when allocating water to activities	The proposal may have an effect on these values.
Policy 12	Outlines matters that must be considered when establishing allocation limits.	There is uncertainty the impacts of the proposal on tangata whenua values, and the proposed abstraction may not be consistent with subsection f. of this policy.
Policy 13	Addresses water quality objectives in the NRRP	Effects may be unacceptable unless appropriate mitigation is proposed and implemented.
Policy 15	Ensuring take and use of water is reasonable for its intended use	The proposed take and use may not considered be reasonable for the purposes of irrigation.
Policy 16	Requiring irrigation applications to meet the specified reasonable use test	The proposed annual volume is less than the volumes determined using WQN9v2.
Policy 19	Requiring piping or sealing of water distribution systems to minimise water loss.	Water will be piped to the irrigation area.
Policy 20	Promotes the integration of multiple uses of water	The applicant is proposing to use the proposed intake structure to take stock water for the property.
Policy 21	Requires the installation of a water meter	One is proposed.
Policy 23	Policies 23 – 27 refer to	Minimum flows have not been proposed.

Policy 24	restrictions during times of low water availability.	
Policy 25		
Policy 26		
Policy 27		
Policies for other rivers and streams in the upper catchment		
Policy 40	Policy 40 recognises the connection between the rivers and streams in the upper catchment tributaries to wetlands and groundwater systems within the Mackenzie and Ahuriri Catchments.	The applicant is not proposing to adopt the minimum flows in the WCWARP and therefore the current application would be contrary to this policy.