

BEFORE THE CANTERBURY REGIONAL COUNCIL

In the matter of **61 consent applications to take, use, divert and dam water and
51 associated discharge and land use consent applications in
the Upper Waitaki Catchment**

5th Minute of Commissioner Rogers

Dated 11 September 2009

Introduction

- 1 On 4 September 2009 Meridian Energy Limited (Meridian) lodged a memorandum with the investigating officer at Canterbury Regional Council, Environment Canterbury (ECan) and Mr Donald Fraser, consents officer, ECan.
- 2 The memorandum concerned a NIWA report. In short, Meridian was of the view that report was:

“highly relevant to the upcoming applications for resource consent”.

- 3 Meridian are of the view that it would be desirable for the report to be formally circulated to the applicants and submitters and for the writers of the report to be available to present at the hearing and to answer any questions the Commissioners may have.
- 4 Meridian also refer to our various powers under the Resource Management Act 1991 as Commissioners in terms of commissioning reports and such matters.

Discussion

- 5 At this particular point, we cannot determine the relevance or otherwise of the NIWA report. We do note that the Meridian memorandum was circulated to Mr C Whata, who is legal counsel for some applicants. On the face of the memorandum, it does not detail whether it has been circulated to other legal counsel.
- 6 I can nevertheless signal that the Commissioners have been provided with a copy of the NIWA report. In addition, a request from one of the Commissioners has been made to receive a copy of the Hayward S, Meredith A and Stevenson M 2009 Review of Proposed NRRP Water Quality Objectives and Standards for Rivers, Lakes in the Canterbury Region, Environment Canterbury Technical Report 09/16.
- 7 The Commissioners have also requested that ECan enquire as to whether or not the authors of the NIWA report would be available for questions, if required, during the course of the hearing.
- 8 ECan has signalled that the following persons would be most appropriate to attend, if required, to present the relevant parts of the report. They are:

- Mr Ned Norton,

- Mr Bob Spigel, and
- Ms Donna Sutherland.

- 9 NIWA has been asked to indicate whether or not these persons would be available in the week commencing 7 December 2009 or some date close to that date. As yet we do not have a response from NIWA.
- 10 The report, of course, is available to applicants and submitters, and they can present their evidence referring to the NIWA report or relevant extracts of it for support as they see fit.
- 11 Similarly, it is our understanding that the reporting officers have currently, to a limited extent, referred to the NIWA report.
- 12 Until we are clearer as to the relevance of the NIWA report we do not think it appropriate for us to issue formal orders in relation to the same.
- 13 It may be that applicants and other parties have a view on the relevance or otherwise of the NIWA report. We would want to hear those views before we exercise any of the powers referred to by Meridian's legal counsel.

Conclusion

- 14 At this point, we have adopted a 'half-way house' approach. We have asked for copies of the NIWA report to be provided to us so it can be pre-read. We have asked that NIWA advise as to the availability of persons that ECan has identified as being relevant authors if queries and questions are required to be put to them and answered at the hearing.

Direction

- 15 All legal counsel are requested by Friday, 18 September 2009 to intimate their view as to the relevance or otherwise of the NIWA report and the need to have relevant NIWA authors present so that the Commissioners can ask them queries and questions.
- 16 ECan is to circulate a copy of this Minute to all legal counsel and to those applicants and submitters who are not represented by legal counsel.

Dated in Christchurch this 11th day of September 2009



Paul Rogers

Commissioner Chair on behalf of the Committee