

BEFORE THE CANTERBURY REGIONAL COUNCIL

IN THE MATTER of resource consent applications to take
and use water from the Lower Waitaki
Catchment for the Hunter Downs
Irrigation Scheme and other Lower
Waitaki River mainstem cases

**RESPONSE TO SECOND MINUTE OF COMMISSIONER SKELTON DATED
21 JANUARY 2010 BY MID RIVER NEW APPLICANTS GROUP AND
EXISTING CONSENT HOLDERS BELOW BLACK POINT**

Dated 23 February 2010

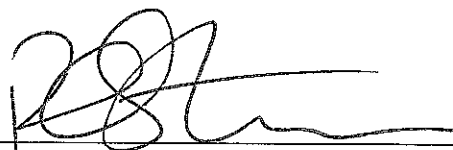
**Pru Steven
Barrister**
Canterbury Chambers
Level 14, Clarendon Tower
78 Worcester Street
PO Box 825
Christchurch 8140

Telephone: (03) 372 9550; Facsimile: (03) 377 6861
Email: pru@prusteven.co.nz

MAY IT PLEASE THE PANEL

- 1 This Memorandum is a response by the Mid River New Applicant Group ("MRNAG") and existing consent holders below Black Point to matters raised in the Second Minute.
- 2 In the Second Minute the Panel has studied the Environment Court's Interim Decision including its reformulation of conditions to be imposed on the NBTC consent and has raised two difficulties with it. As you will no doubt be told by counsel for Meridian Energy Limited, the parties are in the process of reaching agreement on a further iteration of those conditions in place of the Court's amendments. The two points raised by the Panel will be recognised in this version of conditions.
- 3 Once those conditions have been finalised, the Panel will be in a position to proceed to a decision on the MRNAG applications. It is submitted that it would not be appropriate to issue a decision until the Environment Court has accepted the amended conditions presently being discussed. Although it is anticipated that they will be accepted by the Court, that cannot be assumed at this point in time.
- 4 That deals with the issue if NBTC proceeds. In light of the current Government proposal to transfer the top two power stations in this scheme and Lake Tekapo storage to another generator (Genesis), that project may or may not eventuate. And in any event the timing of that is uncertain. The irrigators have always been concerned at the prospect that their own consents may well be reviewed before the tunnel proceeds. Irrespective of whether the review occurs before or after the scheme proceeds, any consent granted to HDI should also include a review clause that requires ongoing recognition of the priority of existing holders if and when their consent conditions are reviewed. This is imperative in light of the indications from the Panel that it will impose ramping conditions to commence at 175.5 cumecs with a cut-off at 152 cumecs. In the event of a review of existing consents that now currently have priority over HDI, that priority to the existing consent holders must continue. Non-derogation is as fundamental to a review as it is now in your consideration of HDI. This is emphasised in the Response to Minute filed by North Otago Irrigation Company.

Dated this 23rd day of February 2010.



P A Steven

Counsel for Mid River New Applicants Group and
existing consent holders below Black Point