

TABLED AT HEARING
Date 3/2/2010

in the matter of: the Resource Management Act 1991

and

in the matter of: resource consent applications CRC050565, CRC050566 and CRC050567 for the purposes of a hydro-electricity scheme.

Synopsis of submissions on behalf of Clarkesfield Holdings (1996) Limited
for reconvened hearing

Dated: 2 March 2010

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SYNOPSIS OF SUBMISSIONS ON BEHALF OF CLARKESFIELD HOLDINGS (1996) LIMITED FOR RECONVENED HEARING

May it please the Commissioners

Introduction

- 1 The minute of the Commissioners dated 21 January 2010 refers to the applications for the Clarkesfield Holdings (1996) Limited (*Clarkesfield*) hydroelectricity scheme.
- 2 As previously discussed with the Commissioners, the Clarkesfield scheme is unique in perhaps two aspects of its flow regime:
 - 2.1 it has no ability to influence wider flows in the lower Waitaki River as in practical terms the amount diverted into the scheme will be exactly the same as that discharged approximately 3 km later (this also negates the need for any form of flow sharing); and
 - 2.2 although above Black Point, Clarkesfield (hydro) is not included within Attachment 1 to the NBTC decision and will accordingly not receive 'enhanced flows' as a result of any future NBTC flow regime – the flows for Clarkesfield are instead being supported by the various tributaries above BlackPoint and the water balance model previously described by **Ms Hartwell** and **Mr Eldred**.
- 3 On this basis it is my submission that Clarkesfield can be granted now without further reference to NBTC or the MRNAG applications as:
 - 3.1 there is no need for Clarkesfield to 'share' its flows during times of restriction (it is outside the 90 cumecs described in Table 3 xvii. c.) which might have otherwise required reference to the MRNAG applications; and
 - 3.2 there is no need to refer to the 'flow enhancement' conditions for NBTC.

Cut-off conditions

- 4 The only remaining issue is therefore the appropriate (or the appropriateness of) a cut-off condition.
- 5 In my previous submissions dated 1 September 2008 I presented a range of flow options for both pre and post NBTC operational scenarios. Rather than repeat the various flow options I suggest that the easiest way forward will be for the Commissioners to grant Clarkesfield with either:
 - 5.1 no cut-off condition as Clarkesfield:

- (a) has no ability to influence flows in the wider river as it will discharge all flows diverted well above almost all abstraction in the lower Waitaki River (and for the same reason a 152 to 175.5 cumec flow regime is inappropriate); and
- (b) can rely on the water balance model and the assurance from the evidence presented that the absolute minimum flow between the diversion and discharge point will not be exceeded.

or

5.2 a cut-off condition of 100 cumecs (at Kurow) as Clarkesfield:

- (a) can refer to the various evidence submitted as a part of the HDI application (along with the evidence of **Ms Dawson** and **Mr Jowett** who expressly refer to Clarkesfield in the context of a 100 cumec minimum flow above Black Point);
- (b) the fact that given the existing conditions on Waitaki Dam (120 cumecs) the Clarkesfield scheme, whether with or without irrigation occurring above Black Point, will never cause flows to fall below 100 cumecs between the diversion and discharge points; and
- (c) that this would also be supported in a practical sense by inflows from tributaries under the water balance model (although these will obviously not be recorded to the same extent on the Kurow recorder).

6 In respect of both options I also refer to the findings of the Commissioners in their NBTC decision (at page 37) to the extent that you appear to have accepted that the water balance evidence and that there is *"no problem and no conflict"* between the Clarkesfield proposal and the NBTC:

"With regard to the Clarkesfield Holdings Limited hydro proposal this is an on-farm proposal seeking to take 4.2 cumecs, and Mr Eldred [said] this would be covered by the additional water that is in the main stem of the Lower Waitaki River from the tributary inflows below the Dam and immediately upstream of Duntroon. Therefore there is no problem and no conflict between this proposal and the NBTC. The water balance evidence, which shows the effect of the tributary connections which have not been taken into account for the purposes of fixing the minimum flow is in the evidence of Siobhan Hartwell which will be referred to later in the decision"

7 This on its face might lead the Commissioners more towards the first of the options I have described above (straight reliance on the water balance model and no minimum flow) – although again, under

either approach the Clarkesfield scheme should never be on restriction.

- 8 It is also emphasised that either approach could be imposed without future reference to an operational NBTC environment negating the need for an 'either/or condition' for minimum flow. The simple consequence of NBTC would be higher flows in the river above Black Point with no consequential effect on the Clarkesfield scheme.

Dated: 2 March 2010

Ben Williams

Counsel for Clarkesfield Holdings (1996) Limited