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26 June 2008

Bianca Sullivan and Gillian Ensor
Environment Canterbury
PO Box 345
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Christchurch 8140

DEROGATION APPROVALS FOR THE UPPER WAITAKI CATCHMENT

- 1 We act for Meridian Energy Limited (*Meridian*).
- 2 We write as a part of the approvals process of Meridian for applications for resource consent to take water from the upper Waitaki catchment. This letter accordingly sets out:
 - 2.1 a brief background to the derogation process; and
 - 2.2 the intended approach Meridian will take in regard to current applications and ongoing consented operations in the upper Waitaki catchment.

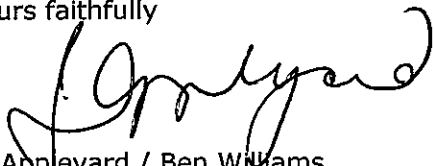
Background

- 3 As you are aware in 2004 the Full Bench of the High Court in *Aoraki Water Trust v Meridian Energy Ltd & Ors* ([2005] 2 NZLR 268) (*Aoraki*) confirmed that by virtue of Meridian's existing consents, Environment Canterbury was not authorised to grant any other party a water permit to take water from Lake Tekapo if the grant would have the effect of reducing the amount or nature of water available to Meridian.

- 4 Subsequently, the decision of the Waitaki Catchment Water Allocation Board and the resulting Waitaki Catchment Water Allocation Regional Plan (*WRP*) have both recognised that the principles of *Aoraki* applied by analogy to all of the Waitaki Catchment above Waitaki Dam.
- 5 This was also confirmed in the appeal to the High Court by Meridian and Mackenzie Irrigation Group where the High Court directed the insertion of an additional footnote to the Plan that noted that "*while the consents to operate the Waitaki Power Scheme remain in force the Upper Catchment is already allocated to a holder of those consents and other existing consent holders*" (see discussion at page 14 of the section 32 report).
- 6 The effect of the above is that Environment Canterbury is unable to grant any consents for the taking of water in the Upper Catchment unless Meridian agrees to the consent being granted, i.e. Meridian needs to explicitly agree to a derogation of its existing rights.

Meridian's approach to derogation
- 7 Meridian will provide separate letters in respect of all applications that it will be providing derogation approval to.
- 8 Each letter will set out the relevant particulars of the application and the parameters of the approval. Any amendment or modification to a proposal will require further written 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.
- 9 We also note that no approval (or this letter) should be construed as an affected party approval of an entire application under section 94 of the Resource Management Act. Meridian reserves its rights to either support or oppose any application on grounds which do not relate to the derogation of its rights.
- 10 Derogation approvals will in all circumstances reference and be based on the background set out in this letter. We therefore request a copy be included in each relevant file.

Yours faithfully



Jo Appleyard / Ben Williams
Partner / Solicitor



11 September 2009

Gillian Ensor
Environment Canterbury
PO Box 345
Christchurch

Dear Gillian

Application by Killermont Station

- 1 We write to you to outline the basis of Meridian Energy Limited (*Meridian*) providing its derogation approval of the applications numbered CRC041798, CRC041777 and CRC041331 by Killermont Station. 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 applications CRC041798, CRC041777 and CRC041331 by Killermont Station and provides derogation approval on the following basis:
 - 2.1 Killermont Station shall only be entitled to take and use water from Manuka Creek (at map reference NZMS 260 H39:4488-2366) at a maximum rate of 37 litres per second for the spray irrigation of 75 hectares identified in the application;
 - 2.2 Killermont Station shall only be entitled to take and use water from the Ahuriri River (between NZMS 260 H39:552-283 and H39:561-278) at a maximum rate of 175 litres per second for the spray irrigation of 300 hectares identified in the application;
 - 2.3 Killermont Station shall only be entitled to take and use water from the Ahuriri River (at map reference NZMS 260 H39:6133-3007) at a maximum rate of 100 litres per second for the spray irrigation of 216 hectares identified in the application;
 - 2.4 The maximum daily volume for the Manuka Creek take shall not exceed 3,197 cubic metres per day and the annual volume shall not exceed 450,000 cubic metres per annum 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;
 - 2.5 The maximum daily volume for the Ahuriri River take (between NZMS 260 H39:552-283 and H39:561-278) shall not exceed 15,120 cubic metres per day and the annual volume shall not exceed 1,680,000 cubic metres per annum 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;

- 2.6 The maximum daily volume for the Ahuriri River take (at map reference NZMS 260 H39:6133-3007) shall not exceed 8,640 cubic metres per day and the annual volume shall not exceed 1,209,600 cubic metres per annum 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;
- 2.7 the annual volumes provided for in Clause 2.4, 2.5 and 2.6 shall be time tranced in accordance with the following table:

Table A – Maximum Rates & Volumes for CRC041798

Year	Maximum rate of abstraction (litres/second)	Maximum Daily Volume (cubic metres/day)	Maximum Annual Volume (cubic meters/year)
1 September 2009 to 30 April 2010	37 l/s	3,197 m ³ /day	450,000 m ³ /annum
1 September 2010 to 30 April 2011	37 l/s	3,197 m ³ /day	450,000 m ³ /annum
1 September 2011 to 30 April 2012	37 l/s	3,197 m ³ /day	450,000 m ³ /annum
1 September 2012 to 30 April 2013	37 l/s	3,197 m ³ /day	450,000 m ³ /annum
1 September 2013 to 30 April 2014 and every year thereafter	37 l/s	3,197 m ³ /day	450,000 m ³ /annum

Table B – Maximum Rates & Volumes for CRC041777

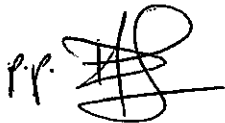
Year	Maximum rate of abstraction (litres/second)	Maximum Daily Volume (cubic metres/day)	Maximum Annual Volume (cubic meters/year)
1 September 2009 to 30 April 2010	175 l/s	15,120 m ³ /day	1,680,000 m ³ /annum
1 September 2010 to 30 April 2011	175 l/s	15,120 m ³ /day	1,680,000 m ³ /annum
1 September 2011 to 30 April 2012	175 l/s	15,120 m ³ /day	1,680,000 m ³ /annum
1 September 2012 to 30 April 2013	175 l/s	15,120 m ³ /day	1,680,000 m ³ /annum
1 September 2013 to 30 April 2014 and every year thereafter	175 l/s	15,120 m ³ /day	1,680,000 m ³ /annum

Table C – Maximum Rates & Volumes for CRC041331

Year	Maximum rate of abstraction (litres/second)	Maximum Daily Volume (cubic metres/day)	Maximum Annual Volume (cubic meters/year)
1 September 2009 to 30 April 2010	100 l/s	8,640 m ³ /day	1,209,600 m ³ /annum
1 September 2010 to 30 April 2011	100 l/s	8,640 m ³ /day	1,209,600 m ³ /annum
1 September 2011 to 30 April 2012	100 l/s	8,640 m ³ /day	1,209,600 m ³ /annum
1 September 2012 to 30 April 2013	100 l/s	8,640 m ³ /day	1,209,600 m ³ /annum
1 September 2013 to 30 April 2014 and every year thereafter	100 l/s	8,640 m ³ /day	1,209,600 m ³ /annum

- 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 Killermont Station application on the ground 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



Mike Roan
Markets and Production Director



meridian

14 September 2009

Gillian Ensor
Environment Canterbury
PO Box 345
Christchurch

Dear Gillian

Application by Killermont Station Limited

- 1 We write to you to outline the basis of Meridian Energy Limited (*Meridian*) providing its derogation approval of the applications numbered CRC040180 by Killermont Station Limited. 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 applications CRC040180 by Killermont Station Limited and provides derogation approval on the following basis:
 - 2.1 Killermont Station Limited shall only be entitled to take and use water from Frosty Gully (at map reference NZMS 260 H39:5532-2497) at a maximum rate of 20 litres per second for the spray irrigation of 28 hectares identified in the application;
 - 2.2 The maximum annual volume shall not exceed 170,000 cubic metres per annum 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 Killermont Station Limited application on the ground 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

A handwritten signature in black ink, appearing to be 'MR' followed by a stylized flourish and a horizontal line extending to the right.

Mike Roan
Markets and Production Director



11 September 2009

Gillian Ensor
Environment Canterbury
PO Box 345
Christchurch

Dear Gillian

Application by Southdown Holdings Limited

- 1 We write to you to outline the basis of Meridian Energy Limited (*Meridian*) providing its derogation approval of the applications numbered CRC041788, CRC073115 and CRC040835 by Southdown Holdings Limited. 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 applications CRC041788, CRC073115 and CRC040835 by Southdown Holdings Limited and provides derogation approval on the following basis:
 - 2.1 Southdown Holdings Limited shall only be entitled to take and use water from the Ahuriri River (between NZMS 260 H39:596-285 and H39:599-288) at a maximum rate of 750 litres per second for the spray irrigation of 1,100 hectares identified in the application;
 - 2.2 Southdown Holdings Limited shall only be entitled to take and use water from the Ahuriri River (at map reference NZMS 260 H39:547-285) at a maximum rate of 750 litres per second for the spray irrigation of 1,100 hectares identified in the application;
 - 2.3 Southdown Holdings Limited shall only be entitled to take and use water from Lake Ohau (at map reference NZMS 260 H38:621-522) at a maximum rate of 1,200 litres per second for the spray irrigation of 2,068 hectares identified in the application;
 - 2.4 The maximum daily volume for the Ahuriri River take (between NZMS 260 H39:596-285 and H39:599-288) shall not exceed 64,530 cubic metres per day and the maximum annual volume shall not exceed 6,532,500 cubic metres per annum 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;
 - 2.5 Water for stockwater supply from the Ahuriri River take (between NZMS 260 H39:596-285 and H39:599-288) shall be taken in accordance with a maximum rate of 15 litres per second, a maximum daily volume of 270 cubic metres per day and a maximum annual volume of 67,500

cubic metres per annum. For the avoidance of doubt, the water available under this clause is in addition to the volumes specified in Clause 2.4;

- 2.6 The maximum daily volume for the Ahuriri River take (at map reference NZMS 260 H39:547-285) shall not exceed 64,530 cubic metres per day and the maximum annual volume shall not exceed 6,532,500 cubic metres per annum 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;
- 2.7 Water for stockwater supply from the Ahuriri River take (at map reference NZMS 260 H39:547-285) shall be taken in accordance with a maximum rate of 15 litres per second, a maximum daily volume of 270 cubic metres per day and a maximum annual volume of 67,500 cubic metres per annum. For the avoidance of doubt, the water available under this clause is in addition to the volumes specified in Clause 2.6;
- 2.8 The maximum daily volume for the Lake Ohau take (at map reference NZMS 260 H38:621-522) shall not exceed 103,190 cubic metres per day and the maximum annual volume shall not exceed 12,285,500 cubic metres per annum and this shall be allocated as an agricultural and horticultural activity upstream of the outlet of Lake Ohau under Rule 6, Table 5 of the Waitaki Catchment Water Allocation Regional Plan;
- 2.9 Water for stockwater supply from the Lake Ohau take (at map reference NZMS 260 H38:621-522) shall be taken in accordance with a maximum rate of 27 litres per second, a maximum daily volume of 490 cubic metres per day and a maximum annual volume of 122,500 cubic metres per annum. For the avoidance of doubt, the water available under this clause is in addition to the volumes specified in Clause 2.8;
- 2.10 The taking of water outlined in Clause 2.8 and 2.9 shall cease whenever the level of Lake Ohau reaches the minimum lake levels specified in Table 4 of the Waitaki Catchment Water Allocation Regional Plan;
- 2.11 the annual volume provided for in Clause 2.4, 2.6 and 2.8 shall be time tranced in accordance with the following tables:

Table A -- Maximum Rates & Volumes for CRC041788

Year	Maximum rate of abstraction (litres/second)	Maximum Daily Volume (cubic metres/day)	Maximum Annual Volume (cubic meters/year)
1 September 2009 to 30 April 2010	750 l/s	64,530 m ³ /day	6,532,500 m ³ /annum
1 September 2010 to 30 April 2011	750 l/s	64,530 m ³ /day	6,532,500 m ³ /annum
1 September 2011 to 30 April 2012	750 l/s	64,530 m ³ /day	6,532,500 m ³ /annum
1 September 2012 to 30 April 2013	750 l/s	64,530 m ³ /day	6,532,500 m ³ /annum
1 September 2013 to 30 April 2014 and every year thereafter	750 l/s	64,530 m ³ /day	6,532,500 m ³ /annum

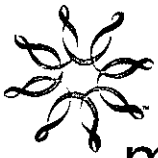


Table B – Maximum Rates & Volumes for CRC073115

Year	Maximum rate of abstraction (litres/second)	Maximum Daily Volume (cubic metres/day)	Maximum Annual Volume (cubic meters/year)
1 September 2009 to 30 April 2010	750 l/s	64,530 m ³ /day	4,074,900 m ³ /annum
1 September 2010 to 30 April 2011	750 l/s	64,530 m ³ /day	4,074,900 m ³ /annum
1 September 2011 to 30 April 2012	750 l/s	64,530 m ³ /day	4,074,900 m ³ /annum
1 September 2012 to 30 April 2013	750 l/s	64,530 m ³ /day	4,074,900 m ³ /annum
1 September 2013 to 30 April 2014 and every year thereafter	750 l/s	64,530 m ³ /day	4,074,900 m ³ /annum

Table C – Maximum Rates & Volumes for CRC040835

Year	Maximum rate of abstraction (litres/second)	Maximum Daily Volume (cubic metres/day)	Maximum Annual Volume (cubic meters/year)
1 September 2009 to 30 April 2010	1,200 l/s	103,190 m ³ /day	12,285,500 m ³ /annum
1 September 2010 to 30 April 2011	1,200 l/s	103,190 m ³ /day	12,285,500 m ³ /annum
1 September 2011 to 30 April 2012	1,200 l/s	103,190 m ³ /day	12,285,500 m ³ /annum
1 September 2012 to 30 April 2013	1,200 l/s	103,190 m ³ /day	12,285,500 m ³ /annum
1 September 2013 to 30 April 2014 and every year thereafter	1,200 l/s	103,190 m ³ /day	12,285,500 m ³ /annum

- 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 Southdown Holdings/Killermont Station application on the ground that it will reduce the quantity of water available under Meridian's existing consents.
- 6 For the avoidance of doubt, this derogation approval is provided on the basis that Southdown Holdings Limited only exercise either CRC041788 or CRC073115 and not both. In this respect, this derogation

approval becomes void if Southdown Holdings Limited seeks to exercise both CRC041788 and CRC073115.

- 7 Please advise if any basis for Meridian's approval outlined in paragraph 2 will not be met by the resource consent.

Yours sincerely

A handwritten signature in black ink, appearing to be 'P.R.' followed by a stylized, cursive signature.

Mike Roan
Markets and Production Director



11 September 2009

Gillian Ensor
Environment Canterbury
PO Box 345
Christchurch

Dear Gillian

Application by Five Rivers/Ohau Downs

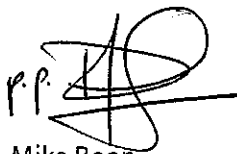
- 1 We write to you to outline the basis of Meridian Energy Limited (*Meridian*) providing its derogation approval of the application numbered CRC061154 by Five Rivers Limited /Ohau Downs. We refer to the letter to ECan from Chapman Tripp dated the 26th of June 2008 setting out Meridian's position on derogation approvals generally.
- 2 Meridian has read and considered the application CRC061154 by Five Rivers Limited/Ohau Downs and provides derogation approval on the following basis:
 - 2.1 Five Rivers/Ohau Downs shall only be entitled to take and use water from Lake Ohau (at map reference NZMS 260 H38:6563-5352) at a maximum rate of 950 litres per second for the spray irrigation of 1,493 hectares identified in the application;
 - 2.2 The maximum daily volume shall not exceed 81,590 cubic metres per day and the maximum annual volume shall not exceed 8,835,500 cubic metres per annum and this shall be allocated as an agricultural and horticultural activity upstream of Lake Ohau outlet under Rule 6, Table 5 of the Waitaki Catchment Water Allocation Regional Plan;
 - 2.3 Water for stockwater shall apply shall be take in accordance with a maximum rate of 27 litres per second, a maximum daily volume of 490 cubic metres per day and a maximum annual volume of 122,500 cubic metres per annum. For the avoidance of doubt, the water available under this clause is in addition to the volumes specified in Clause 2.2;
 - 2.4 The taking of water in Clause 2.1, 2.2 and 2.3 shall cease whenever the level of Lake Ohau reaches the minimum lake level specified in Table 4 of the Waitaki Catchment Water Allocation Regional Plan;
 - 2.5 the annual volume provided for in Clause 2.2 shall be time tranced in accordance with the following table:

Table A – Maximum Rates & Volumes for CRC061154

Year	Maximum rate of abstraction (litres/second)	Maximum Daily Volume (cubic metres/day)	Maximum Annual Volume (cubic meters/year)
1 September 2009 to 30 April 2010	0 l/s	0 m ³ /day	0 m ³ /annum
1 September 2010 to 30 April 2011	950 l/s	81,590 m ³ /day	366,500 m ³ /annum
1 September 2011 to 30 April 2012	950 l/s	81,590 m ³ /day	3,366,500 m ³ /annum
1 September 2012 to 30 April 2013	950 l/s	81,590 m ³ /day	6,366,500 m ³ /annum
1 September 2013 to 30 April 2014 and every year thereafter	950 l/s	81,590 m ³ /day	8,835,500 m ³ /annum

- 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 Five Rivers/Ohau Downs application on the ground 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



Mike Roan
Markets and Production Director