

**TABLED AT HEARING**

Date .....16/10/2009.....

**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**

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**6<sup>th</sup> Minute of Commissioner Rogers**

Dated 16 October 2009

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## Introduction

- 1 The section 42A officers have raised a question relating to undertaking an audit of the Farm Environmental Management Plans (FEMPs) that have now been provided to them by the applicants.
- 2 That request was received, firstly, in an email from one of the reporting officers, followed by a memorandum from Dr Mike Freeman dated 12 October 2009. Dr Freeman's memorandum set out the issue fully. His memorandum was circulated to all legal counsel representing applicants and submitters.
- 3 Discussion ensued and no party, either applicant or submitter, opposed the undertaking of an audit of inputs to the overseer model.
- 4 Mr Whata for MWLR provided a case management memorandum dated 13 October 2009. In that memorandum he set out, in paragraph 2 of the same, MWLR's position. Mr Whata's key point was that MWLR did not wish to see this audit report take an assessment to determine whether overseer is an appropriate tool for the purpose of the FEMP process.
- 5 We raised this matter with the section 42A report offices and in verbal response we were told the appropriateness of utilising overseer had already been canvassed within the 42A officers' reports and it was not intended to revisit that matter during the audit process.
- 6 Mr Chapman for the UWAG group of applicants made suggestions in relation to both the person who should undertake the audit and also the process of the audit.
- 7 Mr Reid for his group of applicants also intimated support or, probably more correctly, no opposition to an audit being undertaken.
- 8 Counsel for Meridian also intimated support.
- 9 Some discussion has been held about identifying an appropriate person to undertake the audit. In the end this is a matter for the reporting officers themselves to determine. Obviously, the audit need be undertaken by somebody who is independent, well-skilled in the use of overseer, particularly in relation to understanding and critiquing the inputs.

- 10 Dr Freeman in his memorandum discusses process. He records his view that it would be beneficial to involve technical representatives specifically working towards an agreed technical "package" of overseer inputs and assumptions. He records that he sees that type of process being potentially very effective, from both a technical and cost perspective, provided that all were clear about their roles and responsibilities.
- 11 Clearly, from our perspective, if such an agreed position could be reached there are very real benefits. We are aware that parties to this hearing are caucusing and we are hopeful and would encourage that the process outlined by Dr Freeman in his memorandum, particularly on page 1, last paragraph would be furthered and implemented by the parties to this proceeding in relation to the audit process.
- 12 We also note that Mr Whata in his memorandum of 13 October 2009 records that it would be important for the expert selected by the 42A officers to place the review in its proper context and to caucus with MWLR experts to ensure that this occurs. He notes this may involve taking into account beyond the overseer inputs. Again, we would encourage this process.
- 13 As an observation, while we leave it the parties to determine we do wonder whether or not an audit of all of the FEMPs is required as opposed to concentrating on those properties where the nutrient output in terms of both nitrogen and phosphorus is close to the modelled output level.
- 14 We also note that Mr Whata requests an estimate of costs be provided to the applicants group he represents prior to commencement of the work for consideration. That also should be attended to.

#### **Direction**

- 15 Notwithstanding that matters appear to be agreed between the parties to the proceeding, we do think a direction is warranted. Accordingly, we direct that:
- 15.1 the section 42A report officers undertake an audit which involve undertaking field assessment of the FEMPs (which would ideally involve discussions with each farmer/consultant) to check the appropriateness of inputs to the overseer model.
- 15.2 The scope of the audit is to check on farm-characteristics/inputs used as inputs to the overseer model and to make an assessment of whether they are accurate and appropriate for each farm.

- 15.3 In undertaking the audit, the expert engaged by the section 42A officers is to caucus with MWLR experts and experts engaged by other applicants to ensure that the audit is both accurate and complete. The audit process, we signal, may involve taking into account matters beyond the overseer inputs, but where this does occur the expert undertaking the audit will fully identify such matters.
- 15.4 Before finalising the audit report the expert engaged by the 42A report officers will provide applicants and their experts with an opportunity to comment on the same and their comments shall be attached to the report.
- 15.5 We also direct that the expert retained comment upon the appropriateness of utilising overseer in the manner here intended within the Mackenzie Basin context, given that overseer was developed based on and is more commonly utilised in the context of dairy farming operations on developed agricultural soils.

Dated in Christchurch this 16<sup>th</sup> of October 2009



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Paul Rogers

Commissioner Chair on behalf of the Committee