

**IN THE MATTER**

of the Resource Management Act 1991

**AND**

**IN THE MATTER**

applications for resource consents to take and use  
water in the Upper Waitaki Catchments

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**MEMORANDUM OF COUNSEL ON BEHALF OF SOUTHDOWN HOLDINGS  
LIMITED, WILLIAMSON HOLDINGS LIMITED AND FIVE RIVERS LIMITED IN  
RESPONSE TO COMMISSIONERS' 20<sup>TH</sup> MINUTE**

**25 MARCH 2010**

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**RUSSELL McVEAGH**

C N Whata  
Phone 64 9 367 8000  
Fax 64 9 367 8163  
PO Box 8  
DX CX10085  
Auckland

## **MAY IT PLEASE THE COMMISSIONERS:**

### **Background**

1. The purpose of this memorandum is to respond to the 20<sup>th</sup> Minute of the Commissioners, dated 23 March 2010.
2. On 18 March 2010 Southdown Holdings Limited, Williamson Holdings Limited and Five Rivers Limited ("**Applicants**"), received a cost estimate from the Ministry for Environment for the processing of the effluent applications subject to the call in to a Board of Inquiry. The estimate for processing the applications was in excess of \$2.6 million.
3. This cost was prohibitive for the Applicants and on 19 March 2010 the Applicants formally withdrew their effluent applications.
4. The Commissioners' 20<sup>th</sup> Minute seeks that the Applicants address the Committee on:
  - (a) what effect, if any, this development has on matters that the Panel can take into account;
  - (b) should the panel take the withdrawal of the effluent applications as signal that the dairy system proposed is no longer being pursued by the Applicants; and
  - (c) what effect, if any, does the withdrawal of the effluent applications have on the ambit of this Panel's consideration of the resource consents before it.

### **Applicants' position**

5. I refer to the Committee's 17<sup>th</sup> Minute, and the Applicants' submissions dated 4 February 2010 as informing the basis on which the Committee can proceed.
6. The Applicants regret that having now expended significant resource on the effluent applications, they are not able proceed with them at this time. The Applicants had lodged the effluent applications so that there would be no gap in their proposal and then actively pursued them in accordance with the previous directions of this Committee. However, having received the Ministry's estimate, the Applicants were faced with the prospect of committing in excess of \$3 million (for processing fees and the cost of

their own case) for the effluent applications without any security whatsoever as to the grant of water.

7. In fact, as previously signalled to the Ministry, there would be little or no point in doing so without first having a decision on water and nutrient issues and the economic security that water use consents would bring.
8. I also record that dairy farming with stables is still the preferred farming method of the Applicants. The Applicants therefore wish to complete the water hearing so as to ascertain whether they can be granted water permits to enable any of the farming systems proposed including the stables option.
9. It may ultimately become feasible for the Applicants to re-lodge the effluent applications if they have the financial security of a grant of water.
10. I note that the Applicants find themselves, albeit by accident, in the same position as other applicants in Canterbury, in that they are first seeking a determination of their water take and use applications before consideration of their end use effluent applications.
11. Accordingly, the Applicants seek that the Committee continue to hear and determine the water take applications for all of the tabled farming options. As previously stated, this would be a pragmatic and fair response to matters that, unfortunately, have been outside the control of both the Committee and the Applicants.

**Dated** 25 March 2010

**C N Whata**

Counsel for Southdown Holdings Limited,

Williamson Holdings Limited and Five Rivers Limited