

UNDER the Resource Management Act 1991
(the RMA)

IN THE MATTER OF various applications to take and use
water for the purpose of irrigation in the
Upper Waitaki catchment

AND

IN THE MATTER OF a submission by Te Rūnanga o Ngāi
Tahu

MEMORANDUM OF TE RŪNANGA O NGĀI TAHU

1. This memorandum is in response to:
 - The memoranda by counsel for Southdown Holdings Limited, Williamson Holdings Limited and Five Rivers Limited dated 28 January 2010 and 2 February 2010; and
 - The 15th and 16th Minutes of the Commissioners dated 28 January 2010 and 3 February 2010.
2. Paragraph 2 of the 28 January 2010 Memorandum of Counsel for Southdown, Williamson and Five Rivers seeks:

“...an urgent determination from the Committee as to whether the Committee can and will now make a determination on the Applicants’ water right applications without resolution of the effluent applications as this will affect the course adopted by the applicants.”
3. In response to the Committee’s invitation to comment on these memoranda, Te Rūnanga o Ngāi Tahu (Te Rūnanga) advises that it adopts a neutral stance on this application, but wishes to make the following comments.
4. From a procedural point of view, it is desirable for submitters such as Te Rūnanga if the water related consents are resolved before having to proceed to the hearing in respect of the effluent applications. In the event the Committee decides to

decline the water consent applications, and dependent upon any appeal, this could remove the need for the Board of Inquiry to hear the effluent applications. This would save Te Rūnanga the considerable amount of time and money involved in preparing for and presenting evidence at the hearing for the effluent related consents.

5. However the decision is made to grant or decline the Upper Waitaki consent applications, our concern is that the effects of the activities are considered together so as to ensure that cumulative effects are fully factored into the decision-making process.
6. Whatever course of action the Committee elects to adopt, it will be essential to always bear in mind that the water proposed to be irrigated by Southdown, Williamson and Five Rivers will be mixed with diluted dairy effluent. The Committee has already drawn attention to this issue at paragraphs 17 – 38 of the 8th Minute of Commissioners. Paragraph 20 of that minute states:

“We have determined that the proposal before us is to take (in relation to these applications) water and to apply water mixed with effluent to the sites identified within each of the applications.”

7. Similarly, paragraph 23 states:

“The linkage between the take and spray of irrigation of water and spray irrigation of the effluent is, in our view, clearly made out when one considers that the mechanism to be used and process to be used to apply the liquid effluent is the same as that which will be used to apply the irrigation water on the same site.”

8. This means that, although the effluent applications will be subject to the separate Board of Inquiry process, the Committee considering the water consents must assess the effects of the discharge of water mixed with diluted dairy effluent. Accordingly, the effects resulting from the discharge of nutrients and phosphorous (i.e., effluent) are directly relevant to the resolution of the applications to take and use water for spray irrigation.

3 February 2010

Paul Horgan – Environmental Advisor, Te Rūnanga o Ngāi Tahu