

THE CANTERBURY REGIONAL COUNCIL

IN THE MATTER OF The Resource Management Act 1991

A N D

IN THE MATTER OF Applications for resource consent to take and use water in the
Waitaki River Catchments

**MEMORANDUM OF COUNSEL FOR
LONE STAR FARMS LIMITED**

DATED THIS 26TH DAY OF NOVEMBER 2010

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MAY IT PLEASE THE COMMISSIONERS:

- 1 We **attach** the condition set of Lone Star Farms Limited (**Applicant**).
- 2 The Applicant understood the intention of the Direction at paragraph 21.4 (of the Commissioners' 26th Minute) to contemplate the filing and subsequent circulation of condition sets to submitters that had already been:
 - 2.1 Subject to ECan comment; and
 - 2.2 Subject to Meridian comment; and
 - 2.3 Altered (where appropriate) in response or responded to in the appropriate column.
- 3 The Applicant provided its condition set to ECan and Meridian on 23 September 2010.
- 4 The Applicant received comments from ECan on or around 4 October 2010. The Applicant was reluctant to make any changes in response until the Meridian comments were received, in order to consider any issues raised concurrently and efficiently.

Meridian Comments

- 5 Unfortunately, Meridian's comments, sent to Counsel for the Applicant today, only relate to the condition set for Simons Pass Station Limited (Simons Pass).
- 6 Despite a small similarity in condition sets between the Applicant and Simons Pass, they are not identical and there are marked differences. The Applicant is reluctant to copy and paste Meridian's comments incorrectly. It is more appropriate for Meridian to undertake this task if it wishes to comment on the Applicant's set of proposed conditions.
- 7 Accordingly, the condition set filed for the Applicant today:
 - 7.1 Does not include Meridian's comments in the relevant column; but does
 - 7.2 Include a response to ECan comments.
- 8 We seek the Commissioners' approval to file a further set of conditions responding to any comments Meridian provides, as originally intended. The Applicant expects that if Meridian responds in a timely manner, this could be circulated to submitters well in advance of the 17 December 2010 deadline for

their comments. It is submitted this will not cause prejudice to any submitter because it is within what was originally contemplated by the 26th Minute.

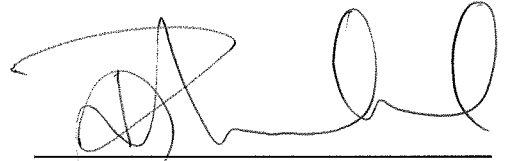
- 9 In the event the request above is not granted, we note paragraph 7 of the Commissioners' most recent minute and appreciate (particularly given the late receipt of Meridian's comments) the indication given that Applicants may be provided an opportunity to comment on comments received where that would be appropriate in the interests of fairness and natural justice.

Monitoring Conditions

- 10 Comments from Mike Freeman for ECan have made it apparent that the monitoring conditions offered by the Applicant for Lake Benmore, the Mistake River and Lake Tekapo may require revision.
- 11 In particular, the comments raise the question of replacing conditions 45 through 49 concerning Lake Benmore and the Mistake River with a monitoring and regulatory condition in respect of Lake Tekapo. The Applicant is in the process of receiving expert advice on this issue.
- 12 Both experts relied on by the Applicant in this respect return from leave on 29 November 2010.
- 13 The Applicant provides the **attached** condition set for comment by submitters on the understanding that there is a possibility of amending some or all of conditions 45 through 50, in light of ECan comments.
- 14 The Applicant will proceed to clarify their expert advice and proposes to provide either; a substantially altered monitoring and regulatory condition set to replace those found at current conditions 45 through 50 for consideration, or confirmation that no amendments are considered necessary by **3 December 2010**.
- 15 The Applicant is of the view that the 3 December deadline still provides sufficient time for submitters to comment given the limited scope of potential changes. In addition, the advice note included in the **attached** condition set alerts submitters to the possibility of change to the conditions

surrounding Lake Benmore, the Mistake River and Lake Tekapo and enables them to comment on what they view as being an appropriate change. It is submitted there will be no prejudice to any submitter as a result.

DATED at Christchurch this 26th day of November 2010.

A handwritten signature in black ink, consisting of several loops and flourishes, positioned above a horizontal line.

A C Limmer / P J Newland
Counsel for the Applicant Lone Star Farms Limited