

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

14th Minute of Commissioners

Dated 23 December 2009

14th MINUTE OF COMMISSIONERS

Introduction

- 1 We have received copies of email correspondence from applicants David and Lisa Anderson (Bog Roy Station) expressing concern that their water right application, which is a "renewal" application, is being caught up with the balance of the applications before us.
- 2 Similarly, we have received from Mr Ewan Chapman, legal counsel for the UWAG, a memorandum dated 15 December 2009 expressing similar concerns although to a greater degree of particularity.
- 3 Mr Chapman, for and on behalf of his UWAG group of clients and on behalf of Simon's Hill and Simon's Pass Stations, submits that it is procedurally unfair for his clients who are "renewal" applicants to be further compromised if these applicants continue to be grouped into the proposed effluent discharge consents applied for by Five Rivers Limited, Southdown Holdings Limited, and Williamson Holdings Limited.
- 4 Mr Chapman makes the point in his submissions (paragraph 9) that the renewal applicants were already compromised by being grouped into new takes, and it is his key point that their position is to be further compromised if the renewals either are or remain grouped into the proposed effluent consents.
- 5 Mr Chapman expresses the concern on behalf of his UWAG clients that their image will be negatively tarnished if the UWAG applications are at all associated with the "factory farming" effluent discharge consents.
- 6 At his paragraph 13 Mr Chapman requests that the UWAG group be separated from the hearing of the consents applied by Five Rivers Limited, Southdown Holdings Limited, and Williamson Holdings Limited.

Response

- 7 The Commissioners have been presented with the task of assessing all applications for water takes in the Upper Waitaki area. The Canterbury Regional Council at an earlier time made an "administrative decision" to combine all applicants for water takes to enable all matters to be heard at the one time.

- 8 The assumption we have is that this approach was the most cost effective and manageable approach to dealing with these applications, given that they share a common geographical location enabling the assessment of effects and, in particular, cumulative effects to be more readily understood.
- 9 The Commissioners are well aware that some of the take applications are for renewals, and the Commissioners are well aware that differing considerations under the Resource Management Act apply to renewals as opposed to “new” takes.
- 10 It is important to note that up until this time no renewal applicant has raised any issue directly with the Commissioners about the hearing process. It has only been when the potential complication of the effluent discharge consents applied for by Five Rivers Limited, Southdown Holdings Limited, and Williamson Holdings Limited – particularly in regard to the number of submissions those applications have attracted – that concern has arisen.
- 11 We are at this point in time only part way through the hearings process. Thus, any comment we make now needs to be read in that context. It is not possible, nor is it appropriate, that we issue any decision of any sort at this time. Thus, this minute should not be read in that light.
- 12 We can signal that we are very mindful of the position that the renewal applicants are in. We can and do acknowledge that the considerations under the Act that apply for renewal applicants (in contrast to new takes) are different.
- 13 The water take applications hearings will on the current hearing schedule conclude in early 2010. This date will not change as a result of the effluent discharge consents applied for by Five Rivers Limited, Southdown Holdings, and Williamson Holdings Limited.
- 14 Therefore the hearing for the UWAG “renewal take applicants” will come to a concluding point in a manner no different than that which was originally planned despite the additional effluent discharge consents as described above.
- 15 We make the observation that it must be plain to all applicants, given their number, the complexity of this case, and the sheer volume of evidence that has been produced to us, that the period of our deliberations will be extensive.
- 16 We can signal however we are most mindful of the fact that these resource consent applications have been “on foot” for an extraordinarily long period of

time. Thus, the Commissioners are focused on ensuring that the deliberation period is kept to an absolute minimum in recognition of this point. However, it serves no parties' interest if a decision of this complexity is made in haste.

- 17 We do not think it necessary to make orders that the UWAG renewal applications be separated from the hearing of the consents applied for by Five Rivers Limited, Southdown Holdings Limited, and Williamson Holdings Limited at this point.
- 18 The renewal applicants can be reassured that we are cognisant of the point that we are well aware of the significant period of time their applications have been in process. Thus, we can provide an assurance to them, subject to the complexities and volume of evidence we have received, a decision will be issued as promptly as possible.
- 19 We also note that for the renewal applications under the Act those applicants have certain rights relating to continuing with their activities subject to satisfying the requirements of the Act. Thus they may not be overly impacted upon by this resource consent process.
- 20 We also note that there is always a considerable time period between the grant of a consent and the utilisation of a consent. A successful applicant needs to order and install significant items of infrastructure to enable irrigation to occur; this all takes time.
- 21 Thus we do not think that the renewal applicants are or will be prejudiced by the length of this hearing process. However, we will act as speedily as we can to reach a decision.

Dated at Christchurch this 23rd day of December 2009



Paul Rogers

Commissioner Chair on behalf of the Committee