

BEFORE THE CANTERBURY REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

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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**29<sup>th</sup> MINUTE OF COMMISSIONERS IN RESPONSE TO MEMORANDUM OF COUNSEL ON BEHALF  
OF SOUTHDOWN HOLDINGS LTD, FIVE RIVERS LTD, AND KILLERMONT STATION DATED 24  
JUNE 2011**

Dated 30 June 2011

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**29<sup>th</sup> MINUTE OF COMMISSIONERS IN RESPONSE TO MEMORANDUM OF COUNSEL ON BEHALF OF SOUTHDOWN HOLDINGS LTD, FIVE RIVERS LTD, AND KILLERMONT STATION DATED 24 JUNE 2011**

**Request**

- 1 Counsel for Southdown Holdings Ltd, Five Rivers Ltd, and Killermont Station Ltd (the applicants) respectfully requests that we provide a date by which the decision on the applicants' resource consent applications are to be finalised and further that this date be as soon as possible.
- 2 Counsel points out that the length of time that this process has taken is placing the applicants under considerable strain, both financial and emotional. We are informed that large amounts of capital are tied up in the hearing and the applicants wish to have certainty as to what may be undertaken on their properties.

**Response**

- 3 At paragraph 2 of his memorandum, Counsel for the applicants rightly records some of the issues that are impacting upon our ability to complete our deliberations, and the writing and issuing of the decision. Those matters in themselves are having and have had a material impact on our ability to finalise and issue decisions.
- 4 The other points that Counsel does not refer to, which in our view are important, are the manner in which the applications have been presented to us. By that we mean the applicants have, in summary form, presented to us their view of the assimilative capacity of the entire catchment along with their view the existing environment in terms of discharges, and finally their view as to the likely quantity of discharges if all resource consents before us are granted.
- 5 This approach is new and novel. It involves very complex expert evidence, which requires expert and careful consideration.
- 6 Additionally, in terms of the Waitaki Catchment Water Allocation Regional Plan we are required to take a catchment-wide assessment and consider we must do that in respect of all of the applications.
- 7 We cannot issue individual decisions until we have completed a full evaluation of all of the applications before us. To issue some decisions before others would be unwise, particularly where we have not completed consideration and assessment of all applications, including the proposed conditions.
- 8 In short, the applications were presented to us as, effectively, a single case. Secondly, in our view, given the resource management issues arising from these applications we consider we have no choice but to issue all decisions at once.
- 9 Returning to the issue of proposed conditions, it is well worth pointing out, we think, that in terms of all applications we have not been presented with an "agreed" set of conditions. A process occurred between all participants, which had as one of its goals reaching agreement on conditions. Rather, we have been presented with a tabular format giving differing views from different participants about their preferences in terms of conditions. While that portion of our work is well in hand, it is a considerable undertaking.
- 10 It is regrettable that the process is taking a lengthy period of time. However, this group of applicants and all other applicants were under no illusion, we believe, that consideration of the issues and the issuing of a decision would take a considerable period of time.

- 11 There are 104 applications before us. Some applications have taken much longer than others to assess, evaluate and determine. However, taking a very simplistic approach of allowing a minimum of a fortnight per application it is, in our view, not surprising that our determinations have taken time to date and will take further time to complete.
- 12 We do not consider it would be responsible of us to provide a date on which decisions on the applicants' applications will be issued, for the reasons we have advanced. In reality, there may very well be issues that we focus on as we traverse and re-traverse the materials that we have before us and thus intimating a date when decisions may be available is unrealistic.
- 13 This group of applicants and all other applicants can be assured the commissioners are working as speedily as possible to issue decisions.

Dated at Christchurch this 30<sup>th</sup> day of June 2011



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**Paul Rogers**  
Commissioner Chair on behalf of the Committee