

**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.

**Minute of Commissioner Rogers dated 21 August 2009**

1. By way of a case management Memoranda from Counsel on behalf of Mackenzie Water Research Limited (MWRL) dated 19 August 2009, the Commissioners have been requested to amend the evidence exchange timetable contained within the Minute of Commissioner Skelton dated 29 May 2009.
2. Counsel explains that MWRL have encountered a range of issues, which have impacted upon its ability to complete reports and evidence. Those reasons are explained as being caucusing with Environment Canterbury (ECan) and other parties in an endeavour to complete evidence.
3. Thus a request is made by MWRL to exchange its evidence by 2 September 2009 as opposed to 24 August 2009, and consequently, that submitters' evidence in response to the MWRL evidence be exchanged by 16 September 2009 as opposed to, as originally provided, 7 September 2009.
4. In addition, the Commissioners' have received a Memorandum of Counsel for Meridian Energy Limited (Meridian) in relation to timetabling matters dated 14 August 2009.
5. Among other things within that Memorandum Meridian record various delays in receiving MWRL's water quality report.
6. Counsel for Meridian note that it has to date received a draft summary report and, sometime later, draft appendices. Meridian is concerned about the delay and also concerned that if there be additional delays in the provision of final appendices to the water quality report, further difficulties in terms of provision of evidence will arise.
7. The purpose of Commissioner Skelton's Memorandum was to ensure ordered preparation for the hearing. The timetabling and critically the exchange of evidence is intended to provide for the parties to the proceeding at the hearing a focus on key critical issues.
8. Consequently, if this is achieved, it is anticipated that the duration of the hearing will be reduced. In addition, concentration on the key issues will in turn favourably impact upon the quality of the decision.

9. If the original timetable cannot be met, then it may very well impact upon these outcomes. Most likely, it may cause an extension to what already appears to be a very lengthy hearing.
10. The extensions that MWRL request will have impacts upon the planning officer's report.
11. All ECan section 42A reports were in accord with the original Minute to be provided two weeks prior to the commencement of the hearing, namely 7 September 2009.
12. If the request made by MWRL is accepted by us, this will mean that the reporting officers have only two full working days, being 3 and 4 September 2009, to review and comment upon the MWRL materials.
13. In all probability it is more likely that the remaining three working days (namely 3, 4 and 7 September 2009) available to the reporting officers in terms of Commissioner Skelton's original timetable would be utilised for the purpose of final preparation and distribution of reports.
14. The options as we see it for the reporting officers given this request by MWRL and Meridian is to circulate the officer reports as originally directed as per Commissioner Skelton's Minute without making comment and/or audit of the MWRL materials and the Meridian materials.
15. The alternative would be the reporting officers reports are delayed to the minimum statutory period of five clear working days before the commencement of the hearing. This would mean that they are to be circulated no later than 5.00pm on Friday, 11 September 2009.
16. The further alternative is that the Section 42A report writers be allowed to present addendums to their report outlining the audit of the study and the materials produced by MWRL and Meridian, provided such report is available before the submitters present their evidence. The applicant in its right of reply could address matters raised within the officers' addendums.

**Directions:**

17. We direct that:
  - a) The request made by MWLR to exchange its evidence by Wednesday, 2 September 2009 is agreed;
  - b) Submitters' evidence in response to the MWRL evidence is to be exchanged by Wednesday, 16 September 2009;
  - c) Consequently, the Meridian request is also granted and accordingly Meridian is now to produce its water quality evidence on or before 14 September 2009.
  - d) Section 42A report officers are to provide their reports in accord with Commissioner's Skelton's Minute of 29 May 2009, that is, by 7 September 2009. However, the reporting officers will be granted an opportunity to prepare an audit of the MWRL study and circulate that – notwithstanding that the hearing may have commenced by the time that such audit report is available.

- e) However, the reporting officers are to do all they possibly can to ensure that the further report/audit report is available to all parties as soon as possible following the receipt of the MWRL materials. At the very latest, the officers' report is available before any submitter (other than the applicant) presents their evidence to the Commissioners.
- f) If any party has any difficulty with these further and additional directions they are to advise the Commissioners of that point no later than Friday, 28 August 2009.

Dated in Christchurch this 21<sup>st</sup> day of August 2009



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