

**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

1. At the Regulation Hearing Committee meeting on 17 July 2009, I was appointed with the same powers of delegation to replace Mr Peter Skelton as Commissioner Chair to hear and decide the above resource consent applications. The hearing panel comprises:
 - Mr Paul Rogers (chairperson, legal expert),
 - Mr Mike Bowden (hydrologist, water management expert),
 - Dr Jim Cooke (water quality expert) and
 - Mr Edward Ellison (cultural expert).

2. As Chairperson, I endorse the matters set out by Professor Skelton in the procedural pre-hearing Minute dated 29 May 2009 (the Minute). We will proceed with the dates set in the minute with one exception. Due to conflicting commitments some Commissioners are unable to sit the week commencing 27 October and as it is a short week we will instead substitute with the week of 2 to 6 November. The hearing dates will therefore be as follows:

Week One: 21 – 25 September 2009

Week Two: 5 – 9 October 2009

Week Three: 12 – 16 October 2009

Week Four: 19 – 23 October 2009

Week Five: 2 – 6 November 2009

Week Six: 9 – 12 November 2009

Week Seven: 16 – 20 November 2009

Week Eight: 30 November – 4 December 2009

Week Nine: 7 – 11 December 2009

Week Ten: 14 – 18 December 2009

3. I also amend slightly the sitting times to be as follows: the hearing start time will be 9:30am and finish time will be 5pm each day, excluding Friday, when we will have an early finish at 3pm to allow people to travel back to their homes. We will break each day at 10:30 and 3pm for 15 minutes and at 12pm for one hour.
4. I can confirm that the venue for the majority of the hearing will be in Christchurch. There will be a component of the hearing that will be held in Twizel for those parties who wish to be heard in there. We are uncertain of the exact timeframe but it is likely it will be in the week of 30 November to 4 December. There is the unresolved matter of whether there are any submitters who would prefer to be heard in Twizel. If any submitter wishes to be heard in Twizel please contact Environment Canterbury (Attention: Ciana Cerri) as soon as possible, but no later than 4 August 2009. Please give us an indication of how much time you will need to present so we can ascertain the length of time the Panel will need to allow to be in Twizel.
5. The notice of hearing will be issued in early August and will confirm the above times, dates and location details of the hearing.
6. The applicant group confirmed that the final water quality report from Mackenzie Water Research Limited (MWRL) would be provided to Environment Canterbury by 31 July 2009 to allow the Reporting Officer's time to complete their Section 42A reports. As stated in Paragraph 14 of the minute MWRL will exchange their evidence with Environment Canterbury 4 weeks prior to the commencement of the hearing. If this final report is not provided by this date it will not be audited by Environment Canterbury. This will present obvious complications for the hearings process.
7. I confirm and emphasise the position stated in Commissioner Skelton's pre-hearing minute, Paragraph 27, regarding derogation approval. All applicants must have derogation approvals from Meridian Energy Limited prior to the commencement of the hearing. Any applicants who have not provided derogation approval five clear working days before the commencement of the hearing (being 5.00pm Friday 11 September 2009) will be at real risk of not being heard.
8. As Commissioner Skelton noted, provision of the derogation approval is a matter that goes to the Panel's jurisdiction, thus without such an approval the application cannot be heard.
9. A notice of hearing will shortly issue, but that notice of hearing will contain advice to the effect that an application will not be able to be heard unless and until a derogation approval is provided to the Panel. If that approval is not provided on or before 5.00pm Friday, 11 September 2009, then there will be a real risk for that applicant that the application will not proceed to be heard. That application will be deferred until such time as the approval is available.
10. I emphasise further that if there are any issues that the applicant thinks should be brought to the Panel's attention about these approvals or Meridian Energy Limited's refusal to provide them (if that is an issue), then these matters should be raised as a preliminary matter well before the hearings are scheduled to start and be dealt with.
11. Environment Canterbury has sought a waiver pursuant to section 42A(4) to not serve in hard copy form, the officers Section 42A report to all parties. These reports will be made available on the Environment Canterbury website (www.ecan.govt.nz) from Monday, 7 September 2009. Copies of the reports are

intended to be available on CD or in hardcopy, upon request only. More details are to follow with the notice of hearing.

12. That waiver is granted on the basis there is no material prejudice to any person who should have been sent a copy of the report under subsection (3) of section 42A on the basis that all parties to this proceeding have through this Minute advanced notice of the means by which they can secure a copy of the report. I also note that more details as to how to access a copy of the report will follow with the notice of hearing, which will issue shortly.

Dated in Christchurch this 28th day of July 2009



Paul Rogers
Commissioner Chair