

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

IN THE MATTER of the Resource Management Act 1991

AND of appeals under clause 14 of the First Schedule of the Act

BETWEEN **ARATIATIA LIVESTOCK LIMITED**
(ENV-2018-CHC-029)

FEDERATED FARMERS
(ENV-2018-CHC-040)
Appellants

AND **SOUTHLAND REGIONAL COUNCIL**
Respondent

AND **HAMISH ENGLISH**
Section 274 Party
(and further section 274 parties as continued on next page)

**BRIEF EVIDENCE OF HAMISH ENGLISH – TRANCHE 3
S274 PARTY**

Dated: 19 August 2022

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**AND ARATIATIA LIVESTOCK LIMITED
(CIV-2018-CHC-40)**

AND CAMPBELL'S BLOCK

AND D AND G PULLAR

AND DIRECTOR-GENERAL OF CONSERVATION

AND FAIRLIGHT STATION

**AND FEDERATED FARMERS OF NEW ZEALAND
(CIV-2018-CHC-029)**

AND GUNTON FARMS

AND FISH AND GAME COUNCIL OF NEW ZEALAND

AND PETER CHARTRES

AND TE RUNANGA O NGAI TAHU

AND ROBERT GRANT

**AND ROYAL FOREST AND BIRD PROTECTION SOCIETY
OF NEW ZEALAND INCORPORATED**

AND STONEY CREEK STATION

AND THE TERRACES LIMITED

AND WILKINS FARMING COMPANY LIMITED

- 1 My full name is Hamish English.
- 2 I live and farm in Dipton, Southland. I represent the wider interests of my family in this tranche of the hearings. Our place is Southland. Our rivers are the Oreti and the Waiau and our mountains are the Mid and West Domes of Northern Southland and the Takitimus of Western Southland.
- 3 Our knowledge of the region is also informed by intergenerational knowledge gained from 140 years of continuous English family farming in the Dipton Castlerock area.
- 4 I attended the mediation hearing on this tranche of appeals in May 2021. The mediation was not successful in reaching agreement for the resolution of the Aratiatia appeal (ENV-CHC-2018-029) that I am a party to.

Scope of Evidence

- 5 The scope of my evidence is to provide more detail about the significance of the Waiau River and why the regional plan framework should provide for the impact of a loss in flows in that water body.
- 6 I should say at the outset that I am not opposing the use of the Waiau River for Hydro electricity generation. I have no expectation that the flows of the Waiau river will be returned to the flow rates that existed before the commissioning of the Scheme. However, I do consider the consequences of the size of take of water from the Waiau does have significant consequences for the farming community as a whole which I explained in more detail below.
- 7 I consider that the regional plan framework should provide for those burdens to be shared more equitably between the power generator and the community as a whole.
- 8 I should also emphasise that although I identify adverse impacts on the Waiau River and surrounding areas, in no way should my evidence be taken as a criticism of Meridian Energy. I understand that they are operating the Hydro Electric power generation system within the terms of a resource consent and that they are lawfully entitled to do so. I simply wish to set out my reasons for why I think there is a better framework for

the Regional Plan so that the burdens of the Scheme are balanced and degradation of the Waiau River is stopped or slowed further.

- 9 I have read the evidence of Clare Jordan and Paul Marshall. In my evidence I use the same defined term the "Waiau Provisions" to refer collectively to the decisions version of Policy 26, rule 52A, and appendix E, and the "Scheme" to describe the Manapouri Hydro Electric Power Scheme.
- 10 I rely on Ms Jordan's description of the Scheme set out in her evidence and her assessment of the planning provisions she refers to. I do not repeat that information in my evidence.
- 11 I agree with Ms Jordan that a key issue is rule 52A which (in the decisions version) provides for re-consenting the Scheme's operational activities as a controlled activity status.
- 12 I also consider that if the Waiau Provisions were to be changed to a restricted discretionary activity, the matters for which the Council can consider are of particular importance.

The Significance of the Waiau River

- 13 My family has had a very long association with the Waiau River.
- 14 My grandmother, Deliah Annie O'Brien purchased "Sunnyside", a farm with a boundary defined by the Western bank of the Waiau River in 1937. In somewhat of a return to my family roots, in 2009 I purchased a property with a boundary to the Eastern bank of the Waiau on the Otahu Flat.
- 15 "Sunnyside" remains within the family to this day and is now farmed by my cousins Mike and Frank O'Brien. My mother Nora was raised on that farm, and she remained deeply attached to that land even after she moved away to get married.
- 16 My childhood was full of her stories about the Waiau River and I was always excited to visit the farm to see the places where those stories had happened. I always looked forward to going there - not only to enjoy the company of my extended family but to have all sorts of adventures with my cousins in the Waiau River.
- 17 It was a magnificent water body that inspired awe and respect. I have a very clear recollection as a very young child, of standing with my mother

on the swing bridge suspended high above the water, hearing the thunder of it passing under the bridge and vibrating through into my feet.

- 18 Rowing or swimming across the Waiau River was a challenge, and reaching the opposite bank was proof of your "invincibility". My Aunt has taken video footage showing people rowing across the river to complete the construction of the swing bridge which illustrates very well the force of the River's flow and the challenges of navigating it **[[Exhibit Video]]**. Our family also has some footage of the Waiau in the Sunnyside area taken at an early time **[[Exhibit Video]]**.
- 19 The Waiau River was also the scene of many a successful fishing trip, I recall my cousins catching several "trophies" from its waters when I was younger.
- 20 The power of the Waiau River's water is part of our family's heritage. It has been a reminder of how nature is powerful and dangerous but also an ally.
- 21 The changes to the powerful character of the Waiau River as a consequence of the operation of the scheme means that legacy has ended, the life force of the Waiau has been emasculated and we feel that loss deeply as we reminisce and reflect on our early lives.

Environmental Impact of the Scheme.

- 22 I have watched as many changes to the Waiau River have occurred over my lifetime. I agree with the observations of Claire Jordan and Paul David Marshall as regards the impacts of the loss of flows.
- 23 I would agree that there are a number of algal blooms particularly in the top end of the Waiau River which indicate that the water temperature and concentrations of sediments are different to that which occurred before the commissioning of the scheme.
- 24 What I have also noticed is that parts of the river now seem to be permanently braided, when previously they were not. The "islands" which comprise stones, gravel and sediments now contain narrow channels of water and weeds are growing on those "islands".
- 25 I have also noticed weed species growing on the riparian margins and banks of the Waiau River. This tells me that the water flow levels are not sufficient to wash away weed seeds that enter the waterway. The flows

are also insufficient to inundate the "islands" and river banks for a sufficient period of time to kill the weeds and the weed seeds.

- 26 I have also seen erosion affecting the banks and riparian areas of the tributaries of the Waiau River. This erosion is changing the course of the tributaries. I suspect that the changes in the flow rates of the river may be contributing to the rate at which this erosion is occurring.
- 27 I appreciate that there is a valuable programme of work being carried out by community groups with funding from Meridian to fence the Waiau River and improve the riparian margins.
- 28 Increasing the duration and frequency of flushing flows as well as increasing the minimum flows (particularly over the summer months) would improve the riparian margins by suppressing weeds and killing weed seeds.
- 29 I mention this effect in particular, because it did not exist at the time of the Scheme being commissioned.
- 30 I can also comment on some of the hidden costs to the wider community that are experienced. I rely on the evidence of Claire Jordan, that contaminants such as sediment are more concentrated as a consequence of the diminished flows of the Waiau River. I am also aware there are also examples of some aquifers being hydraulically connected to the Waiau River, so I would expect that low flows in the Waiau River could adversely affect the rate at which an aquifer can recharge. These would indicate a degree of degradation of the water quantity and quality is a consequence of the Scheme's operation.
- 31 In this context, my experience is that obtaining resource consents can be more complex than it would be if this contribution to environmental degradation ceased or slowed. In the context of a degrading environment, assessments of the environmental impact of an activity can be complex. Measures to avoid, remedy or mitigate adverse effects (for example discharges) can require effort and cost to ensure the desired environmental outcomes are achieved.
- 32 Applicants for resource consent face a complex application process as they must demonstrate that their specific resource use avoids, remedies or mitigates environmental effects in the context of a receiving

environment which is (for the reasons set out by Claire Jordan), experiencing significant degradation from the operation of the Scheme.

- 33 The costs of resource use for the wider community in this context are higher because it can be more difficult to demonstrate the appropriateness of the resource use or mitigation measures.
- 34 A receiving environment can become more sensitive as it degrades. There is considerable uncertainty as to whether resource consents can be renewed in a degrading receiving environment. I would expect it to become more complicated (and potentially costlier) to obtain a renewal of a resource consent to permit a resource use to continue.
- 35 The burdens and costs I outline above fall on the members of the wider community rather than on the Scheme owner.
- 36 I am not suggesting that the flow regime for the Scheme must be set at a level to dilute contaminant loads or to achieve a quicker recharge of an aquifer. What I am saying is that starving the Waiau River of its full flows means that the burden of proving that any further cumulative effects are minor or less than minor falls on a very small community. The burden is greater than if the Scheme had not been commissioned and is an economic effect that has a disproportionate impact on the farming sector in this area.

The Regional Plan Provisions

- 37 The Scheme is unique in Southland as it is a fully consumptive water take of a significant volume. The allocation of the Waiau for the Scheme is up to 95% of the flow. In contrast, up to 5% of the Mataura River's flow is allocated for water takes.
- 38 As I have outlined above, there are obvious and also hidden impacts of the operation of the Scheme.
- 39 Providing for the existing allocation as a controlled activity does not allow a consent authority to fully reassess or materially alter the terms of the resource consent to address the rate of degradation of the Waiau River. There will be no practical assessment to adjust the flow rates downwards, or specify a different flow regime.
- 40 It would, I believe, also affect the FMU water allocation process as a controlled activity status would mean that the Council must provide for

that consent to be renewed. In effect, this would be a pre-determination of water allocation and would prioritise the Scheme over other takes for water.

- 41 The consent authority should have full discretion over whether to grant a consent application in full or in part. A consent authority should also have full discretion to deal with observable environmental effects such as those I outline above and those described by Paul Marshall.
- 42 I recognise the national significance of the Scheme, and I am certainly not advocating for the full flows in the Waiau River to be restored.
- 43 However, I am concerned that the content of the Regional Plan, if it restricts a consent authority's discretion, will mean that the degradation of the Waiau River and all the associated environmental effects will be taken as meaning those effects will always be acceptable.
- 44 For the reasons outlined above, I consider the impact of those effects is disproportionate, and the consent process is an important tool for recalibrating where the impacts of the Scheme lie by providing for mitigation and remediation of environmental effects within the consent process.
- 45 It is important for the public to have an opportunity to explain to a consent authority the direct impacts of the scheme on themselves and/or their wider community given that not all impacts on the environment are measured or, in the case of amenity effects, are not capable of measurement.
- 46 The public's confidence in the regulation of the Scheme could also be negatively impacted if the consent authority does not have the capacity to address all categories of environmental effects.
- 47 I consider it is appropriate to have the Waiau Provisions work as a framework to ensure that remedying or mitigating all types of environmental effects of the Scheme's operation can be given consideration by a consent authority to the fullest extent.

Dated: 19 August 2022



Paul Marshall (ing) Ltd