

**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 TRANSPOWER NEW ZEALAND LIMITED
 (ENV-2018-CHC-26)
 ... (continued on last page)
 Appellants
AND SOUTHLAND REGIONAL COUNCIL
 Respondent

**MINUTE OF THE ENVIRONMENT COURT
(13 May 2019)**

[1] The purpose of this minute is for the sake of transparency to set out the process followed to finalise the Joint Witness Statement (“JWS”) from the River Water Quality and Ecology conference (attached).

[2] The conference took three full working days and required early starts and late finishes on two days to enable it to be completed on Thursday 9 May 2019. While the draft JWS was completed by early afternoon on 9 March, three experts had to leave before a final review could be completed. While they endeavored to change flights to enable them to stay for the finalisation of the JWS, all later flights out of Invercargill were fully booked.

[3] I agreed that the three experts could review the final draft (agreed by the other experts) and provide comments, if any, and signatures by midday on Friday 10 May 2019. Dr James advised by email that he had concerns about a change made in the final review in paragraph 44, first bullet point. He asked that his name be added to the concerns raised by Mr Kitto and Ms Bennett in the JWS, together with the following addition “Dr James considered this is appropriate for avoiding enrichment due to nitrogen but not necessarily toxicity.”



[4] Dr James also noted that in the reviewed JWS, some editing corrections are required, as underlined below:

Paragraph 47

For the avoidance of doubt if any one of the listed criteria in paragraphs 44 and 45 is met, a water body would be considered to be degraded. Individual sites that meet the degraded criteria are identified in Appendix 1. Similarly, a water body would be considered at risk if any one of the listed criteria in paragraph 46 is met. Individual sites that meet the at-risk criteria are identified in Appendix 2. Sites that are considered degraded may also be at risk for other attributes and these have not been identified in Appendix 2. Appendices 1 and 2 were prepared by Dr Kitson and reviewed by Mr Hodson and other experts accepted the tables.

Paragraph 48

Additional water bodies may be degraded or at risk of being degraded when considered against criteria not included in paragraphs 44-46. This would result from the establishment of appropriate criteria for nitrogen, phosphorus, and other attributes relevant to periphyton, MCI and fish. The experts were unable to agree on thresholds that they could provide for the Court at this time.

Paragraph 62

There is an elevation in nitrogen concentrations where the Waiau River joins the Mararoa River and at some sites as you get nearer the coast, a further elevation in nitrogen, an elevation of E.coli and turbidity and a decrease in clarity. By way of specifics there are one or more sites in the Mararoa River and lower Waiau catchment with elevated dissolved reactive phosphorus (DRP), nitrate, ammonia and total nitrogen levels above the ANZECC ecosystem health thresholds. In addition there are elevated E.coli levels above the median attribute statistic under the National Objectives Framework (NOF). The remaining sites are below these thresholds.

[5] I considered it inappropriate to change the document agreed and signed by seven of the experts, and too time consuming to obtain further signatures from 10 experts on a revised document, based on past experience of trying to do this. Accordingly, the attached JWS is the original signed version and I note the following:

- (a) a copy of Dr James' signature is attached at the back of this JWS;



- (b) Ms McArthur confirmed by email dated 9 May 2019 that she had no problem with Dr James' proposed changes and sent her signature for attachment to the final document (copy of signature attached); and
- (c) Dr Death confirmed by email dated 10 May 2019 that "I am similarly happy with the JWS and Dr James' suggested changes outlined in his email 9/5/2019" and similarly sent his signature, which is also attached.

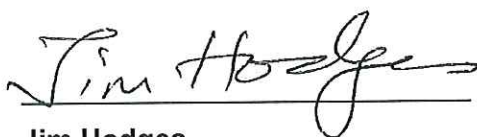
[6] A copy of Dr James' confirmation email and confirmatory emails from Ms McArthur and Dr Death are attached to the signed JWS.

[7] All other experts confirmed by email that they had no objections to Dr James' proposed changes.

[8] Maps 2 and 3 are not attached and will be forwarded as soon as I receive them.

[9] I wish to record my appreciation to all experts for the very professional and collaborative approach they took throughout the conference, and the considerable efforts they made to produce the JWS.

[10] I also wish to express my thanks to Jan Brown for the invaluable contribution she made to the process as recorder. Her knowledge of the technical language being used, her ability to capture outcomes accurately and quickly, and her efficiency, flexibility and particularly her patience were of great assistance, for which I am very grateful.



Jim Hodges
Environment Commissioner



Issued: 13 May 2019

List of appellants

ENV-2018-CHC-27	Fonterra Co-Operative Group Ltd
ENV-2018-CHC-28	Horticulture New Zealand
ENV-2018-CHC-29	Aratiatia Livestock Limited
ENV-2018-CHC-30	Wilkins Farming Co
ENV-2018-CHC-31	Gore District Council, Southland District Council and Invercargill City Council
ENV-2018-CHC-32	DairyNZ Limited
ENV-2018-CHC-33	H W Richardson Group Limited
ENV-2018-CHC-34 & 35	Beef + Lamb New Zealand
ENV-2018-CHC-36	Director-General of Conservation
ENV-2018-CHC-37	Southland Fish & Game Council
ENV-2018-CHC-38	Meridian Energy Limited
ENV-2018-CHC-39	Alliance Group Limited
ENV-2018-CHC-40	Federated Farmers of New Zealand
ENV-2018-CHC-41	Heritage New Zealand Pouhere Taonga
ENV-2018-CHC-42	Stoney Creek Station Limited
ENV-2018-CHC-43	The Terraces Limited
ENV-2018-CHC-44	Campbell's Block Limited
ENV-2018-CHC-45	Robert Grant
ENV-2018-CHC-46	Southwood Export Limited, Southland Plantation Forest Company of NZ, Southwood Export Limited
ENV-2018-CHC-47	Te Rūnanga o Ngāi Tahu, Hokonui Rūnaka, Waihopai Rūnaka, Te Rūnanga o Awarua & Te Rūnanga o Oraka Aparima
ENV-2018-CHC-48	Peter Chartres
ENV-2018-CHC-49	Rayonier New Zealand Limited
ENV-2018-CHC-50	Royal Forest and Bird Protection Society of NZ Inc

