



WILKINS FARMING CO

17 May 2018

Christine McKee
Christchurch Environment Court
PO Box 2069
Christchurch 8013

Dear Sir/Madam

Wilkins Farming Co Form 7 - Notice of appeal to Environment Court against decision on proposed policy statement or plan or change or variation

We, Wilkins Farming Co (WFC) appeal against parts of a decision of Environment Southland, Southland Regional Council on the following policy statement: Southland Water and Land Plan, Part A - Decisions Version.

We made a submission on that policy statement (*or plan or change or variation*).

We are not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.

We received notice of the decision on 4 April 2018.

The decision was made by Environment Southland, Southland Regional Council.

The decision (*or part of the decision*) that we are appealing is:

- Physiographic Policies
- Policy 42 – Consideration of water permit applications, 2)
- Appendix L.5 Groundwater Allocation
- Rule 20, Farming (a)(iii)(3)(E)
- Rule 54 - Abstraction and use of groundwater, point (c) (ii)

Yours faithfully

Sean Wilkins
Wilkins Farming Co

Decision on Proposed Southland Water and Land Plan – WFC - Appeal Topics

1) Physiographic Zone Policies

Reason For Appeal: It appears unnecessary to discriminate specific land uses as they have been in many of these policies. For example Policy 9 -Old Mataura, Point 3...*decision makers generally not granting resource consents for additional dairy farming of cows or additional intensive winter grazing where contaminant losses will increase as a result of the proposed activity.* We appeal the specific reference to *dairy farming or intensive winter grazing*.

All land uses should be required to demonstrate techniques to farm that do not statistically increase contaminant loss significantly. The emphasis should be on nutrient loss, not on the land use. “Its not what you do that matters, it’s the way that you do it”.

We acknowledge there is opportunity for further dairy farming or intensive winter grazing through the wording ‘...*generally not granting resource consents...*’ however it appears unfair and unnecessary to single out a land use to this degree in the policy making.

Inconsistent rationale for land use options between different physiographic zones has potential to unfairly and unnecessarily compromise land use options. This will ultimately compromise land values in areas with less political potential to practise dairy farming or intensive winter grazing.

Relief Sought: Adjust wording to say...*decision makers generally not granting resource consents for land uses which contribute to contaminant losses exceeding the applicants five-year average of lawful contaminant discharge prior to the date of the plan being effective.*

This is more in line with the overall objective of *holding the line*. However, there should also be consideration for new land use applications which can prove the proposed land use will NOT statistically contribute to significantly more contaminant loss than the previous land use.

2) Policy 42 – Consideration of water permit applications

Reason for Appeal: We appeal the idea that a consent renewal could be compromised to a *reduced rate* to make room for a new consent. It is not appropriate that in this example potentially early adopters or parties who found irrigation water for a particular groundwater management zone should have their resource consent compromised at the point of renewing an expired consent in this context.

except for non-consumptive uses, consents replacing an expiring resource consent for an abstraction from an over-allocated water body will generally only be granted at a reduced rate, the reduction being proportional to the amount of over-allocation and previous use, using the method set out in Appendix O; and

Generally, the first party to find irrigation water in an area absorbs a significant cost, often to the benefit of adjacent subsequent water users. Political expenses, exploration expenses; identifying appropriate location, depth and aggregate to take water from, funding electricity facilities which soon

become public utility. Ultimately early adopters are surrendering both intellectual and tangible property to the benefit of subsequent adjacent water and electricity users. It would not be appropriate that such parties were penalised at the consent renewal stage.

Relief Sought: *Policy 42 – Consideration of water permit applications should read... If a groundwater management zone is within the last 10% of its primary groundwater allocation limit, then existing consent holders should be offered consent renewal options before further allocating groundwater to new applicants.*

3) Appendix L.5 Groundwater Allocation

Reason For Appeal: We question the relevance of the primary allocation of groundwater figures, the rationale used to reach them and the need for these figures to be so specific. Historical and existing ground water consents have been obtained by performing a combination of a series of pump tests, on-going piezo monitoring, well monitoring and flowmeter monitoring etc. For 15 years of irrigation we have performed these exercises in the Waipounamu Groundwater Management Zone to demonstrate no negative effects on the aquifer levels. Despite extensive costly exercises and the positive supporting data they provide, the groundwater allocation figures appear to be unnecessarily restrictive.

Inconsistent primary groundwater allocation rationale between different groundwater management zones has the potential to unfairly and unnecessarily compromise land use options. This will ultimately compromise land values in areas with less political access to groundwater available.

Relief Sought: That the groundwater restrictions should be based on a transparent and consistent formula applied fairly across all ground water zones. This is to demonstrate that the water abstraction does not have significant detrimental effects on the aquifer level using the existing pump test and ongoing well, piezo and flowmeter monitoring techniques. The use of random or arbitrary figures is not appropriate. What would be more appropriate is to use information obtained from such a formula suggested applied in a local context factoring in KNOWN environmental risks and resource availability.

4) Rule 20, Farming (a)(iii)(3)(E)

If cattle or deer are being grazed the mob size being grazed is no more than 120 cattle or 250 deer

Reason For Appeal: This rule appears impractical and arbitrary. It will cause unnecessary compliance and impracticalities without having a positive bearing on the overall objective of restricting contaminant losses or improving water quality. There are all kinds of variances to consider ie. stocking rate/ha, permeability of the soil, moisture content of the soil, timeframe the animals are spending on the area, weather conditions, stock class, animal behaviour etc.

Relief Sought: Remove this rule, instead we could concentrate on the exclusion of intensive wintering stock from waterways and focus on practises such as back fencing sensitive areas to avoid both overland flow of nutrients and leaching through the soil profile.

5) Rule 54 - Abstraction and use of groundwater, point (c) (ii)

the rate of take does not exceed 75 litres per second

Reason For Appeal: It is unnecessarily restrictive to limit the take and use of groundwater for hydraulic testing and bore development, so the rate of take does not exceed 75 litres per second. The restriction should be in context of the volume required for the application, the known volume of water present and environmental risks present. The idea of a test is to determine the effect of the proposed abstraction on the environment. To limit permitted testing to an arbitrary figure in a rule making context is not appropriate. This will create unnecessary compliance requirements and could defeat the purpose of exercising a bore test.

Relief Sought: The rule should read... *the rate of the take is limited to what is required for the application and permission is/is not granted in consideration to KNOWN environmental risks in the area of abstraction.* (Without having to apply for resource consent)