

**BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I MUA I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

UNDER	the Resource Management Act 1991
IN THE MATTER	of appeals pursuant to clause 14 of the First Schedule to the Act
BETWEEN	Southland Fish and Game Council (ENV-2018-CHC-37)
	Royal Forest and Bird Protection Society of New Zealand Inc (ENV-2018-CHC-50)
	Federated Farmers of New Zealand (ENV-2018-CHC-40)
AND	Southland Regional Council

MEMORANDUM OF COUNSEL FOR BALLANCE AGRI-NUTRIENTS LIMITED

3 JUNE 2022


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MAY IT PLEASE THE COURT

1. This Memorandum of Counsel is filed on behalf of Ballance Agri-Nutrients Limited (**Ballance**) in response to the direction to review the May version of the Consolidated Plan prepared by the Regional Council and file a memorandum correcting any errors together with the proposed relief.¹
2. Ballance makes one point of clarification in relation to the definition of *critical source area*.
3. Ballance is documented as supporting Ms Ruston’s version of clause (a) of the definition, which removed the phrase “including ephemeral flow paths” from the 10 December 2021 planning Joint Witness Statement (**JWS**) version of the definition.²
4. Counsel noted in opening submissions that Ballance does not have a strong view on this issue, and supports the definition as agreed in the JWS or as proposed by Ms Ruston.³
5. To set out the drafting, Ballance supports either of the following definitions (changes to the decisions version shown in green track):

Critical source area – JWS version

- (a) a landscape feature like a gully, swale or a depression (including ephemeral flow paths) that accumulates runoff (sediment and nutrients) from adjacent flats and slopes, and delivers it to surface water bodies (including lakes, rivers, artificial watercourses and modified watercourses) or subsurface drainage systems; and

¹ Email from the Court dated 1 June 2022.

² Sue Ruston’s statement of evidence dated 4 February 2022 at [40].

³ Legal submissions dated 11 April 2022 at [16].

- (b) a non-landscape feature that has high levels of contaminant losses, such as silage pits, fertiliser storage areas, stock camps and laneways.
- ~~(b) areas which arise through land use activities and management approaches (including cultivation and winter grazing) which result in contaminants being discharged from the activity and being delivered to surface water bodies.~~

Critical source area – Ms Ruston’s version

- (a) a landscape feature like a gully, swale or a depression that accumulates runoff (sediment and nutrients) from adjacent flats and slopes, and delivers it to surface water bodies (including lakes, rivers, artificial watercourses and modified watercourses) or subsurface drainage systems; and
- (b) a non-landscape feature that has high levels of contaminant losses, such as silage pits, fertiliser storage areas, stock camps and laneways.
- ~~(b) areas which arise through land use activities and management approaches (including cultivation and winter grazing) which result in contaminants being discharged from the activity and being delivered to surface water bodies.~~

DATED this 3rd day of June 2022



Megan Exton

Counsel for Ballance Agri-Nutrients Limited