

Kate McKinlay

To: Alyssa Langford
Subject: RE: pSWLP - Topic B - Expert Witness [DC-Documents.FID2516585]

From: Sally Gepp <sally@sallygepp.co.nz>
Sent: Wednesday, 15 December 2021 4:22 PM
To: Jessica Ottawa <jessica.ottowa@duncancotterill.com>; Kelly, Karina <Karina.Kelly@justice.govt.nz>; Brownlee, Maddy <Maddy.Brownlee@justice.govt.nz>; Alyssa Langford <Alyssa.Langford@wynnwilliams.co.nz>; Amelia Ching <aching@doc.govt.nz>; ben@cuee.nz; ben.williams@chapmantripp.com; Bronwyn Carruthers <bcarruthers@shortlandchambers.co.nz>; Camilla Owen <COwen@heritage.org.nz>; carmen@planzconsultants.co.nz; 'Chris Fowler' <Chris.Fowler@adderleyhead.co.nz>; Chris Thompson <cthomsen@fvm.co.nz>; Dave Harrison <Dave.Harrison@beeflambnz.com>; dean <dean@environmentalbarrister.co.nz>; 'Douglas Allan' <dallan@ellisgould.co.nz>; engliston@gmail.com; Humphrey Tapper <Humphrey.Tapper@MeridianEnergy.co.nz>; 'Jacob Smyth' <jacob.smyth@southlandfishgame.co.nz>; James Winchester <james.winchester@simpsongrierson.com>; jason.sandford@fonterra.com; Jordanclaire20 <Jordanclaire20@gmail.com>; Karen Wilson <Karen.Wilson@hobec.co.nz>; Katherine Forward <katherine.forward@duncancotterill.com>; Kristy Rusher <Kristy.Rusher@awslegal.co.nz>; Laura Murphy <Laura.Neale@hobec.co.nz>; Linda Kirk <lkirk@doc.govt.nz>; 'Lisa Miers' <lisa.miers@mitchelldaysh.co.nz>; 'Logan & Nicole Evans' <logancole@yrless.co.nz>; Mark Christensen <mark@naturalresourceslaw.co.nz>; 'Mark Laurenson' <MLaurenson@burtonconsultants.co.nz>; matheson@richmondchambers.co.nz; Meg Buddle <Meg.Buddle@adderleyhead.co.nz>; Megan Exton <Megan.Exton@hobec.co.nz>; michael.garbett@al.nz; 'Michael Morris' <Michael.Morris@icc.govt.nz>; Murray Willans <murray.tarn@xtra.co.nz>; natasha.garvan@bellgully.com; 'Owen Buckingham' <obuck@xtra.co.nz>; pwilliams@doc.govt.nz; p.anderson@forestandbird.org.nz; Peter Wilson <pwilson@fedfarm.org.nz>; Philip Maw <philip.maw@wynnwilliams.co.nz>; rex.chapman@cplaw.co.nz; 'Richard Gardner' <rgardner@fedfarm.org.nz>; R Zwaan <r.zwaan@forestandbird.org.nz>; riki.donnely@prlaw.co.nz; 'Rob Enright' <rob@publiclaw9.com>; 'Robert Kempthorne' <rob.anna@farmside.co.nz>; Sal Lennon <Sal.Lennon@simpsongrierson.com>; 'Stephen Christensen' <stephen@projectbarrister.nz>; Sue Ruston <sue@ppmconsulting.co.nz>; Tayla.crawford@bellgully.com; Tim Ensor <TEnsor@tonkintaylor.co.nz>; Treena Davidson <treenadavidson@aecltd.co.nz>; 'Twin Farm Ltd' <snowwelsh@hotmail.com>; Vanessa Hamm <Vanessa.Hamm@hobec.co.nz>; 'Waiiau Rivercare Group' <waiiau.rivercare.group@gmail.com>; Zane Moss <zane.moss@southlandfishgame.co.nz>
Subject: RE: pSWLP - Topic B - Expert Witness [DC-Documents.FID2516585]

Dear Karina and parties

Forest & Bird and Fish & Game are concerned by the proposal by Dairy NZ and Fonterra to change its witness at this late stage, post conferencing.

There has been a detailed sequence of expert conferencing involving significant resourcing by all parties. My clients rely on the Science Joint Witness Statement as demonstrating matters that are accepted (or not) between the science witnesses and the scope of their witness' evidence will be tailored to issues where agreement is not reached. The change in witness means that my clients cannot know until they receive Mr Dupree's evidence whether additional matters are now "not agreed". While this might be inevitable if Mr Kitto had suddenly become unavailable, the reason given ("priority workstreams") is unclear but suggests Mr Kitto is available but Dairy NZ and Fonterra have made a resourcing decision to swap witnesses.

I have contacted counsel for Dairy NZ and Fonterra in this regard but I have not received a response.

I therefore reserve my client's position with respect to:

- any evidence produced by Mr Dupree
- the potential necessity to produce additional evidence to address issues raised by Mr Dupree where he does not agree with content of the Joint Witness Statement that had been agreed to by Mr Kitto

- the need for further expert witness conferencing
- any costs incurred by my clients as a result of the above

Regards

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From: Jessica Ottawa <jessica.ottowa@duncancotterill.com>

Sent: Monday, 13 December 2021 4:28 PM

To: Kelly, Karina <Karina.Kelly@justice.govt.nz>; Brownlee, Maddy <Maddy.Brownlee@justice.govt.nz>; Alyssa Langford <Alyssa.Langford@wynnwilliams.co.nz>; Amelia Ching <aching@doc.govt.nz>; ben@cuee.nz; ben.williams@chapmantripp.com; Bronwyn Carruthers <bcarruthers@shortlandchambers.co.nz>; Camilla Owen <COwen@heritage.org.nz>; carmen@planzconsultants.co.nz; 'Chris Fowler' <Chris.Fowler@adderleyhead.co.nz>; Chris Thompson <cthomsen@fvm.co.nz>; Dave Harrison <Dave.Harrison@beeflambnz.com>; dean <dean@environmentalbarrister.co.nz>; 'Douglas Allan' <dallan@ellisgould.co.nz>; engliston@gmail.com; Humphrey Tapper <Humphrey.Tapper@MeridianEnergy.co.nz>; 'Jacob Smyth' <jacob.smyth@southlandfishgame.co.nz>; James Winchester <james.winchester@simpsongrierson.com>; jason.sandford@fonterra.com; Jordana Claire20 <JordanaClaire20@gmail.com>; Karen Wilson <Karen.Wilson@hobec.co.nz>; Katherine Forward <katherine.forward@duncancotterill.com>; Kristy Rusher <Kristy.Rusher@awslegal.co.nz>; Laura Murphy <Laura.Neale@hobec.co.nz>; Linda Kirk <lkirk@doc.govt.nz>; 'Lisa Miers' <lisa.miers@mitchelldaysh.co.nz>; 'Logan & Nicole Evans' <logancole@yrless.co.nz>; Mark Christensen <mark@naturalresourceslaw.co.nz>; 'Mark Laurenson' <MLaurenson@burtonconsultants.co.nz>; matheson@richmondchambers.co.nz; Meg Buddle <Meg.Buddle@adderleyhead.co.nz>; Megan Exton <Megan.Exton@hobec.co.nz>; michael.garbett@al.nz; 'Michael Morris' <Michael.Morris@icc.govt.nz>; Murray Willans <murray.tarn@xtra.co.nz>; natasha.garvan@bellgully.com; 'Owen Buckingham' <obuck@xtra.co.nz>; pwilliams@doc.govt.nz; p.anderson@forestandbird.org.nz; Peter Wilson <pwilson@fedfarm.org.nz>; Philip Maw <philip.maw@wynnwilliams.co.nz>; rex.chapman@cplaw.co.nz; 'Richard Gardner' <rgardner@fedfarm.org.nz>; R Zwaan <r.zwaan@forestandbird.org.nz>; riki.donnelly@prlaw.co.nz; 'Rob Enright' <rob@publiclaw9.com>; 'Robert Kempthorne' <rob.anna@farmside.co.nz>; Sal Lennon <Sal.Lennon@simpsongrierson.com>; Sally Gepp <sally@sallygepp.co.nz>; 'Stephen Christensen' <stephen@projectbarrister.nz>; Sue Ruston <sue@ppmconsulting.co.nz>; Tayla.crawford@bellgully.com; Tim Ensor <TEnsor@tonkintaylor.co.nz>; Treena Davidson <treenadavidson@aecltd.co.nz>; 'Twin Farm Ltd' <snowwelsh@hotmail.com>; Vanessa Hamm <Vanessa.Hamm@hobec.co.nz>; 'Waiiau Rivercare Group' <waiiau.rivercare.group@gmail.com>; Zane Moss <zane.moss@southlandfishgame.co.nz>

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Dear Karina and parties

Please see **attached** Memorandum of Counsel on behalf of DairyNZ Limited and Fonterra Co-operative Group Limited, regarding a change of expert witness.

Kind Regards

Jessica Ottawa
Solicitor

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We wish all our clients a happy and safe holiday season.

All our offices will close at **5:00pm on Thursday 23 December 2021** and re-open at **8:30am on Thursday 13 January 2022**.

Phone calls for our offices will be monitored between 8:30am - 5:00pm, Monday to Friday between Thursday 6 January and Wednesday 12 January.

Our partners continue to be available on mobile to assist you on urgent matters. Please [click here](#) for their contact details.

COVID-19: We are committed to keeping everyone safe from COVID-19. From 1 December 2021 and until further notice, only people who are fully vaccinated will be able to come into our offices. Full details of the firm's policy can also be found [here](#).

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