

under: the Resource Management Act 1991

in the matter of: Applications by Sanford Limited to change the conditions of various resource consents that authorise the farming of salmon in Big Glory Bay, Stewart Island

by: **Sanford Limited**
Applicant

Supplementary statement of evidence by Philip Hunter Mitchell

Dated: 19 March 2019

REFERENCE: J M Appleyard (jo.appleyard@chapmantripp.com)

A Hill (amy.hill@chapmantripp.com)

Chapman Tripp
T: +64 3 353 4130
F: +64 3 365 4587

60 Cashel Street
PO Box 2510, Christchurch 8140
New Zealand

www.chapmantripp.com
Auckland, Wellington,
Christchurch



INTRODUCTION

1 My full name is Philip Hunter Mitchell.

Qualifications and experience

2 My experience and qualifications are set out in paragraphs 6 – 13 of my primary statement of evidence.

Scope of evidence

3 The purpose of this supplementary statement is to address matters raised in the Second Direction of Commissioners dated 18 March 2019 ("**the second Direction**"), in respect of monitoring conditions.

4 In addition, I also take the opportunity to confirm that the one conditions-related matter raised in the evidence of the Department of Conservation ("**DoC**") witnesses has already been included in the set of proposed conditions appended to my primary statement.

Expert Witness Code of Conduct

5 I confirm my continued compliance with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014, as set out in paragraph 14 of my primary evidence.

MONITORING CONDITIONS

6 The second Direction states:

3. In reading the documentation provided with the applications by Sanford Limited, the s42A report and the expert evidence provided by witnesses for the applicant. We have identified an information gap we would like remedied. In Schedule A, right at the end of Dr Mitchell's evidence, conditions are proposed that would apply to all the variations sought by the applicant.

4. Conditions G5 and G6 of those proposed general conditions outline in some detail what monitoring will take place, but then propose to leave the final detail of that monitoring to a "management plan". The panel has a strong, initial view that for consents such as these, the monitoring programme needs to be specified precisely in the conditions of consent.

5. Accordingly, the applicant is directed to put forward proposed conditions (replacement conditions G5, G6 and (probably) G7) detailing exactly what monitoring is proposed to be carried out **no later than 3pm on Friday 22 March**.

7 The proposed conditions referred to in the second Direction state as follows:

G5. Water quality monitoring will be detailed in the Big Glory Bay Salmon Farm Environmental Management Plan ("BGBSFEMP") required by the conditions of these consents and shall include monthly sampling of nutrients (total ammoniacal nitrogen, NO₃-N, NO₂-N, DRP, TN and TP), chlorophyll a, phytoplankton composition (reference sites), temperature, dissolved oxygen (DO), water clarity, salinity at the locations specified in the BGBSFEMP. A new "Reference" site outside Big Glory Bay shall be established.

G6. Seabed monitoring will be detailed in the BGBSFEMP and shall include annual monitoring at the locations specified in the BGBSFEMP for sediment grain size, total organic matter (TOM), total organic carbon (TOC), copper and zinc, appearance of sulphide depth and general colour, depth of redox layer, obvious outgassing, mat forming bacteria, epifauna and infauna. If any benthic sample contains a large number of mussel shells or the grab is prevented from closing due to the presence of mussel shells, the sample shall be retaken. In the event that three grab samples at any one location all contain a large number of mussel shells or the grab is prevented from closing due to the presence of mussel shells the sampling location shall be relocated approximately 10 metres distant.

G7. Notwithstanding any other conditions of these consents, a suitably qualified, experienced and independent person shall prepare a monitoring plan, the purpose of which is to enable compliance with the standards in Conditions G3 and G4 to be assessed.

The monitoring plan shall be submitted to Environment Southland for approval in a technical certification capacity two months before the total nitrogen input from feed in Big Glory Bay authorised by consents AUTH-20157616, AUTH-207256, AUTH-203326, AUTH-203327, AUTH-203240, AUTH-203241 and AUTH-203242 is increased above 483 tonnes/year.

- 8 As the second Direction observes, these conditions rely on a "management plan" to prescribe the final detail of the monitoring required by proposed conditions G5 and G6.
- 9 To clarify, it was never the intention to not provide the Commissioners with details of the proposed monitoring plan and, in effect, leave the final details of the monitoring plan to a later date.
- 10 The details of the proposed monitoring are set out in the draft "Environmental monitoring plan for Big Glory Bay salmon farms" attached as Appendix 1 to Dr James' evidence. In that regard, it was always the intention, although I accept that it was not clearly stated, that subject to any changes to conditions determined by the Panel (assuming that the applications were granted) then that document was intended to satisfy the requirements of proposed Conditions G5 – G7.

- 11 In order to provide the certainty and clarity indicated by the Commissioners, I have deleted proposed conditions G5 – G6 and replaced them with the versions below, and amended proposed Conditions G7 and G8, also as shown below.

G5. Subject to condition G6, monitoring of the activities authorised by these consents shall be undertaken in accordance with the details set out in the draft document entitled "Environmental monitoring plan for Big Glory Bay salmon farms", dated 15 January 2019, and attached as Annexure 1 to these conditions.

G6. Notwithstanding condition G5, a final version of the "Environmental monitoring plan for Big Glory Bay salmon farms" shall be submitted to Environment Southland for approval in a technical certification capacity no less than two months before the total nitrogen input from feed in Big Glory Bay authorised by consents AUTH-20157616, AUTH-207256, AUTH-203326, AUTH-203327, AUTH-203240, AUTH-203241 and AUTH-203242 is increased above 483 tonnes/year. Any changes to monitoring details allowed by this condition are confined to those necessary to implement the decision of Independent Commissioners dated xxx 2019.

G7. ~~Notwithstanding any other conditions of these consents, All monitoring required by conditions G5 and G6 shall be undertaken by a suitably qualified, experienced and independent person. shall prepare a monitoring plan, the purpose of which is to enable compliance with the standards in Conditions G3 and G4 to be assessed:~~

~~The monitoring plan shall be submitted to Environment Southland for approval in a technical certification capacity two months before the total nitrogen input from feed in Big Glory Bay authorised by consents AUTH-20157616, AUTH-207256, AUTH-203326, AUTH-203327, AUTH-203240, AUTH-203241 and AUTH-203242 is increased above 483 tonnes/year.~~

G8. In addition to the requirements of conditions G5 and G6, the Big Glory Bay Salmon Farm Environmental Management Plan ("BGBSFEMP") required by Conditions G9, G10 and G11 shall set out the details of:

- (a) Possible responses to a Tier one standard breach requiring further monitoring and/or analysis to determine whether the operation of the marine farm is causing the relevant EQS-water not to be achieved; and
- (b) Possible management responses to a Tier two standard breach requiring a clear decision process and plan of action, with clear timeframes to reduce effects on the water column or seabed and achieve full compliance with the EQS-water or EQS-seabed as soon as practicable in accordance with Condition G2(b).

Advice note: These consents expire in 2025, following which the on-going efficacy of the conditions of these consents, and especially Conditions G2, G3 and G4, will need to be reassessed, having particular regard to the monitoring undertaken in accordance with Condition G5, G6, G7 and G8.

AMENDMENT TO CONDITIONS PROPOSED BY DOC

12 At paragraphs 11.2 and 11.3 of his evidence, Dr Longdill states:

11.2 After the 18th December 2018, it was noticed that the wording of Condition A4(c)(ii) could potentially allow a single monitoring result (i.e. a result from one site for one month) to be counted under both A4(c)(ii)a and A4(c)(ii)b at the same time. The intention when drafting that condition was that individual monitoring results would be considered only once when determining compliance, and that 'double counting' of single result would not be possible.

11.3 Accordingly, after the 18th December 2018 myself and Mr Baxter for the Department of Conservation and Dr James for Sanford Limited subsequently agreed to the following refinements to this condition to improve clarity (amendments in red font):

- ii. Tier two standard (see condition 4(e)): for three consecutive months, the concentration of chlorophyll-a in the water column (monthly median at any sampling site within Big Glory Bay) exceeding 5 µg/L:
 - a) at two or more sites for **any** two of those three consecutive months; and
 - b) at one or more sites for **the remaining month** ~~one of those three consecutive months~~.

13 I can confirm that proposed condition G3(b) in the attachment to my primary evidence has already incorporated this suggested change, but with modified numbering.

Philip Hunter Mitchell

19 March 2019