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Submission on Proposed Canterbury Land and Water Regional Plan

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Form 5: Submissions on a Publicly Notified Proposed Policy Statement or Regional Plan under Clause 6 of Schedule 1 of the Resource Management Act 1991

Return your signed submission by 5.00pm Friday 5 October 2012 to:
Freepost 1201 Proposed Canterbury Land and Water Regional Plan
Environment Canterbury
P O Box 345
Christchurch 8140

Full Name: HUGH ALASDAIR FLETCHER Phone (Hm): (09) 5794 226
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* the organisation that this submission is made on behalf of
 Postal Address: P.O. BOX 11468, ELLERSLIE, Phone (Cell): (021) 369 016
AUCKLAND 1542 Postcode: 1542
 Email: hugh.fletcher@xtra.co.nz Fax: _____
 Contact name and postal address for service of person making submission (if different from above):

Trade Competition

Pursuant to Clause 6 of Schedule 1 of the Resource Management Act 1991, a person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement or plan that:

- a) adversely affects the environment; and
- b) does not relate to trade competition or the effects of trade competition.

Please tick the sentence that applies to you:

- I could not gain an advantage in trade competition through this submission; or
 I could gain an advantage in trade competition through this submission.

If you have ticked this box please select one of the following:

- I am directly affected by an effect of the subject matter of the submission that adversely affects the environment and does not relate to trade competition or the effects of trade competition.
 I am not directly affected by an effect of the subject matter of the submission that adversely affects the environment and does not relate to trade competition or the effects of trade competition.

Signature: AA Fletcher Date: 3/10/2012

(Signature of person making submission or person authorised to sign on behalf of person making the submission)

Please note:

(1) all information contained in a submission under the Resource Management Act 1991, including names and addresses for service, becomes public information.

- I do not wish to be heard in support of my submission; or
 I do wish to be heard in support of my submission; and if so,
 If others make a similar submission, I will consider presenting a joint case with them at the hearing.

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Submission of H.A. Fletcher (on behalf of The Lakes Station) regarding Proposed Canterbury Land and Water Regional Plan

Summary of submission

1. My submission concerns provisions of the Proposed Plan excluding cattle from the north branch of the Hurunui River (from Camp Stream to Lake Sumner) and from Landslip Stream, on the basis of their identification as salmon spawning sites (Policy 4.26, Rule 5.134 & Schedule 17).
2. My submission is that the north branch of the Hurunui River and Landslip Stream should not be included in Schedule 17.
3. My reasons for opposing the inclusion of the north branch of the Hurunui River and Landslip Stream in Schedule 17 are set out in full below, but in summary are:
 - The expert reports (such as there are¹) show that the River and Stream are not significant enough spawning sites to merit inclusion in Schedule 17;
 - The s32 assessment undertaken is inadequate as regards Rule 5.134 in regard to salmon spawning sites, and no site specific assessment has been undertaken for the River and Stream such as would justify their inclusion in Schedule 17;
 - The benefits of the new rule as applied to the River and Stream are hypothetical and do not outweigh the very real costs associated with them. These costs include not only the direct financial cost of fencing, but also the problems with fencing as a solution, the loss of access by stock to water and to freehold land behind or beyond the fences, and the impact of fencing on important landscape features.


Provisions of the Proposed Plan that the submission relates to

4. The relevant provisions of the Proposed Plan to this submission are as follows:

- **Policy 4.26 - Livestock Exclusion from Waterbodies (page 4 - 7)**

To avoid damage to the banks of waterbodies, sedimentation and disturbance of the water body, direct discharge of contaminants, and degradation of aquatic ecosystems:

- (a) intensively farmed stock is excluded from water bodies and wetlands; and
- (b) stock is excluded from sensitive sites; and
- (c) access to banks and beds by other stock is limited to stock species that prefer to avoid water and at stocking rates that avoid evident damage.

¹ They are considered below and were provided to me by the responsible Environment Canterbury officer as the relevant and authoritative reports. 

- **Rule 5.134 – Stock Exclusion from Waterbodies (page 5 - 30)**

The use and disturbance of the bed of a lake or river or a wetland by cattle or farmed deer for temporary or permanent stocking is a prohibited activity in the following areas:

1. In an inanga or salmon spawning site listed in Schedule 17;

...

- **Schedule 17 (page 16 - 27)** which identifies (with their location descriptions and grid references) as salmon spawning sites:

.....

- Hurunui River – north branch

[Camp Stream; confluence Lake Sumner; BU22 314 724; BU21 157 715]

and

- Landslip Stream

[620 m contour; Confluence of Landslip Stream with North Branch Hurunui River (just below Matagouri Flat); BU22 219 731; (620m)]

.....

- **Rule 5.115 – Structures (page 5 - 27)**

The installation, extension, use, maintenance or removal of bridges and culverts, including the erection or extension of the structure and the consequential deposition of substances on, in or under the bed of a lake or river, the excavation or other disturbance of the bed of a lake or river, and, in the case of culverts, the associated take, discharge or diversion of water is a permitted activity, provided

the following conditions are met:

...

4. The activity is not undertaken in an inanga or salmon spawning site listed in Schedule 17;

...

Reasons for opposing the inclusion of the north branch of the Hurunui River above Lake Sumner and Landslip Stream in Schedule 17

5. The effect of making the access by cattle of the Hurunui River and Landslip Stream a prohibited activity is to require fencing of the River and Stream. This could involve tens of kilometres of fencing and/or exclusion of stock from hundreds of acres of freehold land (since Rule 5.115 prevents the building of bridges and culverts in salmon spawning sites). The imposition of such significant duties and costs and potential interference with private property rights make it necessary to consider whether the reasons for inclusion of the River and Stream in Schedule 17 are robust and meet the cost-benefit test of s32 of the Resource Management Act 1991.
6. The inclusion of the River and Stream in Schedule 17 appear to rely on just two reports: M.J. Unwin's "Assessment of significant salmon spawning sites in the Canterbury Region" (July 2006) and Boffa Miskell Ltd's "Salmon (*Oncorhynchus tshawytscha*): Records, trends and knowledge in the Hurunui River" (February 2011). Unwin's report was prepared for Environment Canterbury in order for a determination to be made of nationally and regionally significant salmon spawning sites that should be given regulatory protection. The 7-page Boffa Miskell report was prepared for the Hurunui Water Project on the basis of "an agreed set of facts and statements in regard to the existing knowledge of salmon spawning on the river" between Hurunui Water Project's ecologist (Dr Keesing) and Fish and Game (Ross Heslop and Tony Hawker), for the purpose of determining whether the south branch was important for salmon spawning.
7. It is my submission that neither report supports inclusion of the River or the Stream in Schedule 17, even before the s32 assessment is made.

- **Unwin report**

- The relevant part of this report is at pages 19-20 and reads:



“The LEDB² identifies 20 salmon spawning sites within the Hurunui catchment, five of which are identified in Schedule WQN 14 as high value. However, these include two tributaries (Sisters Stream and the North Esk River) which are of relatively minor significance, and the Hurunui North Branch below Lake Sumner, which – while it sustains some spawning – is characterised by large bouldery substrates and is only lightly used. Current FGZ spawning records indicate that the most important sites are Landslip Stream and Homestead Stream (as in the LEDB), together with the main stems of the North Branch above Lake Sumner, and the South Branch above the North Esk confluence (Fig. 3). **The locally important rating for the Hurunui North Branch (in contrast to the regionally important rating for the other three sites³)** reflects the relative usage of the two main branches by spawning fish, with the South Branch generally accounting for a higher and more consistent proportion of the total than the North Branch.” [emphasis added]

○ The points to note here are that:

- The north branch was **not** included in Appendix I of “Significant salmon spawning sites as listed in Schedule WQN 14 of Langlands & Elley (2000)”, the assessment which Unwin reviewed; and
- Unwin further downgraded the assessment of the north branch of the Hurunui River above Lake Sumner in only giving it a locally important rating. This rating did not warrant regulatory intervention.

- **Boffa Miskell report**

○ This report contains the following statements:

“Fish and Game now, however, observe and consider that the main stem (in the section above the South Branch Gorge – the braided section) is the dominant salmon spawning site on the Hurunui, with around 60% of the total spawning salmon occurring here and the other 40% above Lake Sumner (likely in the Landslip creek tributary).” (p2)

“The South Branch spawning run (using the data available) makes up less than half a percentage of the Region’s salmon returns.” (p4)

² Langlands & Elley Database (2000): a salmonids habitat database.

³ I.e. Landslip Stream, Homestead Stream and the south branch of the Hurunui River above the North Esk confluence.



- The upshot of these statements is that the north branch of the Hurunui River above Lake Sumner (including Landslip Stream) accounts for less than 0.33% of the Canterbury region's spawning salmon. If, as is suggested, most of this occurs in Landslip Stream, the percentage of the region's salmon spawning in the north branch is probably less than one-tenth of one percent.

The non-inclusion of the north branch of the River in the LEDB as a "significant spawning site", Unwin's treatment of it as locally but not regionally or nationally important, and the Boffa Miskell assessment that it (probably) supports less than 0.1% of the region's spawning salmon, must mean that the inclusion of the River in Schedule 17 fails any sensible threshold test. Landslip Stream may be different. It was at least recognized as a regionally important salmon spawning site. However, it is worth pointing out that, even then, less than one-third of one percent of the region's salmon spawn in the Stream.⁴ If not relevant to an assessment of whether the Stream is of such significance as to require some protection, this must impact upon decisions about how best to protect the Stream for spawning salmon and the s32 assessment.

8. Given the limited numbers of salmon in the River and Stream and the very significant costs and impacts upon land use that fencing will cause to The Lakes Station (with its kilometres of grazing land adjoining and intersected by the Hurunui River and Landslip Stream), it is submitted that the absolute terms of Rule 5.134 ("the use and disturbance of the bed of a ... river ... by cattle ... is a prohibited activity" in a salmon spawning site listed in Schedule 17) does not satisfy the s32 test of ensuring that the rules in the Plan, "having regard to their efficiency and effectiveness, are the most appropriate way of achieving the plan objectives", taking into account "the benefits and costs of policies, rules, or other methods ...". It is submitted that the s32 assessment that has been done is not only inadequate in relation to salmon spawning sites generally (it does not make an assessment of the likely increase in salmon numbers as a result of the rule change, or of its costs to landowners, or of the practicability of compliance) but also should have been undertaken in relation to each of the different rivers or streams listed in Schedule 17 (because the benefits, costs and alternatives may be materially different for each). In making this submission, the following additional points are made:

- The Lakes Station undertakes low intensity grazing above Lake Sumner and has done so for a hundred years – well before salmon began to spawn there;
- The cost of fencing the River or even just Landslip Stream (8.5 kilometres) would be considerable;
- Fencing and maintaining fencing on a braided river like the Hurunui River that is often in flood and variable in location is highly problematic, without considerable loss of grazing land;
- Fencing will detract from the landscape features of the area and runs contrary to Objective 3.9 of the Proposed Plan, which is to ensure that "the existing natural character values of alpine rivers are protected";

⁴ Additionally, Unwin makes the point that the co-ordinates for any spawning site (which can change over as short a period as five years) should be "verified by ground truthing" and may not be coextensive with the whole river or stream. This "ground truthing" has not been done for Landslip Stream.

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- Fencing will deny stock access to drinking water. (As is discussed at page 25 of Appendix I of the s32 assessment report, the Canterbury Water Management Strategy identifies this as a “first order priority”, whereas recreational fishing is at best a “second order priority”.) How this is to be mitigated (if indeed it can be⁵) is not considered in the s32 assessment;
- Fencing (combined with Rule 5.117 preventing the installation of bridges and culverts) potentially cuts off cattle access to significant freehold grazing lands (depending on how rule 5.134 is to be interpreted and depending on whether, as seems to be proposed at present, fencing of Landslip Stream is to extend from the bush into the River); and
- There is no consideration of alternative ways to enhance salmon spawning that may be more cost effective, and in particular options where the cost/benefit assessment might be made by those who enjoy the private benefit. [Is fishing of an introduced species really to be regarded as a public good rather than a private benefit?] In this connection at page 18 Unwin says:

“hatchery supplementation ... programmes are constrained by the availability of funding and are likely to remain relatively small scale for the short term at least, pending a collective decision from the salmon angling community as to how much it is willing to pay to sustain the fishery. They have the potential to become important components of the fishery if

their future can be secured.”

Decisions sought from Environment Canterbury

9. The decision sought from Environment Canterbury is that the Hurunui River (north branch) and Landslip Stream be removed from Schedule 17 of the Proposed Plan.

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4/10/2012

⁵ One hurdle is there is no electricity in this area.

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Proposed Canterbury Land and Water Regional Plan
Environment Canterbury
PO Box 345

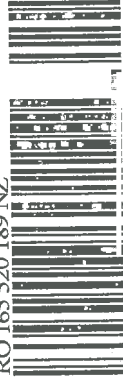
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