

Tabled at Hearing 14/10/14.

IN THE MATTER of the Resource Management
Act 1991

AND

IN THE MATTER Variation 1 to the Land and
Water Regional Plan

STATEMENT OF EVIDENCE OF MCKAVANAGH HOLDINGS LIMITED

14 October 2014

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BACKGROUND

1. McKavanagh Holdings operates two farming properties which are located in the Selwyn-Raikaia catchment area. They are as follows:

- a. **McKavanagh Holdings Ltd (MHL) property** – Total area of 528 ha, with 350 ha irrigated dairy platform, and 150 ha dry land used for wintering cows on. Currently milking 1,150 cows but obtained a consent between 2009 to 2013 period to increase cow numbers to 1,500 but have not increased the numbers as yet. We converted to dairying in 2006 so this is our ninth season. Two hundred hectares had been part of the Selwyn Plantation Board ex-forestry block.
- b. **Mill Farm** – Located on Substation Road. Total area of 175 ha. Used as a cropping and young stock farm. Currently irrigating 40 ha. 600 ton of grain grown on the farm is used to feed our dairy cows.

2. We have the following consents for the properties for our farming activities:

| Record No | Activities |
|-------------|---|
| CRC020972.5 | Take Groundwater |
| CRC041993.1 | Take Surface Water |
| CRC061254 | To Land - Animal Effluent |
| CRC061965 | Deposit Substance |
| CRC130264 | To Air - Other, To Land - Animal Effluent |

3. We are experienced farmers and have been farming for 21 years with Leon growing up on a farm. We started out with a 50-50 share milking on his

father's farm in Dargaville. Then we moved down to Culverden. We moved to Dunsandel in 2004 and have invested heavily during the conversion and development of our farming business. The restrictive limits imposed for the catchment does put uncertainty on farm values in relation to others in the wider Canterbury area.

4. We are Synlait suppliers and are working towards the Synlait "Lead with Pride™" accreditation programme. The accreditation programme assesses the farm across the following categories: animal health and welfare, environment, milk quality, and social responsibility. For the environment requirement the suppliers "*must achieve excellence in efficient water and irrigation management, effective effluent management, improved biodiversity, soil quality, emissions and energy management*"¹. We are aiming for the gold plus level. We have completed the independent effluent audit but are still in the process of completing the full audit. It has been delayed until after calving when farming activities are less hectic.

5. We are stage 1 shareholders in the Central Plains Water Limited (CPW) with Ordinary and Construction Shares, and Pre-Construction shares for Mill Farm. Therefore we have supported and contributed to funding CPW to obtain the consents that include detailed conditions around the management of farm nutrients and the provision of farm environmental plans. We are supportive of the improvements required to farm management practices to support the water quality improvements sought through the pV1 pLWRP. In fact, many of the implementation strategies sought are included in CPW's existing consents. We and other CPW shareholders have and are continuing to invest considerable sums of money in the development of the scheme and on-farm infrastructure to be ready to take water by 1 September 2015. Resource consent CRC061973 to "Use water from Rakaia River and Waimakariri River" provides a detailed nutrient management regime for the Scheme. In addition, Schedule 2: Administrative Conditions specifies that farm management plans are required for all farms in the Scheme area. Included in these plans will be

¹ Downloaded on 6 October 2014 from <http://www.synlait.com/about/milk-supply/lead-with-pride/>

the establishment of a nutrient management regime for each farm that complies with relevant nutrient criteria for the area. The scope and content of these Farm Management Plans is in line with the requirements of Schedule 7 of pLWRP.

SPECIFIC SECTIONS OF THE PROPOSED VARIATION 1 OF THE PROPOSED CANTERBURY LAND AND WATER REGIONAL PLAN

6. We can understand the need to protect the environment but it must be balanced with the financial implications and potential follow on effects to the economy as a whole.
7. Decisions are being made based on predictive models, such as Overseer. Unfortunately it is impossible to know whether the model is accurate until it is tested in the field with real data. Past modelling efforts by Environment Canterbury (ECan) have meant that we have severe limitations on groundwater abstraction in order to irrigate on our MHL property. The ECan model at the time of processing our groundwater take has since been revised so that it calculates a larger annual abstraction limit than we were granted. This has given us serious problems with operating our farming business and now ECan are imposing more predictive models that are yet to be fully tested, such as Overseer.
8. The Matrix of Good Management (MGM) will be introduced in 2015. Another variation to the proposed Regional Land and Water Plan (pRLWP) will be required to include the MGM in the Plan. Therefore what is the point in the

variation now as opposed to waiting the next year or so. In that time there could be a better assessment of farming practices across the region so that farmers that are not operating at Good Management Practice (GMP) could be identified and ECan could work with them first, without penalising the farmers that are already operating at GMP, such as ourselves.

Managing Land Use to Improve Water Quality

Farm Environment Plan (FEP)

9. As we stated in our submission **we support the requirement for implementation of a Farm Environment Plan (FEP) given in Policies 11.4.12, 11.4.13, and 11.4.14.** We feel that implementing a FEP is good farming practice therefore we support this provision. We have a FEP as we are required to do so for the Synlait "Lead with Pride™", which we stated earlier that we are awaiting our independent audit to be completed. The CPW consent requires a FEP, for which we are a shareholder.

Policy 11.4.12(a) and Table 11(j) Irrigation Scheme Nitrogen and Phosphorus limit

10. **We oppose Policy 11.4.12(a)** which states you are not allowed to exceed the nitrogen baseline for the property's nitrogen loss calculation above 15 kgN/ha/yr.
11. The relief we sought was: Delete all references to 15 kgN/ha/yr nitrogen loss limit. Draft "Other Methods" to work with farmers to implement nitrogen loss reduction programmes suitable for each farm. During this process, collect Overseer nitrogen loss history for each farm so that a suitable nitrogen loss limit (with an error limit incorporated) can be decided in consultation with farmers and industry groups. Then implement the nitrogen loss limit by way of variation to the Plan.

12. There does not appear to be a recommendation in the s.42a report.
13. We also opposed Table 11(j) *Irrigation Scheme Nitrogen and Phosphorus Limit*. We will become part of CPW scheme but we have no idea what the N and P limits will be for us then. This is unsettling for us going forward with our operation therefore we would request that there is not a separate allocation for CPW shareholders.
14. Our resource consent *CRC061254 To discharge contaminants to air and onto land* allows us consented cow numbers of 1,500 cows. Therefore our calculated baseline N loss is 33 for the dairy platform (Dunsandel Road) and 38 for the wintering block (Mill Farm). We choose to run 1,150 cows therefore our actual N loss figure for the dairy platform is 18 kgN/ha/year. We are still considering an increase to the 1,500 cows in the future.
15. We are concerned about the 15 kgN/ha/year for our dairy farming operation. We have chosen to run at a much lower stocking rate of 3.4 cows/ha than we have been consented for.
16. We always follow best practice fertiliser spreading by using proof of placement and by not spreading fertiliser within 20 m of waterways.
17. Another initiative we have undertaken ourselves is on Mill Farm. It has a creek that runs down a portion of it so we have decided ourselves to fence off the area to preserve it. It is now a 10 ha wetland area and we have plans to eventually bring the total area up to 20 ha. Canterbury mudfish are present on the farm so it is important to ensure that we preserve that area. Therefore due to our careful management of our property we are a self-contained unit. That is, we grow our own feed and winter our cows here.

Relief sought:

- a. Delete all references to 15 kgN/ha/yr limit until there is more adequate assessment of the Overseer model and proper scientific measurement of nitrogen losses across different parts of the region to ascertain actual nitrogen leaching to waterways data.

- b. Draft "Other Methods" to work with farmers to implement N loss reduction programmes using Overseer calculations as an indicator so that farms with high N loss rates are reviewed first.
- c. Once adequate actual data has been obtained confirming Overseer's accuracy in predicting N loss rates then decide a suitable N loss limit for inclusion into the plan by way of a variation.
- d. Delete Table 11(j) and all references to Table 11(j).

Rules 11.5.6 to Rules 11.5.13

- 16. Following on from the discussion regarding Policy 11.4.14(b), we **object** to the rules that have been created to enforce the policy.
- 17. The relief we sought was to delete all the rules requiring resource consents. If this was not satisfactory, then delay the date from 2017 to a much later date when more accurate results of nitrogen losses can be obtained for each farm.
- 18. The s.42a report recommends no change to any of the rules.
- 19. We suggest that ECan has not properly assessed the ramifications of these rules that mean the potential for a number of farms requiring resource consents, when now they do not. This is potentially creating a bureaucratic nightmare which ECan would not be adequately staffed to deal with.

Relief sought:

- a. Delete all the rules 11.5.9, 11.5.10, 11.5.11, 11.5.12, 11.5.13 and replace with Other Methods.
- b. If this is not satisfactory, then delay the commencement of each of the rules until a much later date when more accurate results of nitrogen losses can be obtained for each farm, as well as changing the following:

- i. The activity status of Rule 11.5.9 from restricted discretionary to controlled activity status.
- ii. The activity status of Rule 11.5.10 from discretionary to restricted discretionary status, using the matters which Council can exercise its restricted discretion listed for notified Rule 11.5.9.
- iii. The activity status of Rule 11.5.11 from non-complying to discretionary status.
- iv. The activity status of Rule 11.5.12 from prohibited to discretionary status.
- v. The activity status of Rule 11.5.13 from prohibited to non-complying status.

Policy 11.4.14(b)

20. We **oppose** the requirement of Policy 11.4.14(b), that if a property's nitrogen loss calculation is greater than 15 kgN/ha/yr, then for dairy farms, a 30 % reduction must be made. And as a consequence, we oppose all references in other policies and rules to these reductions.

21. The different percentages are calculated based on EBIT (Earnings before interest and tax) which does not take into consideration other factors such as depreciation and is therefore not a very good assessment tool.

22. Dairy farming with its 30 % reduction requirement is the highest over all the farming groups. The Regional Land and Water Plan will have a 10 year life before it is reviewed. Over that time the income from all the farming types will change. Just in the last month the dairy milk pay out per kilogram of milk

solids predicted for this season has halved from the highs of last season to a prediction by banks last week of \$4.80² per kg of milk solids.

23. The recommendation of the s.42a report states in paragraph 11.173 *“Overall, in the absence of an alternative path set out by the submitters that will still enable the target to be met, it is recommended to maintain the present policy framework”*.
24. We requested the deletion of the percentages across the farming types and have one percentage that is fair for all. MHL understands that it is not environmentally responsible to have high N losses from farming. Therefore it is necessary to consider percentage reductions to ensure that N losses are decreased.
25. The DairyNZ evidence by Duncan Smeaton dated 29 August 2014 suggests, in Figure 5, that a decrease of 5 to 10 % N loss equates to less than 5 % decrease in operating profit on the five farms he looked at. His evidence pre-dates the dramatic decrease in milk prices. In paragraph 34, he also states *“that some farms are running profitable, N leaching efficient systems that have low N leaching values. These farmers have very little opportunity to reduce N leaching further without serious reductions in profit”*. Our farming operation would be in that category because we are already operating with lower stocking rates plus we do not use part of our farm, that is, the fenced area of Mill Farm.
26. We do not support the DairyNZ recommendation of a 14 % across all the farming types.

Relief sought:

- a. Delete all references to percentage decreases of N losses across the individual farming types (e.g. 30 % for dairying).
- b. Institute a fixed percentage N loss decrease across all farming types of between 5 to 10 %.

² Downloaded on 10/10/14 from <http://www.radionz.co.nz/national/programmes/morningreport/20141003> : Economic effects of dairy prices to hit in 18 months time (aired 3/10/14)

Sustainable Use of Water and Improved Flows

GROUNDWATER: IRRIGATION SCHEMES

Policy 11.4.22

27. We **oppose Policy 11.4.22**. As stated in the background section, we are CPW shareholders. The advantage of the CPW scheme is that is the potential to reduce the reliance on deep wells in the upper plains area while at the same time increasing the availability of water for irrigation, via transfers in the down plains area.

28. We have bought into the CPW scheme because we have a significant shortfall of consented water to supply our farm therefore we struggle to water our farm adequately over the dry season, as we have stated earlier. CPW has not started yet and there is a lot of uncertainty as to how much water we are going to be needing.

29. Our water permits are an asset of our farming operation. We have paid to be part of CPW scheme but that is the only difference between us and farmers who are not or have decided not be part of the scheme. Therefore we should be allowed to transfer our permits the same way as others who are not part of the scheme.

30. We are acutely aware the CPW scheme has potential limitations as well for water reliability. We are not intending to buy Trustpower water. Therefore we need to safeguard our operation by continuing to be allowed to continue to renew our groundwater consents.

31. The relief we sought was as follows:

Policy 11.4.22

(a) For land irrigated by an Irrigation sScheme, shareholders of existing within the Irrigation Scheme Area shown on the Planning Maps, groundwater consents applying

~~to that land do not can be transferred their permits to take and use groundwater within their farm enterprise; and~~

~~(b) No permit to take and use groundwater is transferred from down-plains to up-plains; and~~

~~(c) In all other cases 50% of any transferred water is surrendered.~~

~~(c) where the permit holder is a shareholder in an irrigation scheme, the take is to be transferred within the permit holder's existing farm enterprise~~

32. The recommendation of the Officers was as follows:

Recommendation R 11.4.22

That Policy 11.4.22 is amended to read:

11.4.22 Restrict the transfer of water permits within the Rakaia-Selwyn and Selwyn Waimakariri water allocation zones to minimise the cumulative effects on flows in hill-fed lowland and spring-fed plains rivers from the use of allocated but unused water, by requiring that:

(a) Irrigation scheme shareholders within the Irrigation Scheme Area shown on the Planning Maps do not transfer their permits to take and use groundwater; and

~~(b) No permit to take and use groundwater is transferred from down-plains to up-plains; and²⁰⁸~~

~~(c) (b) In all other cases, except in relation to a community water supply,²⁰⁹ 50% of any transferred water is surrendered.~~

²⁰⁸ V1pLWRP-327 - Dunsandel Groundwater Users Group; V1pLWRP-1061 - Irrigation NZ; V1pLWRP-1169 - Synlait Farms

Relief sought:

- a. We **support** the changes recommended in the s.42a report to delete part (b) which disallowed the transfer of groundwater from down plains to up plains.
- b. We **oppose** that Irrigation Scheme members, that is CPW scheme members, cannot transfer their groundwater takes. We are also opposed the requirement to surrender 50 % of any transferred water. Therefore we request that Policy 11.4.22 be amended as follows:

11.4.22 Restrict the transfer of water permits within the Rakaia-Selwyn and Selwyn Waimakariri water allocation zones to minimise the cumulative effects on flows in hill-fed lowland and spring-fed plains rivers from the use of allocated but unused water, by requiring that:

(a) For land irrigated by an Irrigation scheme shareholders of existing within the Irrigation Scheme Area shown on the Planning Maps groundwater consents applying to that land do not can be transferred their permits to take and use groundwater within their farming enterprise; and

~~(b) No permit to take and use groundwater is transferred from down-plains to up-plains; and²⁰⁸~~

{e) (b) In all other cases, except in relation to a community water supply,²⁰⁹ 50% of any transferred water is surrendered.

GROUNDWATER REALLOCATION

Policy 11.4.23

33. We oppose Policy 11.4.23 and oppose the amendment to Schedule 10 that reallocates water at a rate and volume that reflects demonstrated use.

The recommendation in the s.42a report is as follows:

Recommendation R Schedule 10 – Reasonable Need

That the proposed amendment to Method 1 be retained. That is:

Schedule 10 - Reasonable Use Test

Within the Selwyn Waihora catchment method 1 shall determine seasonal irrigation demand based on eight and a half years out of ten.

Recommendation R11.4.23

That Policy 11.4.23 be amended as follows:

Only reallocate water to existing resource consent holders at a rate and volume that reflects ~~demonstrated~~¹⁶⁸ reasonable use as calculated in accordance with Schedule 10¹⁶⁹ to provide a volume required to meet demand conditions in eight and a half out of ten years for a system with an application efficiency of 80%¹⁷⁰.

¹⁶⁹ V1pLWRP-868 Federated Farmers; V1pLWRP-1634 The Canterbury Farming Company; V1pLWRP 1065 Irrigation NZ; V1pLWRP-483 Ellesmere Irrigation Society; V1pLWRP-590 Bowden Environmental;

¹⁷⁰ Consequential amendment from combining Policy 11.4.23 with Policy 11.4.26

34. The water take permit(s) are an asset to the farm therefore any restriction on ability to renew these permits to the required level for operation will devalue that farm as a business unit. Therefore we agree with the change from “demonstrated” use to “reasonable” use.

35. As stated earlier, regarding Policy 11.4.22, we were planning to retain our right to use groundwater as a backup in case all other alternatives failed, such as the CPW scheme. On the other hand, if CPW works as planned

then it is possible that there will be more water available therefore the requirement to “claw” back water will be reduced or not necessary.

36. We have three 100 m bores on MHL property which are consented to pump 200 L/s. Our allocation was originally to irrigate 300 ha but we use the allocation over the 350 ha block, dropping out the 50 ha cropping block out of cycle.
37. Our groundwater take permit is Consent number CRC020972.5 *To take and use groundwater via bore L36/1334 and proposed bores L36/1580 and L36/1581 at a combined maximum rate of 200 litres per second and up to a combined maximum volume of 16560 cubic metres per day for spray irrigation.*
38. Rate conditions are as follows:
- 1 (a) *The Canterbury Regional Council shall be notified within the first three months of the exercise of this consent of the maximum combined rate at which water is able to be taken from bores ... where that maximum rate is less than 200 litres per second.*
 - 1 (b) *The maximum rate at which water is taken from bores at or about map references NZMS 260 L36:2930-3477, NZMS 260 L36:2995-3499 and NZMS 260 L36:3058-3354, shall be either the rate notified to the Canterbury Regional Council in accordance with clause (a), or 200 litres per second, whichever is the lesser, with a combined volume not exceeding 149,040 cubic metres per nine day return period.*
 - 1 (c) *The volume of water taken shall not exceed 1,532,530 cubic metres between 1st July and the following 30th June.*
39. We were in the process of buying the forest block at the same time as most of the other resource consents were formally reviewed in our zone of Selwyn-Rakaia. Therefore we were not part of the resource consent review process. The review process meant that some parties ended up with much more water than they had before.
40. We underwent ECan’s WQN9 v.2 water allocation process that gave us a lower water allocation. We used to have a water allocation to pump for six

months and this was halved to three months. This has meant that we have been at an unfair disadvantage prior to this Selwyn-Waihora variation 1 process – meaning we have not been able to intensify at a level comparable to our farming neighbours.

41. The annual water allocation for MHL, calculated under WQN9 v 2 for 331 ha is 1,532,530 cubic metres per annum. If the annual allocation for MHL was calculated using WQN9 v 4 for 331 out of the original 350 is 1,871,779 cubic metres per annum. Therefore it was a difference of 339,294 cubic metres per annum, which equates to an extra month of irrigation. This would be an extra 30 days above our current allocation of 90 days of irrigation so 120 days of irrigation.

42. At the absolute minimum we require a minimum of 120 days to irrigate adequately each season so, with our lower allocation limit, we are under watering over the whole season to keep within our limit. The other consequence is that will have a restricted maximum volume that we use to keep within the limit. Therefore our records of usage are not an accurate record of our “reasonable” use. Therefore we also oppose the amendment to Schedule 10 which restricts use of Schedule 10 methods to Method 1 for Selwyn-Waihora zone, which uses records of past use as a base for calculating seasonal irrigation demand.

43. There has only been a requirement for keeping records of water usage for the last couple of years. In that time we had a wet summer last year meaning that we could spread out our water allocation over a longer period of time than we normally could. The season before we were in the completely different situation where we were in a dire situation that we had to inform ECan that we were going over our consented allocation allowance. This decision was not taken lightly. This was while we went to Hydroservices to lease part of a consent groundwater allocation which cost \$10,000. By the time the amount was authorised it rained.

44. Therefore we really are at the whim of the environment which costs us significantly in the long run. An unexpected \$10,000 hit for a season is not an easy amount to cover off the bottom line.

45. We oppose the Officer's recommendation to change the current nine out of ten days in Schedule 10 to eight and a half out of 10 years for Selwyn-Waihora Zone. This is a significant change in water allocation and there does not appear to be an adequate reasoning for this, other than to say the following in s.42a report paragraph 13.12 "*It is considered unacceptable to simply increase the allocation limits to accommodate higher reliability as this will mean accepting lower stream flows. Therefore, if allocation is to meet demand in 9 out of 10 years something else has to give or change.*"

Relief sought:

- a. Delete the additional statement to Schedule 10 regarding Selwyn Waihora zone.

Schedule 10 - Reasonable Use Test

Within the Selwyn-Waihora catchment method 1 shall determine seasonal irrigation demand based on eight and a half years out of ten.

- b. As we have stated, we support the change from "demonstrated use" to "reasonable use". Before our "reasonable use" could be assessed we would request that all consented water takes with WQN9 v2 allowances are recalculated to the WQN9 v4 model allocation.
- c. We oppose the change from nine out of 10 years to eight and half years out of 10 for Selwyn-Waihora.
- d. We also oppose that there is no delayed start date to the policy, even though most farms only have two years of water usage history to have their allowance calculated on. Therefore we request a delayed start to the policy of 2022.

That Policy 11.4.23 be amended as follows (or words to that effect):

From 2022 only reallocate water to existing resource consent holders at a rate and volume that reflects reasonable use as calculated in accordance with Schedule 10 or WQN9v.4 to provide a volume required to meet demand conditions in nine ~~eight and a half~~ out of ten years for a system with an application efficiency of 80%.

SURFACE WATER

Policy 11.4.28

46. We **partially support** the intent of Policy 11.4.23 that imposes minimum flow regimes on water take permits, given in Tables 11(c) and 11(d). We **oppose** the method of measurement of flows currently in place to measure flows located at the Hororata River at Haldon Water Race Bridge, as per Table 11(c).

47. The recommendation given in the s.42a report is as follows:

That Policy 11.4.28 is amended to read:

Protect the ecological and cultural health of the Waikirikiri/Selwyn River and lowland streams by including the minimum flows and partial restrictions in Tables 11(c) and 11(d) on all new and replacement¹⁷⁹ resource consents from 2025.

¹⁷⁹ V1pLWRP-690 Fish and Game Council North Canterbury

48. For MHL's Mill Farm property, the water for the farm is supplied from a subsurface take out of Derretts Stream where we have a Consent Number CRC041993.1 *To take and use water.*

49. The water take conditions are as follows:

1. *Water shall only be taken from Derretts Stream, at or about map reference, NZMS 260 L36:27934-38629, at a rate not exceeding 20 litres per second, with a volume not exceeding 576 cubic metres per day. ...*
4. *The taking of water in terms of this permit from the Hororata River shall cease whenever the flow in the Hororata River, as estimated by the Canterbury Regional Council, immediately downstream of the Haldon Water Race intake (at or about*

map reference NZMS 260 L36:297-362) falls below 30 litres per second.

50. As can be seen from the requirements of our resource consent, we already have a minimum flow requirement on our uptake of 30 L/s, which is the same minimum flow requirement given in Table 11(c). ECan has notified us that the requirement to monitor the minimum flow has been waived until such time when the flow can be measured adequately. Therefore the minimum flow requirement is not suitable until such time as ECan is able to sort out the flow monitoring issue.

Relief sought:

That Policy 11.4.28 is amended to read (or words to that effect):

Protect the ecological and cultural health of the Waikirikiri/Selwyn River and lowland streams by including the minimum flows and partial restrictions in Tables 11(c) and 11(d) on all new and replacement resource consents from 2025, as long as adequate flow measurement is able to be undertaken.

Policy 11.4.29

51. We **support** the intent of Policy 11.4.29 that stages an increase in minimum flow.

52. Therefore we **oppose** the s.42a report recommendation to delete the policy.

53. We have significant irrigation infrastructure invested at Mill Farm. We currently irrigate 40 ha and we have bought pre construction shares for 50

ha with CPW, bordering the Hororaia River. As we have stated earlier, we have no idea how reliable CPW water will be as the scheme has not started yet therefore we have to ensure that we have backup water supply to ensure we can irrigate our property.

Relief sought:

That Policy 11.4.29 is retained in its entirety as originally notified in the variation 1.