

Application: RORNI

Martyn V Baker, 66 Kingsburys Road, RD 11. Rakaia 7781

joint hearing
02/05/2018

RANGITATA DIVERSION RACE MANAGEMENT LIMITED CON520:

I oppose this Resource Consent application in its entirety for the following reasons:-

My name is Martyn Baker and I am an expert Angler having fished for Salmon and Trout on the East Coast salmon fishery of the South Island for 40 years. I, and my wife, Marian, are Committee Members of Save the Rivers Mid-Canterbury Inc. who submitted on both the Rakaia and Rangitata River Conservation Orders. I also worked for Tuckers Sports from 1976 to 1987 as a Sports Equipment Serviceman. I service and repair Fishing Reels and make my own fishing rods. My wife and I have also owned 2 fishing huts on the North Side of the Rangitata River Mouth and from 1987 to 2007 I trained and worked as a permanent seasonal Meat Inspector based at PPCS Fairton. I was invited onto Save the Rivers Mid-Canterbury Inc in 1986 and I caught my first salmon in 1977 with Ian Watson tutoring me. I learned enough tips in one day to save me 10 years of heartache in fishing skills.

Although I live at the Rakaia River Mouth in Mid-Canterbury I feel very strongly about other areas in the South Island where protection should be in place for the beautiful rivers and tributaries so that they can continue to flow, but they also continue to be over abstracted.

Report by Special Tribunal – October 2002 [Chairperson Dr Jonet Ward] Claire Mulcock and Dr. Murray Parsons –Commissioners Appointed by The Minister for the Environment

I consider that the proposed further abstraction of 10³/s of water from the Rangitata River goes against the intent of the findings of the Special Tribunal and is not in keeping with the South Island Salmon Management Plan August 2006.

Appendix 1 - Section 12 of the Findings of the Special Tribunal [page 6 number 5] the 10³/s per second that is being applied for in this Resource Consent Application breaches the similar terms and conditions of those Resource Consents held from the time the National Water Conservation Order came into force.

As far as the Supplement to the Conservation Order – 4 years after completion of the special WCO hearings [as printed] [Gazetted] or [rubber stamped], the Environment Court Judge [J.R. Jackson presiding] Environment Court Commissioner C E Manning and Deputy Environment Court Commissioner R. Grigg, concluded that the Special Tribunals Report was not merely to be a procedural step on the way to a complete Environment Court Report. To the contrary the report of the Special Tribunal 2002 is the primary one in time and in general importance and not the supplement 2006 where the capping of the abstraction is conveniently left out.

The Special Tribunal also considered that without a cap on the total abstraction or a restriction on the number of takes on the river the outstanding values etc would not necessarily be preserved or protected. I wish to present evidence in the form of hard copy [a letter to support the cap on abstraction]. The Report by the Special Tribunal where the cap on abstraction including the final conclusions by the Tribunal is referred to no less than 7 times so why is it not in the supplement?

The Special Tribunal also concluded although the outstanding features of the river may not be significantly affected to any extent by where abstracted water is actually used, [for irrigation], this current application for a further 10³/s of water is precisely what the Special Tribunal was seeking to restrain. The Special Tribunal stated in their Report 2002 that they accepted that it would place further constraints on irrigation development and may therefore be inconsistent with some of the Developers plans, however they considered it necessary to protect the outstanding features of the River after all the long protracted days that they sat hearing the application and the evidence of all the submitters – (over 1100). This application falls well outside what I consider to be the sharing values of instream and out of stream use.

[Page 139 The Findings of the Report by the Special Tribunal – October 2002]

I consider that it also goes against the intent of the findings of the Special Tribunal to protect flood flow which helps to trigger salmon migration and increases the amount of time that the river is unnaturally flat lined [lack of minor flow variability]

Excessive Water Temps

In December, January and February it is possible, even in a slightly turbid river, let alone a clear Rangitata river, for water temperatures to become excessive. Water temperatures are believed to reach levels that may cause migratory block for short periods, especially on cloudless days. This new application for a further 10³/s, will have the effect of increasing the times that this may occur.

Fish Screening

Historically the lack of fish screening and its lack of effectiveness over all the time that the Rangitata Diversion Race has been in operation I consider to be appalling. There has been historically in my opinion, to be a stubborn reluctance on the part of RDR to mitigate or fix the amount of juvenile fish that are swept into the RDR channel, even though their Resource Consent now states that an effective fish screen should be in place. A massive 288,000 salmon smolts were diverted down the RDR [1999] of which at that time when Geoff Ackerley survey on behalf of Fish and Game was done 80% of which were lost into paddocks and over 5% of 14,000 passed through the RDR to be smashed up in the turbine in the Highbank Power Station. The purpose of this survey was to establish how many fish were diverted from the river into the RDR. The loss of fish to the RDR has always been a contentious issue between Farmers and Anglers and the survey was designed to give a snap shot view of what the fish numbers actually were. The loss of these smolt down the RDR that when the small number of fish that return means that anglers miss out on a 1,000 adult fish while angling on the Rangitata River. The age of the fish that are swept into the RDR are aged between 2 and 15 months of age, and potentially lost for recreation of Fishing Licence holders. RDRML's attitude to this over all those years is one of "is it significant?" or "Does it really matter?" The earlier acoustic barrier has been historically next to useless.

With RDRML's poor attitude to fish screening after all the decades that they have been diverting water, I would love to have a fully reliable and functioning fish screen but I am not sure and have not much faith that they really want one. Also the Ashburton District Council with its 5 year lapse period for building it, tells me that they don't want one at all. Even RDR CEO has stated in his letter 24.01.2018 that it will not be "state of the art" or words to that effect, and that attitude also along with general lack of care of the fishery, comes the Ashburton District Council refusing to sign New Zealand Leaders Water Declaration, the only Canterbury District Council not to sign.

With regard to Fish Screening, the RDR Company should employ a person or persons to clean and monitor the effectiveness of a real fish screen and the methodology or how it would be monitored or by whom it would be monitored. This cost should be borne by the abstractors.

I do not purport to be an expert on fish screening but the compounding of the loss of fish that is smolt, trout fingerlings and native fish species after all these decades must be horrific especially when you view it holistically. The screen must return uninjured fish back to the residual flow of the river 24/7, 12 months of the year and spare parts or spare screen or screens must be in place if there is any failure. If it does not work the RDR must be charged with making changes until it does work for the sake of the fishery. Whether the issues are clogging/damaging the screens or sediment particles coming down the race and clogging the fish screen. There must be no entrainment of adult fish at the base of the return channel similar to what happens at the base of the Highbank Power Station and no easy predation of fish for birds.

When the fish screen is fully operational it is imperative that no part of the water upstream of the screen [within the RDR canal], should be allowed to be designed in such a way that adult or juvenile fish become exhausted and entrained and trapped against the face of the screen or any part thereof. I have strong reservation about the excessive length of the return bye-pass given

that large amounts of larger sediment, grit and small stones will be forced down this with the juvenile fish.

Silt and Sedimentation

Because this application of a further 10³/s of water is to be diverted to a storage lake at a time when flows are slightly further up the hydrograph, the amount of trapped sediment as a percentage will have an increased deleterious environmental affect on the river when this sediment is flushed out of the sand trap. Alternative methods for cleaning the sand trap have not been investigated and this fine silt should be put somewhere else and not flushed back into the residual flow of the river.

Reducing the time the River is suitable for Salmon Angling

The granting of this further 10³/s of water would effectively establish a new precedence for further additional abstractions. This application should not be allowed because capping the maximum allowable abstraction would ensure that freshes are maintained in the river and to maintain the fishability of the river it is far more important, to impose a cap on the abstractions. I am concerned that this further abstraction may have some effect of decreasing the time and increasing the turbidity of the preferred angling flows. The extra 20 cumic metres of water that was eventually taken up by Rangitata Water Limited [Rooney] in my opinion has had a damaging affect of the fishery whether it be higher water temperatures in the lower volumes below Arundel or the same sedimentation at the lower residual volumes and may have lower dissolved oxygen content with prolonged warmer weather. What negative affect the cross mirror non publically notified consent between RML and RDRML have had on the fishery is gutting because this further 10 cumecs flies in the face of what historically has been a reluctance to spare water for the over allocated Ashburton River. With this 20 cumecs that was offered up by Central South Island Fish & Game as some sort of sacrifice in the course of the National Water Conservation Hearings to help them secure this Conservation Order. The fishery as far as numbers returning [salmon] was far better with flow regime of the 1986/96 River Management Plan. At present the pre 1986/96 River Management Plan and subsequently the post National Water Conservation Order provides adequate but not optimum time when the clarity is in the preferred range for Salmon angling. This further abstraction could, even though it is higher up the hydrograph, have the effect of further minimising the time the river is suitable for salmon angling. Capping the maximum allowable abstraction at or about the present levels would go some way to ensure that freshes are maintained in the residual river flow.

[Part 7 Page 117 Report by Special Tribunal 2002].

Reducing that residual flow and volume even more by this extra 10 cumecs starting at 132.6 cms of water to 142.6 cms of water will exacerbate these problems even more. This is not flood flow. This will have a deleterious affect on what makes the fish migrate and ascend the river lowering the number of angling hours on the river when flows would be suitable for salmon angling even further. The highest flow that I hooked and landed a salmon in the Rangitata in the tidal area was 147cms but I have caught a dozen more at flows of 120 and 130 cms, although these flows are right at the upper end of the turbidity scale where flows were very marginal for salmon angling.

The over allocated Ashburton River with regard to this Application

The impact from intensive land use and the over allocation of water resources and consents are the most important environmental issues in Canterbury. The severely reduced flows of water in our rivers are not simply the result of lack of rainfall as claimed. The allocation of water take consents is excessive and is greater than the recharge rate of the underground aquifers. I believe that this further abstraction from the Rangitata River is out of keeping and does not recognise the need to restore a minimum or environmental flow in the grossly over allocated Ashburton River and does not propose the water taken from the Ashburton River by RDRML be surrendered back to that river or any part of it. Section 13 of the Land and Water Regional Plan, has determined that minimum flows for the Ashburton River at State Highway One be 6³/s and 10³/s by 2023 and 2033 respectively. Before contemplating irrigating new areas or more storage,

water needs to be allocated back to waterways such as the Ashburton River. [As promised to be fixed by 1996 by a previous elected Canterbury Regional Council].

The failure of RDRML to surrender any water to help the over allocated Ashburton River and their past refusal to surrender water to help with the over allocation, I was very upset and annoyed that the Commissioners allowed a non publicly notified consent for a mirror consent between the 2 Irrigation companies to allow Mr Rooney to abstract water out of the Rangitata River when he is allowed to do so, for longer periods of time does not fit well with the Land and Water Regional Plans for reasonable minimum flows in the Ashburton River given that RDRML diverts water from the south branch of the Ashburton River augmenting their irrigation system. Before contemplating irrigating new areas or more abstraction, some small percentage of water needs to be surrendered back to waterways such as this. Rather than continuing their historic push for more and more irrigation water, the irony of changing climate patterns making the need for more irrigation which will lead to more cows which are big producers of greenhouse gas that is contributing to climate change and is not lost to those with an interest in the environment! I believe the white-water course proposed by RDRML is little more than a token gesture to demonstrate some compensation for the capture of more of what is supposed to be a public resource. I believe, like many other of the public in New Zealand, seeing the resource they collectively own and use being taken for the economic benefit of a few.

When river water is captured as in this storage lake proposal the water itself can become layered with different water temperatures algal blooms and growths, different types of bacteria depending on weather conditions, wind direction etc., excrement from water fowl and other aquatic insect life, water weeds, coarse fish, cat fish eggs, etc., being spread on water fowls feet this water becomes stratified and the detritus would not necessarily be fit for other river bodies for augmentation and may have the same effects or worse as what happens at Lake Opuia, Opuia River and Opihi. I certainly would not want any of it returned to the Rangitata River.

There is an aspect which I would like to bring to the Commissioners attention that never, or is extremely rarely talked about. This being what is happening in the sea close to and adjacent to our river mouths particularly on the Rangitata and the Rakaia. In the 1990s this aspect that I am going to discuss and share with you was an extremely rare occurrence and at this time I didn't know what I was seeing. In 2010 when the silveries [Retropinna, Stokel smelt and common smelt] migrating through the river mouth first contacted with the fresh water in mid-December of that year they died in their millions. On the third morning of this silvery run the dead fish having washed up on the high tied mark for many hundreds of yards on the south side of the river mouth the dead fish occupied a space of 3 metres wide and in the centre 6 inches deep. After the second tide, even the Gulls refused to eat them. Since that time small runs of silveries through the river mouth, have become seldom seen and is now a rare occurrence. This event happened a few hours prior to what is now a common sight and smell adjacent to our river mouths that is toxic marine algae bloom.

Potential danger to the Community

The height/level of the stored water is too high above the natural mean height of the river and therefore I believe that in the event of a catastrophic earthquake which may cause the storage pond to breach, the safety of people and property downstream would be put into jeopardy.

Conclusion of my Submission

The Special Tribunal having determined the management requirements to preserve or protect outstanding features and qualities, considered the needs of primary and secondary industry they then evaluated what restrictions and prohibitions were required to protect the outstanding characteristics, taking into account the needs of industry and the community. They also assessed to what extent existing policies and plans would achieve the protection that they sought. They did not consider that the existing plans and policy statements [including the draft Natural Resources Regional Plan] that the last National Government scuppered, adequately met the needs as they determined them. Therefore they [the Tribunal] recommended that a Water

Conservation Order was made to achieve the preservation of waters in a natural state or for protection of outstanding features. In my opinion this further 10³/s is breaching the standards to maintain high water quality particularly to protect the needs of salmon and salmon angling itself. This application would not retain some of the natural flow patterns in the main stem by not limiting the amount of abstraction permitted and would lessen the time when the flow and turbidity would be suitable for Salmon Angling [capping of abstractions as per The Special Tribunals Report 2002].

I myself have caught salmon in the Rangitata River in flows up to as high as 147³/s. [As recorded in my angling diary and the flows on the day as confirmed by Frank Scarf] and presented to the Special Tribunal at the time of the Hearing. If the trigger point for the diversion of a further 10³/s of water is 132.6³/s this abstraction would lessen the time that ideal flows were available to salmon anglers in the fishing season, even though they are at the upper limit of flows when these fish could be caught.

I fully supported the actions at the time of the Fish & Game Council in seeking this Order. I was not averse [back in those days in the 1970s and 80s] to the sharing of water, providing sharing regimes are produced in a fair and equitable manner on a rational and scientific basis. I can no longer leave the planning for our river systems to the inept management of an unelected Council to hear this application. My message is, it has become obvious over the years that when there is conflict between economics and the environment that regrettably the environment and recreational opportunities tend to suffer.



MEDIA RELEASE
Monday August 9, 2004

still not signed off by minister (2006 June)

VICTORY FOR ENVIRONMENTALISTS AND THE RESOURCE MANAGEMENT ACT

In an environmental victory that underlines the value of the Resource Management Act, the Environment Court today has recommended to the Government that a Water Conservation Order be granted to protect the Rangitata River. The Court has released its interim report.

"This is a tremendous victory for anglers, recreational users, and all those that value the outstanding features of the Rangitata River", says Jay Graybill Fish & Game New Zealand spokesperson. "This essentially stops the carve up of yet another major river. It emphatically shows the value of the Resource Management Act that the commercial sector is trying to eviscerate."

Water Conservation Orders are provisions of the Resource Management Act.

"Fish & Game applied for the Water Conservation Order and lobbied hard for it," says Mr Graybill. "The WCO gives the River virtual 'National Park' status. All Fish and Game licence holders deserve a pat on the back because through their licence fees they have protected an outstanding river for present and future generations."

Says Mr Graybill: "The Environment Court supports the findings of the Special Tribunal that the lower river is outstanding for salmon fishing, salmon passage, water based recreation, aquatic bird habitat and aquatic macro invertebrates, and for its cultural and spiritual values."

The key findings of the decision are to retain the current minimum flows and place a cap of 33 cumecs for all abstraction.

The court concluded that no further abstraction can be allowed in the range below 100 cumecs without serious adverse effects on the outstanding features. They noted that 33 cumecs is a significant proportion of the mean flow of 95 cumecs. The Court said they have particular concerns about the effects of abstraction from the river on all braided river bird species, not just black fronted terns, and on the salmon fishery, and on salmon angling.

Mr Graybill was very critical of the Timaru District Council and Rangitata South Irrigation Ltd who dragged out the appeal process in an amateur manner and subjected all parties to very significant extra costs.

SEE OVERLEAF

Statutory managers of freshwater sports fish, game birds and their habitats

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