BEFORE INDEPENDENT HEARING COMMISSIONERS APPOINTED BY THE CANTERBURY REGIONAL COUNCIL

IN THE MATTER OF	The Resource Management Act 1991
AND	
IN THE MATTER OF	Submissions and further submissions by Rangitata South Irrigation Limited on Proposed Plan Change 7 to the Canterbury Land and Water Regional Plan

SUPPLEMENTARY STATEMENT OF EVIDENCE OF SUSAN CLARE RUSTON RESPONDING TO PANEL QUESTIONS

10 DECEMBER 2020

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INTRODUCTION

1 My name is Susan Clare Ruston.

2 I have previously provided expert evidence (dated the 17th of July 2020) in relation to Rangitata South Irrigation Limited's (**RSIL**) case on proposed Plan Change 7 (**PC7**) to the Canterbury Land and Water Regional Plan (**CLWRP**).

QUESTIONS FROM THE HEARING PANEL

3 At the hearing on the 2nd of December 2020 Commissioner Van Voorthuysen invited RSIL to consider whether adjustments to the baseline period for properties receiving RSIL water (as sought by RSIL) could be made through a note positioned after proposed policy 14.4.18 in PC7.

4 I have considered this option and, in my opinion, such a note is not sufficiently directive to amend the nitrogen baseline period for properties receiving RSIL water. This supplementary evidence summarises the issue at hand and why I consider that inserting a note is not sufficiently directive; and recommends improved drafting of a definition of the nitrogen baseline for insertion in Section 14 of PC7.

THE ISSUE

5 Based on Ms Harris' evidence, I understand that in 2013 RSIL commenced the supply of water (in accordance with consents granted by Canterbury Regional Council in 2009) to some of the properties for which RSIL shares were held, and that by the end of 2019 all such properties (a total of 42 properties) were receiving RSIL water. Further to this, of these 42 properties;

a) 7 properties did not change their overall farm system as a result of receiving RSIL water, rather the new source of water led to improved reliability of water supply and efficiency of operations within the existing farm system;

b) 20 properties held a building consent and effluent discharge consent that was granted for a new or upgraded dairy milking shed in the period 01 January 2009 to 31 December 2013 (that is they substantially changed their farm system); and

c) 15 properties changed their farming system between 2013 and 2019 based on their investment in RSIL water and these changes involved substantial investments in new infrastructure prior to notification of the proposed CLWRP.

6 When considered against the existing definition of nitrogen baseline in section 2.9 of the CLWRP:

a) The 7 properties receiving RSIL water that did not change their overall farm system as a result of receiving RSIL water are recognised in subsection a) of the existing definition of nitrogen baseline.

b) The 20 properties receiving RSIL water that converted to a dairy operation, and received a building consent and effluent discharge consent that was granted for a new or upgraded dairy milking shed in the period 01 January 2009 to 31 December 2013, are recognised in subsection b) of the existing definition of nitrogen baseline. That is, subsection b) recognises the expected increase in nitrogen loss that would result from the granting of these consents.

c) The 15 properties receiving RSIL water that invested in new infrastructure, prior to notification of the proposed CLWRP, and changed their farming systems once the RSIL water was available (between 2013 and 2019) are not specifically addressed in the existing definition of nitrogen baseline. As a result, the farming systems on 3 of these farms are now prohibited activities and the farming systems on the remaining 12 properties are unlikely to remain viable if they are required to meet the baseline GMP loss rate based on a 2009-2013 baseline period.

7 Based on the preceding situation, RSIL has sought to amend PC7 to ensure that the 15 properties identified in c) above are able to calculate their nitrogen baseline based on the farm operations in the period 2013 to 2019. For completeness, I understand that no change to the status of the other 27 properties (receiving RSIL water) under the existing definition of the nitrogen baseline has been sought.

WOULD A NOTE IN THE PLAN ASSIST?

8 Section 5.3 of the CLWRP states that *"Notes and cross-references are included for information purposes only and do not form part of the rules nor should they be considered a complete list."* On this basis, a note advising that the baseline

period is different in certain circumstances (such as the circumstance of the 15 properties identified in paragraph 7(c) above) would have no weight in decision making under the plan. Such a note would not be providing guidance to the implementation of the definitions, policies and rules of the CLWRP, rather it would contradict the definitions, policies and rules of the CLWRP.

9 Given the fundamental role of the nitrogen baseline and baseline GMP loss rate in the policies and rules in Chapter 14, in my opinion a clear planning mechanism is needed if the baseline period is to be adjusted for decision making purposes.

RECOMMENDED DRAFTING SOLUTION

10 In my evidence in chief (dated the 17th of July 2020) I offered a drafting solution that inserted a new definition into Section 14 of PC7 (as requested in the RSIL submission on PC7). The definition adopted the existing definition of the nitrogen baseline in section 2.9 of the CLWRP, with the adjustment made for properties receiving RSIL water. On reflection, the adjustment offered is too encompassing.

11 I understand that for the 7 properties that did not change their farming systems as a result of receiving RSIL water (rather the new source of water led to improved reliability of water supply and efficiency of operations within the existing farm system) the nitrogen loss for these properties during 2013-2019 will likely be less than for the 2009-2013 period. This reflects their investment in moving to good management practice for these unchanged farm systems. In my opinion, any such improvements should be recognised as a move to good management practice and the unchanged farm system should not be penalised by being assigned a nitrogen baseline based on the 2013-2019 period.

12 Accordingly, I consider that insertion of the following definition into Section 14 of PC7 better resolves what is in effect a transition issue in setting reasonable nitrogen loss baselines for farmers prior to requiring reductions in nitrogen losses.

Nitrogen Baseline	has the meaning set out in Section 2.9 of this Plan except where the following applies: for properties that received Rangitata South Irrigation Limited scheme water between 1 January 2013 and 31 December 2019: a) in the case where a building consent and effluent discharge consent have been granted

	for a new or upgraded dairy milking shed in the period 01 January 2009 to 31 December 2013 the calculation of the nitrogen baseline will be on the basis that the dairy farming activity is operational; and b) in the case where a) does not apply, and the nitrogen baseline calculated for the period 1 January 2013 to 31 December 2019 is greater than the same calculation for the period 1 January 2009 to 31 December 2013, then the period over which the nitrogen baseline is calculated will be 1 January 2013 to 31 December 2019; and c) in the case where a) and b) do not apply, then the nitrogen baseline has the meaning set out in Section 2.9 of this Plan.

13 While subparts a) and c) of the preceding definition may appear repetitive of the existing definition of nitrogen baseline, I consider that it is helpful to explicitly address each category that a property receiving RSIL water falls within. The explicit nature of a) to c) avoids the potential for unforeseen crossovers such as a dairy conversion with the necessary consents granted between 2009 and 2013, but the conversion not fully completed by 2019, being limited to a nitrogen baseline period of 2013-2019.

14 For completeness, I confirm that the amendment proposed in paragraph 12 of this supplementary evidence is consistent with the relevant planning instruments identified in my evidence in chief.

Susan Ruston
10 December 2020