

BEFORE THE COMMISSIONER ON BEHALF OF OTAGO REGIONAL COUNCIL

IN THE MATTER OF

the Resource Management Act
1991

AND

IN THE MATTER OF

Resource Consent Applications
RM20.079.01 - 03

Bendigo Station Limited

STATEMENT OF REPLY TO REBUTAL EVIDENCE OF CHARLES HORRELL

FOR OTAGO REGIONAL COUNCIL

21 May 2021

Introduction

1. My full name is Charles Price Horrell. My qualifications and experience are set out in my Section 42A report.
2. This statement responds to rebuttal evidence of Mr Vial received 19 May 2021.

Background

3. Mr Vial has provided rebuttal evidence to the additional evidence provided by the Mr Nicolson that was received on 12 May 2021. Specifically, Mr Vial considers the interpretation provided for calculating a supplementary minimum flow and the use Method 15.8.1A.
4. As I understand, Mr Nicolson does not contend that the calculation for supplementary as provided in my response to Minute 2; however, Mr Nicolson does not consider it appropriate to be used in this case for the following reasons:
 - a. Method 15.8.1A does not recognise natural flows by applying an arbitrary method; and
 - b. Method 15.8.1A should not be applied when there is only one water user in a catchment.
5. Mr Vial rejects the assessment undertaken by Mr Nicolson and considers that Method 15.8.1A reasonably provides for natural flows and should be applied regardless of the number of water users. Mr Vial has sought that the minimum flow for supplementary allocation is subject to the conditions recommended through my response to Minute 2. Specifically, minimum flow of:
 - 150 L/s for block one (initial 100 L/s); and
 - 250 L/s for block two (remaining 10 L/s).

Discussion

6. In relation to method 15.8.1A not providing for natural flows, I agree with Mr Vial that this is reasonably provided for. Method 15.8.1A first requires that primary allocation is first defined and set as the baseline flow, in this case being 50 L/s.
7. This step ensures that that there is a clear distinction and prioritisation for primary allocation.
8. In the preferred condition proffered by Mr Nicolson¹, there the baseline flow could be less than the current primary allocation. While the Applicant would hold the only water permit in the catchment with primary allocation, the permits and their status (primary / supplementary allocation) are independent from one another. Being a supplementary allocation, the baseline flow must be no less than the existing primary allocation. To allow otherwise would both provide no certainty for when supplementary allocation is being exercised and could be seen to extend the existing primary allocation.
9. The second step sets blocks of supplementary allocation depending on the flow of the watercourse. As indicated in my response to Minute 2, the blocks ensure that 50% of natural

¹ First condition in Paragraph 13

flows (accounting for primary allocation) is provided for e.g. 100 L/s for allocation, additional 100 L/s added onto the baseflow.

10. In relation to Method 15.8.1A not being appropriate where there is one user in a catchment, I disagree with Mr Vial that the method is equally relevant where there is a single water abstraction in a catchment. While there would still be instances where the method could still be applied for where there is one user, I accept that it does anticipate multiple users.
11. The blocks set out in Method 15.8.1A.2 account for competing water users in each block and therefore assume that all water could be abstracted at one time. This is not the case where there is one potential water user and is acknowledged through the commentary provided under Policy 6.4.9 of the Regional Plan: Water for Otago.
12. As outlined in my right of reply, while Mr Nicolson's suggested alternative condition² may meet the intent of Policy 6.4.9(a), it fails to provide sufficient certainty or enforceability for me to support this as a consent condition.
13. Accepting that the minimum flows as calculated under Method 15.8.1A.2 may not recognise being a single water user in a catchment and being relatively conservative³, I presented a number of options to the Commissioner in my right of reply.
14. Based on my evaluation of each option, I indicated that setting an alternative block system with 20 L/s increments would be more appropriate in this case. This would ensure a certain and enforceable minimum flow condition, ensure that Policy 6.4.9(a) is met and would recognise the individual water user. As the Applicant had not proposed this, I had not removed the initial recommended minimum flow conditions and rather provided this as an option for the Commissioner to accept.
15. Following my review of Mr Vial's rebuttal evidence, I remain of this opinion and do not alter my current recommendations provided in my right of reply.



Charles Horrell

Consultant Planner

² Second condition in Paragraph 13

³ Block 1 minimum flow is greater than the natural mean flow (120 L/s)