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**Form 6**  
**Further submission in opposition to submissions on publicly notified proposed policy statement or plan**

*Clause 8 of First Schedule, Resource Management Act 1991*

To: Otago Regional Council

Name of persons making further submission: Michael and Christine Holland  
MC Holland Farming Limited

OTAGO REGIONAL COUNCIL RECEIVED DUNEDIN - 5 MAY 2009 FILE No. RJ221 DIR TO MRP SV
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**This is a further submission in opposition to submissions on a proposed change to the following plan (the proposal):**

Proposed Plan Change 1B (Minimum Flows) Regional Plan: Water for Otago

**The specific submissions to the proposal that our further submission relates to are as follows:**

**1. Otago Conservation Board (Submitter 43)**

The Otago Conservation Board submitted as follows in relation to Plan Change 1B:

*"The Waianakarua River and Trotters Creek are two of the last remaining coastal rivers in Otago north of the Otago Peninsula, that to date have not been excessively modified or subjected to water quality degradation by excessive abstraction or non-point source contamination. Both have upper catchments that are generally rugged and unmodified and likely to be unsuited for intensive farming operations. There is considerable native bush habitat in both catchments and potentially increased areas of exotic forestry plantation.*

*In particular, the Waianakarua River is North Otago's last coastal river of significant water quantity and quality that provides for considerable community recreational benefit, as well as a stable aquatic and ecological environment for all living organisms.*

*The Board does not support the view that all rivers of a region should be allocated to commercial abstractive users. The Board supports a position where a particular river in a geographical region should be left in its natural state, both for the benefit of public use and as a control system for further long term river study in that particular region. In the case of the Waianakarua this would be reasonably easy to achieve, because there is a very small number of abstractive users. The Otago Regional Council could phase these out over time if the majority of submitters supported this approach."*

**"We seek the following decision from the local authority:**

- 1) *No allocation to abstractive users from the Waianakarua River, and an investigation by the Otago Regional Council, in consultation with the local community, of ways to reduce the existing allocation over time.*
- 2) *Where the above (1) is considered unachievable for whatever reason, a minimum flow of 400L/s for the entire year should be applied. Water harvesting should be permitted in times of high flood flows throughout the year, provided that such takes did not impact on natural flushing flows.*
- 3) *Rivers should be managed by way of a maximum allocation for abstraction, as well as a minimum flow, because of the potential to 'flat line' rivers when using a minimum flow only.*
- 4) *A maximum primary allocation of 150L/s for the whole of the Waianakarua during October to April, and 200L/s secondary allocation on a 1:1 share basis from May to September.*
- 5) *Where a minimum flow is applied to a river, all costs for monitoring and administration of that flow should be borne directly by the abstractive beneficiaries.*

..."

We **oppose** this submission for the following reasons:

- the comments that the Otago Conservation Board make about the significant water quantity and quality of the Waianakarua River, the community recreational benefit provided, and the stable aquatic and ecological environment all occur within the context of existing abstraction of water from the river. This suggests that existing abstraction is not causing effects that would warrant total cessation of the use of the river to provide water for out-of-stream uses
- establishing a regime where no abstractive allocation is permitted from the Waianakarua River and existing allocation is reduced over time is not consistent with the purpose of the Resource Management Act 1991, which includes enabling people and communities to provide for their social and economic wellbeing. The comments made in the body of the submission by the Otago Conservation Board illustrate that there have not been significant adverse effects on the life-supporting capacity of the Waianakarua River with the existing abstraction of water and there is therefore no justification for prohibiting allocation of water from the river
- a minimum flow of 400 l/s will have significant adverse effects on our ability to exercise our water permits during summer. The Otago Conservation Board has not justified why this level of minimum flow is necessary and has not considered the effects of it in terms of the existing environment, including water abstractors. As outlined in our original submission, we consider that a minimum flow of 150 l/s would be more appropriate
- the Waianakarua River is already managed by a combination of minimum flows established on most of the existing water permits, and the blocks of allocation already established by the existing provisions of the Regional Plan: Water for Otago
- the maximum primary and secondary allocation sought by the Otago Conservation Board are lower than the existing and would result in a reduction of water availability to existing users. For reasons outlined above we do not consider that this is appropriate
- imposing all of the costs for monitoring and administration of a minimum flow on abstractive users is not equitable and does not recognise that some of the costs for the environmental benefit obtained should be borne by public authorities such as the Otago Regional Council.

We seek that the parts of the Otago Conservation Board's submission in relation to, and that would affect, the Waianakarua River be **disallowed**.

## 2. Central South Island Fish and Game (Submitter 35)

Central South Island Fish and Game submitted as follows in relation to the Waianakarua River:

*"Fish and Game submit that a minimum flow of 300 l/s would be a more balanced representation of competing needs within the community"*

We **oppose** this submission. A minimum flow of 300 l/s will have significant adverse effects on our ability to exercise our water permits during summer. While Central South Island Fish and Game has identified its concerns with a minimum flow of 200 l/s, it has not identified specific benefits from a minimum flow of 300 l/s. As outlined in our original submission, we consider that a minimum flow of 150 l/s would be more appropriate.

We seek that the parts of Central South Island Fish and Game's submission in relation to the Waianakarua River be **disallowed**.

## 3. Waitaki Coastal Care (Submitter 65)

Waitaki Coastal Care submitted as follows in relation to the Waianakarua River:

*"I oppose the above changes to the Regional Plan – Water for Otago.*

*I wish to have it [the minimum flow for the Waianakarua River] amended to 350 litres per second during the months (October – April) and have the Primary Allocation Limit raised to 300 litres per second.*

*I ask that the changes be given for the following reasons.*

...

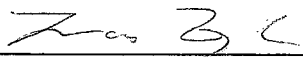
- Dairy farming is a very recent arrival in this catchment and traditional river users have been using the Waianakarua Catchment for years prior to their arrival.
- Dairy farmers will pollute and have already done so to this catchment  
..."

We **oppose** this submission. A minimum flow of 350 l/s will have significant adverse effects on our ability to exercise our water permits during summer. The comments contained in the submission about dairy farming are unnecessary and inappropriate, and setting a higher minimum flow on the basis of these comments would not be consistent with Part 2 of the Resource Management Act 1991. As outlined in our original submission, we consider that a minimum flow of 150 l/s would be more appropriate.

We seek that the submission from Waitaki Coastal Care be **disallowed**.

**We wish to be heard in support of our further submissions.**

**If others make similar submissions we will consider presenting a joint case with them at a hearing.**

  
PP Michael Holland  
on behalf of  
MC Holland Farming Ltd

5 May 2009  
Date

Addresses for service of further submitter:

(Please direct correspondence to both parties)

Michael and Christine Holland  
MC Holland Farming Ltd  
437 Waianakarua Road  
13 O RD  
Oamaru 9495

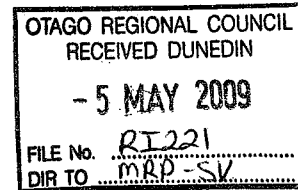
Frances Lojkiné  
Senior Resource Planner  
MWH NZ Ltd  
P O Box 4  
Dunedin 9054



**FURTHER SUBMISSIONS IN SUPPORT OR OPPOSITION TO SUBMISSIONS ON THE OTAGO  
REGIONAL COUNCIL PROPOSED PLAN CHANGE 1B UNDER CLAUSE 8 OF THE FIRST  
SCHEDULE OF THE RESOURCE MANAGEMENT ACT 1991**

To:  
Otago Regional Council  
Private Bag 1954  
DUNEDIN

Attn: Policy Team



From:  
Otago Fish & Game  
P.O. Box 76  
DUNEDIN

Contact Person:  
John Hollows  
Environmental Officer

Telephone (03) 479 6552  
Fax (03) 477 0146


Fish & Game wish to change their position on Luggate Creek given the opposition to the minimum flow from the wider community in the area. We note the debate from several sectors of the community on methodologies used to determine flow requirements. We have not formed an opinion on this matter but given the strong public opposition we feel there needs to be some degree of agreement before we can move forward. The argument over methodology could continue for many years without resolution and provides no surety into the future for both economic and environmental values.

Our position is that the flows and recommendation set out in the ORC report "Management flows for Aquatic Ecosystems in Luggate Creek" be adopted as a preliminary flow with a review clause until the flow methodology argument has been resolved. These flows are 300l/s (October-April) and 500l/s (May-September). Our knowledge of the Luggate Creek system is that this flow would sustain sports fish spawning and over summer enhance the instream values present. This is an acceptable outcome given the long period of low flows related to water extraction.

In addition we have made comment on other submissions relating to Luggate Creek flows.

We wish to be heard in support of our submission.

Signature



Date: 4 April 2009

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

**Otago Region**

Cnr Hanover & Harrow Sts, PO Box 76, Dunedin 9054, New Zealand. Telephone (03) 477 9076 Facsimile (03) 477 0146  
www.fishandgame.org.nz

SUBMITTER NAME	SUB/ REF	POSITION	SUBMITTER DECISION REQUESTED	SUPPORT/ OPPOSE	SUBMITTERS JUSTIFICATION
Noel George Trevathan	17/7	amend	That the minimum flow can be set as low as zero where streams have been dry on occasions over the past 50 years plus.	oppose	Inconsistent with objectives of the RMA.
Te Runanga o Moeraki	34/7	amend	Water quantity issues need to be integrated with water quality, and reflect a ki uta ki tai - a mountains to sea - philosophy.	support	The linkage between water quality and quantity is clear and both need to be considered during decision making.
Central South Island Fish and Game	35/7	amend	Seeks the addition of the following wording to Schedule 2D.2: (h) Any other relevant matter in giving effect to Part 2 of the Resource Management Act.	support	This matter is a required consideration during decision making so should be included.
Federated Farmers of New Zealand (Inc)	59/7	amend	Retain. Include as an assessment matter: "the effect of imposing minimum flows and allocation limits on the economic viability of existing users and on their reliability of supply".	oppose	Oppose the inclusion of assessment matter, economic interests should not be used to determine minimum flows.
The Director-General of Conservation	62/7	amend	Request the addition of the following statement to the start of Schedule 2D.1, and subsequent renumbering of list: "2D.1 When setting minimum flows in Schedule 2A for a catchment, consideration shall be given to the following matters: a) Any relevant matter required to give full effect to section 6 of the Resource Management Act;"	support	This matter is a required consideration during decision making so should be included.
The Director-General of Conservation	62/7	amend	The addition of the following to Schedule 2D.2: (i) Any other relevant matter in giving effect to Part 2 of the Resource Management Act.	support	This matter is a required consideration during decision making so should be included.
TrustPower Limited	64/7	amend	Amend sub-paragraph (a) in Schedule 2D.1 and 2D.2 to include a presumption that for Hydro Electric Power Schemes the consented minimum flow requirements and allocation will not be altered unless there is a demonstrable adverse effect on instream values. Or Any similar amendments to like effect.	oppose	HEPS are one water user and should not carry any greater weight than other economic users. If water allocation reductions are required it should be an equal percentage reduction across all economic users..
TrustPower Limited	64/7	amend	Amend sub-paragraph (f) or (g) in Schedule 2D.1 and sub-paragraph (g) in Schedule 2D.2 to expressly recognise the value of existing infrastructure and water used for renewable electricity generation. Or Any similar amendments to like effect.	oppose	HEPS are one water user and should not carry any greater weight than other economic users. All economic water users have investment in infrastructure.
TrustPower Limited	64/7	amend	Amend Schedule 2D.1 and 2D.2 to ensure that water taken for Hydro Electric Power Schemes while not a consumptive use, is adequately taken account of and provided for. Or any similar amendments to like effect.	oppose	HEPS are one water user and should not carry any greater weight than other economic users. Economic considerations are already covered in the Plan in (g)

<b>SUBMITTER NAME</b>	<b>SUB/ REF</b>	<b>POSITION</b>	<b>SUBMITTER DECISION REQUESTED</b>	<b>SUPPORT/ OPPOSE</b>	<b>SUBMITTERS JUSTIFICATION</b>
TrustPower Limited	64/7	amend	Add to Schedule 2D.1 and 2D.2 a new sub-paragraph to read:(h) the impact on the operation of existing hydroelectric power schemes. Or Any similar amendments to like effect.	oppose	HEPS are one water user and should not carry any greater weight than other economic users. Economic considerations are already covered in the Plan in (g)
Otago Conservation Board	43/4	amend	A summer / autumn season minimum flow for Luggate Creek set at 300 l/s, to protect aquatic life and freshwater ecosystems.	support in part	Given the uncertainty over what flow will be set and likely long time frame before matter is resolved we support the flow regime proposed in the ORC report (300l/s and 500l/s).
Federated Farmers of New Zealand (Inc)	59/4	amend	Amend minimum flow to provide for no derogation of existing consents reliability.	oppose	Luggate has suffered from low flows as a result of mining rights. With the upcoming expiry of deemed permits there will be a required claw-back of water to effective ecological values and this may result in some reduction in water available for economic purposes.
Federated Farmers of New Zealand (Inc)	59/4	amend	Delay introduction of minimum flow until calculated minimum flow on robust information.	oppose	This may lead to an argument that 'we still don't have enough data' and a minimum flow not ever being set whilst the stream ecology continues to be impacted upon.
Luggate Creek Community and Guardians (representing the Luggate Community)	61/4	amend	A re-evaluation of this flow needs to take place if water take figures vary from what was presented to include this change and/or any conditions of use of this take. This is also applicable to any future applications and how they may affect the Luggate Creek.	support	This matter is important given that some mining rights that have not been exercised for many years are to be used.
Criffel Irrigation Scheme	57/12	amend	That the current water rights that have constantly been used over the last 20 years and longer along with their structures and races are fully respected with no restriction being placed on those rights.	oppose	With the upcoming expiry of deemed permits there will be a required claw-back of water to effective ecological values and this may result in some reduction in water available for economic purposes.







**SUBMISSION FORM**  
**Proposed Plan Change 1B Minimum Flows**  
**to the Regional Plan: Water for Otago**  
*Form 5, Clause 6 of the First Schedule, Resource Management Act 1991.*

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Full name of submitter: Devon Danielle Christensen  
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OTAGO REGIONAL COUNCIL  
RECEIVED DUNEDIN  
- 5 MAY 2009  
FILE No. R1221  
DIR TO MRP-SV

I wish do not wish (circle preference) to be heard in support of my submission.

If others made a similar submission, I will consider presenting a joint case with them at a hearing.  
(Cross out if you would not consider presenting a joint case).

Signature of submitter: [Signature] Date: 5/5/2009  
(or person authorised to sign on behalf of person making submission).

Please note that all submissions are made available for public inspection.

**The parts of the proposed plan change that my submission relates to are:**

(Give clear references if possible e.g. reference number, policy x, rule y)

Please refer attached submission

**My submission is:**

(Include whether you support, oppose, or wish to have amended the parts identified above, and give reasons)

Please refer attached submission



5 May 2009

Otago Regional Council  
Private Bag 1954  
Dunedin 9054

Attn: Policy Team

**REQUESTED CHANGES TO THE REGIONAL PLAN: WATER FOR OTAGO  
Proposed Plan Change 1B Minimum Flows - Waianakarua and Trotters catchments**

Fish and Game have examined the decisions requested for the proposed plan change outlined above; further from previous submissions, make the following submissions in regards to the requested changes:

Fish and Game oppose submissions requesting a delay of the introduction of a minimum flow in Trotters and Waianakarua Catchment. Lack of information is not a reason to 'do nothing' it does mean that a conservative minimum flow should be set with a view to reassessing the information at some later date. (i.e after 5 years of flow recording).

Other submissions request no minimum flow to be implemented on Trotters and Waianakarua Catchments. Minimum flows provide some degree of protection for the aquatic ecosystems and natural character of the creeks. Submissions stating that there is "no need to impose a minimum flow while present and past land owners and irrigators have looked after the river" are not taking into account the importance of safeguarding the life supporting capacity of the water body for the future. While care taken may currently be sufficient to maintain instream values it is not possible to know this will always be the case.

Fish and Game oppose submissions requesting the minimum flow in Waianakarua to be decreased to 150 l/s during 15 Sept to 30 May. It is not clear if 200 l/s can provide connectivity or fish passage throughout the river, nor is it known how the allocation above the proposed minimum will affect the physical length and duration that low flows are experienced. The Waianakarua River is considered 'over allocated'. Over allocation compounds these impacts. The minimum flow workshop #2 notes diagrammatically showed that the majority of the community 'strongly supported' a minimum of 300 l/s and 'strongly opposed' a minimum of 200l/s. Fish and Game submitted that a minimum flow of 300 l/s would be a more balanced representation of competing needs within the community 150l/s is half of this.

In relation to submissions discussing the importance Waianakarua as a fishery; whilst the Waianakarua is not a significant sports fishery (National Angling Survey 1994/96) this should not indicate that the management objective is only limited to native fish, the Wainakarua River supports a brown trout fishery that is worthy of protection and restoration

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

**Central South Island Region**

32 Richard Pearce Drive, PO Box 160, Temuka, New Zealand. Telephone (03) 615 8400. Facsimile (03) 615 8401  
[www.fishandgame.org.nz](http://www.fishandgame.org.nz)

into the future. It is within the functions and responsibilities of Fish and Game Councils to enhance the sports fish and game bird resource in the recreational interests of anglers and hunters (26Q of the Conservation Act 1987) Waiānakarua Catchment is an opportunity for enhancement of the sports fish resource.

Fish and Game reserve the right to be heard at a hearing.

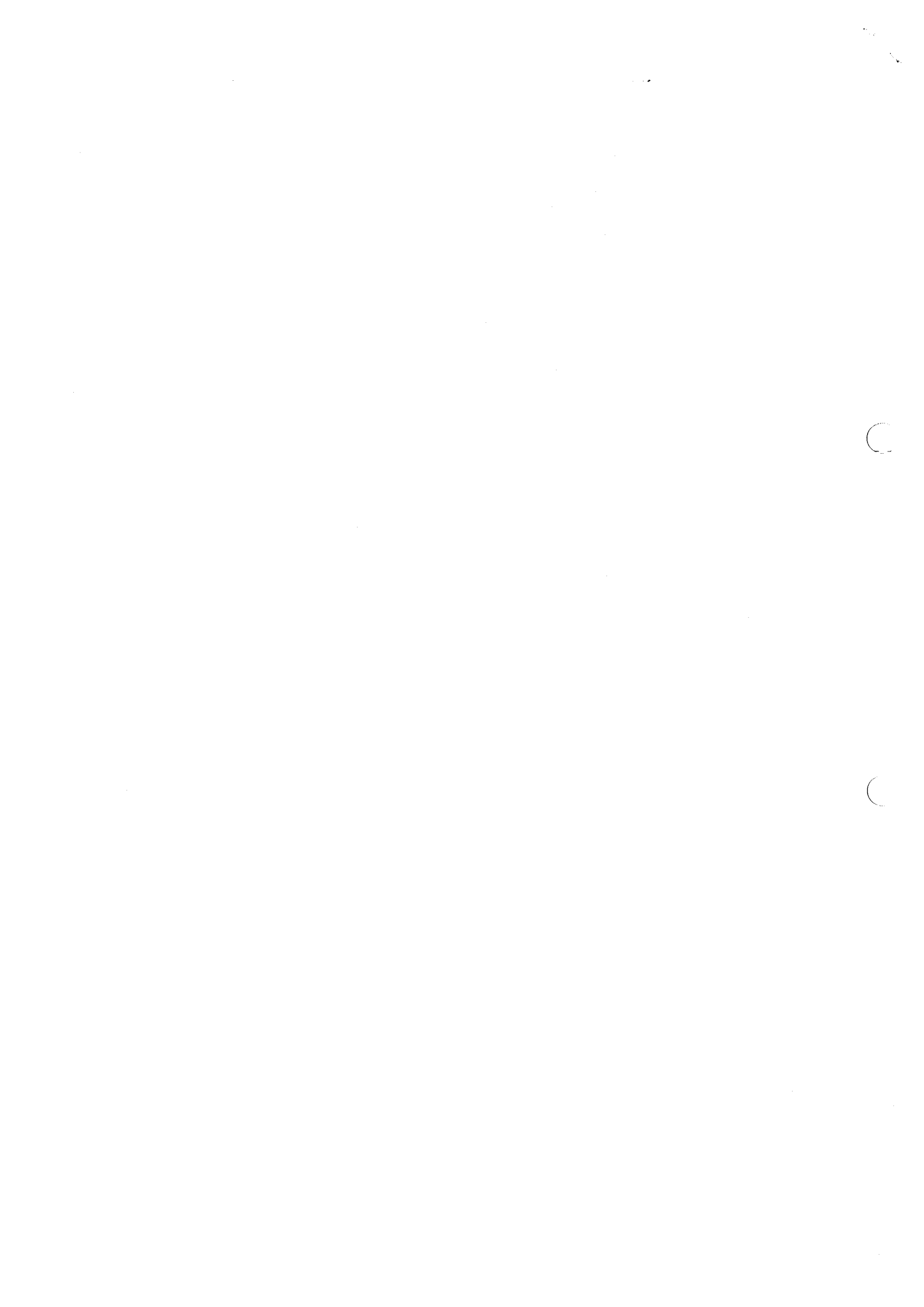
Yours Sincerely



Devon Christensen

Resource Officer

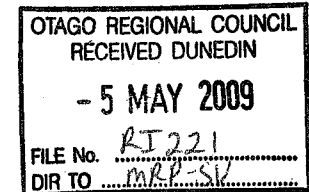
Central South Island Fish and Game



**Further Submission in Support of or in Opposition to Submissions on  
Proposed Plan Change 1B: Minimum Flows  
Regional Plan: Water for Otago  
December 2008**

*Clause 8 of the First Schedule, Resource Management Act 1991*

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To: Otago Regional Council

Full name of submitter: Otago Water Resource Users Group ("OWRUG")

Postal Address: c/o Checketts McKay Law Limited  
PO Box 41  
Alexandra  
9340

Contact person: John Williamson  
Telephone: 03 448 9670  
Fax: 03 448 8960  
Email: john@cmlaw.co.nz

We wish / ~~do not wish~~ to be heard in support of our submission (*delete the one that does not apply*).

~~If others make a similar submission, I will consider presenting a joint case with them at a hearing.~~  
(*Delete if you would not consider presenting a joint case*).

*This Further Submission is on behalf of the Otago Water Resource Users Group. The OWRUG members represent a diverse range of industries and interests. Some of the Group's members have made their own submissions and will be making further submissions on the proposed Plan Changes; which submissions may differ from the Group's position on specific matters.*

Date: 5 May 2009

Submitter	Sub./Ref	Provision	Summary of Submission	Support/ Oppose	OWRUG reasoning
<b>Matters beyond the scope of the Plan change</b>					
Otago Conservation Board	43/19	NA	The abstractors should meet the cost of monitoring and administering the minimum flows and proving impacts.	Oppose	This is an Annual Plan not Water Plan issue. The abstractors should meet the cost of monitoring and administering their water take and use. Monitoring and administering minimum flows and proving impacts is for the public good and should be paid for by general rates.
Otago Conservation Board	43/19	NA	An abstraction resource consent should include a condition that where the ecological conditions of a river are compromised by lack of flow due to an abstraction, the resource consent conditions shall be modified accordingly	Oppose	Part 2 of the RMA correctly acknowledges competing interests in resource management. There is no absolute that where one interest is affected, the other interest shall cease creating that effect.
<b>Matters within the scope of the Plan change</b>					
Te Runanga o Moeraki	34/7	Schedule 2D	Add to Schedule 2D.2 a consideration of cultural values of Ngai Tahu as expressed in Schedule 1D and any other relevant matter in giving effect to Part 2 of the RMA.	Oppose	These are matters to be considered when setting minimum flows and are already contained in Schedule 2D.1. They are not matters to be considered when determining the primary allocation limits.
Central South Island Fish and Game	35/7	Schedule 2D	Add to Schedule 2D.2 a consideration of any other relevant matter in giving effect to Part 2 of the RMA, to take into account the natural character and aquatic values.	Oppose	These are matters to be considered when setting minimum flows and are already contained in Schedule 2D.1. They are not matters to be considered when determining the primary allocation limits.
Director-General of Conservation	62/7	Schedule 2D	Add to Schedule 2D.1 the consideration: " Any relevant matters required to give full effect to section 6 of the Resource Management Act;"	Oppose	This consideration is already contained in Schedule 2D.1 (g): "Any other relevant matters in giving effect to Part 2 of the Resource Management Act"; as sections 6 is contained within Part 2. To single out section 6 in addition to the other Part 2 matters is elevating section 6 above the other Part 2 matters, especially the section 5 matters, which is contrary to the legal interpretation of Part 2.
Director-General of Conservation	62/7	Schedule 2D	Add to Schedule 2D.2 a consideration of any other relevant matter in giving effect to Part 2 of the RMA, to take into account the natural character and aquatic values.	Oppose	These are matters to be considered when setting minimum flows and are already contained in Schedule 2D.1. They are not matters to be considered when determining the primary allocation limits.
Oceana Gold (New Zealand)	63/7	Schedules 2D.1 & 2D.2	Remove the ambiguity by deleting the word "may" where it appears.	Support	It could be argued that the use of the word "may" is intended to extend a discretion to the ORC as to which

Limited					of the listed considerations, the ORC shall take into account. The word "may " should be replaced with "shall".
Oceana Gold (New Zealand) Limited	63/7	Schedules 2D.1 & 2D.2	Prioritise the list of considerations.	Oppose	Part 2 prescribes the hierarchy in terms of considering the matters. Furthermore, each case will need to be considered on its merits.
TrustPower Limited	64/7	Schedules 2D.1 & 2D.2	Amend the considerations to: <ul style="list-style-type: none"> <li>• expressly recognized the value of existing infrastructure and water used for renewable electricity generation; and</li> <li>• to reflect the impact on the operation of existing hydro electric power schemes.</li> </ul>	Supported in part	We support the concept that existing infrastructure and operations need to be considered. However this needs to apply to all industry groups and not just hydro-electricity generation. In terms of Schedule 2D.1; this should be part of the economic costs and benefits consideration already referred to in paragraph (f) (as requested to be amended by the OWRUG submission). And in terms of Schedule 2D.2; this should be part of the economic benefits consideration already referred to in paragraph (g) (as requested to be amended by the OWRUG submission).

