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**SUBMISSION ON A PUBLICLY NOTIFIED APPLICATION  
CONCERNING A WATER CONSERVATION ORDER**

***Under The Resource Management Act 1991***

**To:** The Special Tribunal, Oreti River Water Conservation Order  
Ministry for the Environment

**Submission on:** Oreti River Water Conservation Order

**Name:** The Aggregate and Quarry Association of New Zealand (Inc)

**Address:** C/- Harrison Grierson Consultants Limited  
PO Box 5760  
Wellesley Street  
**AUCKLAND**

Attention: Renee Murphy

**1. The specific provisions of the Oreti River Water Conservation Order that the Aggregate and Quarry Association of New Zealand (Inc)'s submission relates to:**

The entire Water Conservation Order - Oreti River

**2. The Aggregate and Quarry Association of New Zealand (Inc)'s submission is that:**

Introduction

Minerals are essential for development in New Zealand generally. Those minerals of economic value in the Southland region include hard rock aggregate resources, such as gravel extracted from river beds and rock extracted from quarries. This aggregate is used primarily by the building industry in the construction of our towns and cities, and for roads. Most mineral deposits are fixed in location, unevenly distributed, and are generally a non-renewable resource.

Section 5(2)(a) of the Resource Management Act 1991 promotes the management of the use, development and protection of natural and physical resources (including minerals) in a way, or at a rate, that enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety. Minerals however, are excluded from the requirement to sustain the potential to meet the reasonably foreseeable needs of future generations.

In terms of section 31 of the Act, the effects of extractive industries are controlled by territorial authorities. Effects surrounding soil conservation and discharges of contaminants to air and water are controlled by regional councils.

The Aggregate and Quarry Association of New Zealand (inc) ("AQA") was formed in 1969 by companies involved in extracting and supplying gravel and allied materials in New Zealand in response to the need for an industry group that could represent aggregate suppliers on a range of issues. Membership of the AQA stands at over 80 companies, which between them produce 85% of the aggregates and allied raw materials used in New Zealand.

The AQA takes its responsibility regarding the environment seriously, and is committed to avoiding, remedying or mitigating the effects of its member company's operations on the surrounding environment. In recognition of this, the AQA seeks a planning regime that supports its commitment to the management of environmental effects.

Water Conservation Order in respect of the Oreti River

The reasons given for seeking the Water Conservation Order are for the preservation of Trout habitat, and also cultural, fisheries, recreational and spiritual values, and to ensure the free passage of fish.

It appears that the key reason for the New Zealand Fish and Game Council and Southland Fish and Game Council (referred to collectively as "Fish and Game") seeking the Water Conservation Order is to protect the fishery values provided by the Oreti River, particularly in relation to the habitat that it provides for Trout and Salmon. It is noted that although the protection of the habitat of Trout and Salmon is a matter to have particular regard to in accordance with section 7(h) of the Act (Other Matters), this is one of many matters that must be weighed up in the achievement of the purpose of the Act, which is as outlined in section 5 as follows:

**Section 5 Purpose**

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, "sustainable management" means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while –*
  - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *safeguarding the life supporting capacity of air, water, soil and ecosystems; and*
  - (c) *avoiding, remedying or mitigating any adverse effects of activities on the environment.*

The AQA considers that the protection sought by the Water Conservation Order goes beyond what is necessary to protect the habitat of Trout and Salmon. It also goes beyond what is necessary to protect the other natural values provided by the Oreti River and its tributaries by failing to give due regard to enabling people and communities to provide for their social and economic well being. In many circumstances, the Water Conservation Order removes the ability to consider the environmental effects of activities and whether any adverse effects are capable of being avoided, remedied or mitigated.

In particular, the Water Conservation Order fails to make any recognition whatsoever of quarrying or aggregate extraction activities. These activities are dependent on the Oreti River and its surrounding tributaries both as a source of aggregate resources, and also as a supplier of vital water resources to enable the processing of aggregates. There are other river users that have also not been appropriately considered in the Water Conservation Order, in terms of the implications that the imposition of it will have on their livelihoods (i.e. farming activities).

It is therefore considered that the Water Conservation Order fails to recognise that there is more than one person or entity that uses and/or places value on the Oreti River, and values are assigned to the river for a variety of reasons. Therefore the Water Conservation Order has the potential to constrain significant and important economic activities within the catchment, which is considered to be contrary to the purposes of the Resource Management Act as provided for by section 5.

What the Water Conservation Order Seeks

The Water Conservation Order Seeks:

- A blanket prohibition on the damming of the Oreti River and identified tributaries;
- Restrictions on surface water takes; and
- Restrictions on groundwater takes in the upper catchment.

These restrictions are sought without any due regard to the purpose of the Resource Management Act 1991, or the potential adverse environmental effects of existing and future activities using the Oreti River. They are also sought to ensure that the Southland Regional Council ("the Council") cannot develop rules now or in the future that contravene the Water Conservation Order. This is considered to be inappropriate given the delegated responsibilities in the Act to the Council, and the fact that the Council carries out monitoring and record-keeping and is best placed to determine whether controls are working appropriately or whether they need to be more or less flexible. It is also considered to be inappropriate given that although Fish and Game have provided some scientific evidence to support their claim, some of the conclusions drawn in the Water Conservation Order appear to be formed without a sound scientific basis.

**3. The Aggregate and Quarry Association of New Zealand (Inc) seeks the following decision from the Special Tribunal, Oreti River Water Conservation Order:**

- 3.1 That the Water Conservation Order in its current form is not approved by the Ministry for the Environment.

**AND**

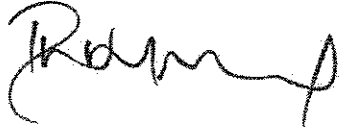
- 3.2 That the Southland Regional Council manage damming of the Oreti River, surface water takes and groundwater takes in accordance with the Regional Plan and associated regional rules. This would enable thresholds to be established for effects that are considered to be appropriate and for proposals to be evaluated under the resource consent process, and considered as to whether the adverse environmental effects of the activity can be avoided, remedied or mitigated.

**OR**

- 3.3 Such consequential or other relief required to give effect to this submission.

**4. The Aggregate and Quarry Association of New Zealand (Inc) does wish to be heard in support of its submission.**

5. **If others make a similar submission, the Aggregate and Quarry Association of New Zealand (Inc) would be prepared to consider presenting a joint case with them at any hearing.**



**Signature** .....

*(Signature of submitter or person authorised to sign on behalf of submitter)*

**Date**

15 November 2006 .....

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