

**BEFORE THE BOARD OF INQUIRY**

**IN THE MATTER** of the Resource Management Act  
1991

**AND**

**IN THE MATTER** of resource consent applications by  
Mighty River Power Limited to  
Palmerston North City Council,  
Taranaki District Council and Horizons  
Regional Council for the Turitea Wind  
Farm Project

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**AFFIDAVIT OF MARK ALAN CLIVE HENRY**

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I, **MARK ALAN CLIVE HENRY** of Hamilton, Project Manager, swear:

1. I am the project manager for the Turitea Wind Farm, and am employed by Mighty River Power Limited (*Mighty River Power*). I have provided evidence in chief and rebuttal evidence on behalf of Mighty River Power in respect of the Turitea Wind Farm resource consent applications. This evidence has related to project description and consultation matters. I have read the Memorandum of Counsel of Palmerston North City Council (*PNCC*) dated 10 June 2009 (*the Memorandum of Counsel for PNCC*), and the Memorandum of Counsel regarding evidence exchanged prepared on behalf of Mighty River Power dated 16 June 2009.
2. I confirm that the factual matters contained within the Memorandum of Counsel prepared on behalf of Mighty River Power are accurate and correct. I am also familiar with the matters to which I depose.

***PNCC's submission on the application***

3. Mighty River Power received PNCC's submission in respect of its applications for the Turitea Wind Farm on 20 February 2009. A copy of that submission is attached as **Appendix A**.
4. On 18 February 2009 I attended an Extraordinary Council Meeting of PNCC held at Council's chambers. A copy of the Order Paper for that meeting is attached as **Appendix B**. The key purpose of that meeting was for PNCC to consider a report prepared by Senior Policy Planner Mr Andrew Brown regarding the appropriate nature of PNCC's submission on the Turitea applications. Mr Brown's report set out various options for the form that PNCC's submission could take. The report included a draft submission, and a recommendation that this draft submission be lodged with the Board of Inquiry (*Board*) that had been appointed to hear the applications.
5. I note that page 4 of the draft submission refers to "*an indicative table of PNCC's experts*", and notes that this table is attached as Appendix 4 to the draft submission. However, this Appendix was not included in the electronic version of the Order Paper loaded onto PNCC's website, nor the hard copy of the Order Paper that I was subsequently provided with

at that meeting. The list of potential experts was also not discussed any further during the meeting.

6. The final submission received from PNCC on 20 February 2009 did not include any reference to Appendix 4, nor the names of the experts PNCC was intending to engage to prepare expert evidence. Instead, it only included a "non-exhaustive" list of topics that PNCC's experts would address.
7. As a result, Mighty River Power considered that the two week rebuttal period provided for in the Board's Directions: Preliminary and Hearing Procedures (*Directions*) might be insufficient to address all the potential issues that could be raised in PNCC's evidence. Accordingly, Mighty River Power's legal counsel wrote to the Board on 11 March 2009 requesting an additional week for the preparation of rebuttal evidence. That letter is attached as **Appendix C**.

***Public meeting called by PNCC on 12 February 2009***

8. On 9 February 2009 I became aware of a meeting scheduled by PNCC to be held on 12 February 2009 at the Palmerston North Convention Centre, via an advertisement placed by PNCC in the local Palmerston North newspaper, the Manawatu Standard. A copy of that advertisement is attached as **Appendix D**. The meeting was advertised as an information session, to inform the public on how to make a submission on the Turitea Wind Farm, and encourage them to do so.
9. I was unable to attend that meeting. However, in my stead, one of my colleagues from Mighty River Power, Mr Mason Jackson (Consent Manager, Project Development) did attend. Mr Jackson and I had a thorough de-brief regarding the meeting the following day.
10. From Mr Jackson's debrief, I understand that a power point slide show was presented to those at the meeting, although hard copies of this were not made available to those present. I further understand that the presentation included a slide outlining some of the experts to be engaged to prepare expert evidence for PNCC in respect of the Turitea Wind



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Farm. A copy of this slide (Number 39) is included as **Appendix E** that describes an expert panel to be called by PNCC that includes:

- Mr Baker (planning);
  - Mr Anstey (landscape);
  - Mr Baines (social impact);
  - Ms Melhuish (energy);
  - Mr Blaschke (ecology); and
  - Mr Lloyd (acoustics).
11. I have confirmed with Mr Jackson that no additional information as to the nature or extent of the evidence to be prepared by PNCC was given during the presentation.
  12. As the Turitea project manager, I was surprised that the presentation appeared to be primarily aimed at encouraging and assisting the Palmerston North public to file submissions in opposition to the proposal. This is demonstrated in both the way the meeting was advertised (as already outlined above), and from the slide pack purporting to be that presented at the meeting which was subsequently posted on the PNCC website. A copy of that slide pack is attached as **Appendix E**.
  13. The Mighty River Power representatives attending the meeting took fulsome notes of the oral presentation that sat alongside the slide pack, as presented by Mr Maassen. From those notes, I understand that orally Mr Maassen was even stronger in advocating possible grounds for objection to the audience. For example, there was discussion on the issue of infrasound and whether those within a 4 kilometre radius would be potentially adversely affected.
  14. I also understand that details in the oral presentation relating to vegetation clearance within the Turitea Reserve conflicted with Mighty River Power's application documents. I understand that when this was pointed out on the night by members of the public, Mr Maassen continued to assert that he was correct. I can confirm that Mighty River



Power's application is based on no more than 25 Ha of indigenous vegetation removal within the Reserve as required under its contract with PNCC.

15. I have also confirmed with Mr Jackson that the version of the presentation posted on the website was changed from that which was actually presented in the meeting. I note that the new version of the slide pack posted to PNCC's website is indeed dated 13 February no doubt after it was amended.

***Evidence Presented by PNCC***

16. At paragraph 7 of his affidavit, Mr Baker notes that Professor Sims' evidence cannot be described as rebuttal to that of Ms Melhuish, given that she did not discuss climate change issues. However, Ms Melhuish is a well known energy consultant who has previously presented information in a number of public fora regarding climate change. Recognising climate change as an important consideration in this case, there was a reasonable expectation that the issue would be discussed by Ms Melhuish. Professor Sims responds to this failing.
17. Mr Baker also contends that climate change issues are outside of Ms Melhuish's area of expertise. However, I note that she has previously made a submission to the Government's Finance and Expenditure Select Committee in respect of the Climate Change (Emissions Trading and Renewable Preference) Bill, and written an article in the New Zealand Medical Journal entitled "*Addressing the threat of climate change: is New Zealand lagging behind?*"<sup>1</sup>. In that article, it is acknowledged that Ms Melhuish is a member of the Climate Defence Network (New Zealand), a voluntary sector agency concerned with preventing destabilising climate change. Copies of these documents are attached as **Appendices F and G**.
18. A Google search of Ms Melhuish's name, with the words 'climate change' includes reference to a number of other submissions she has made, seminars and conferences she has run, and reports she has written

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<sup>1</sup> Journal of the New Zealand Medical Association, 23-March-2007, Vol 120 No 1251.

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concerning the effects of climate change on New Zealand's energy market. A screen print of this search is attached as **Appendix H**. It is clear to me that Ms Melhuish has previously claimed relevant expertise in the area of climate change.

***Expert Caucusing***

19. Throughout the evidence preparation process Mighty River Power's experts have been encouraged to caucus with other experts as much as possible. For example, discussions between the traffic engineer appearing for Mighty River Power, Mr Galloway, and PNCC's traffic engineer, Mr Tate, have resulted in an agreed set of suggested conditions being developed prior to the exchange of Mighty River Power's rebuttal evidence.
20. Further, I can confirm that Mighty River Power's experts have been informed of the content of the Directions, and the obligations this places on them personally as experts with respect to caucusing.
21. Mighty River Power and its legal Counsel have also sought meetings and telephone conference calls with PNCC and its lawyers specifically to cover caucusing arrangements. Since late March 2009 all those requests have either been denied or not responded to.
22. By contrast, and as confirmed in the email Mr Maassen has sent to our legal Counsel attached as **Appendix I**, I understand that subsequent to filing the Memorandum of Counsel for PNCC, Mr Maassen has instructed his witnesses not to caucus with those Mighty River Power experts whose rebuttal evidence he is seeking to challenge. However, as Mighty River Power considers that this instruction is contrary to the Directions, it has accordingly endeavoured to ensure that caucusing continues to proceed wherever possible, and with all parties willing to participate in that caucusing.
23. Mighty River Power considers that this is especially important given that caucusing must include experts called by submitters other than PNCC, such as those who have submitted evidence on behalf of the Tararua-



Aokautere Guardians Inc and Friends of Turitea Reserve, as well as those who are appearing on their own behalf, such as Dr Rapson.

24. Mr Maassen states that Mighty River Power is attempting to run exclusive caucusing sessions with only some experts in each discipline. Mighty River Power has issued no such instruction to experts. Rather, with the tight timelines for production of reports, expert availability is constraining full group meetings and experts consider it better to proceed with several meetings where that is necessary and possible.

**SWORN** at Hamilton  
this 16<sup>th</sup> day of June 2009  
before me:

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Marise Winthrop  
Barrister & Solicitor  
Young & Associates  
Hamilton

**A Solicitor of the High Court of New Zealand**

  
