

BEFORE THE BOARD OF INQUIRY

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a Board of Inquiry appointed under section 146 of the Resource Management Act 1991 to consider an application by Mighty River Power Limited for resource consents to construct, operate and maintain a wind farm at Turitea

**MEMORANDUM OF COUNSEL FOR MIGHTY RIVER POWER LIMITED
REGARDING CONDITIONS AND EXPERT CAUCUSING**

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MAY IT PLEASE THE BOARD:

1. We understand the Board has been receiving queries from a number of submitters regarding the revised version of the proposed consent conditions circulated by Mighty River Power (in accordance with the Board's directions) on 1 February 2010. In particular, submitters have requested an update as to:
 - 1.1 the next iteration of the proposed noise conditions that is currently being prepared; and
 - 1.2 the status of caucusing that is being undertaken with respect to those proposed conditions.
2. This memorandum accordingly provides the Board and submitters with an update on those matters.

Update as to noise conditions

3. The time taken to prepare the revised noise conditions following the judicial conference call reflects both the number of various inputs, and detailed level of consideration, required from Mighty River Power and its experts in this regard. To ensure the new conditions fully address the issues raised by the Judge, site visits at Makara and Mill Creek have been occurring. There have also been meetings with relevant Council officers to get their views on the workability issues with the Makara conditions.
4. We have been endeavouring to ensure that the revised conditions are advanced as quickly as possible, and are aiming to circulate those to other parties' acoustic experts and Dr Trevathan today. It is hoped that caucusing between the experts will occur during the week of 8 March 2010, and we will update the Board and submitters as to the outcomes of that at the recommencement of the hearing on 15 March 2010. Until that occurs we will not know whether the noise experts will need to be recalled.

Status of expert caucusing

5. The following summarises the status of the various expert caucusing discussions that have been occurring, or are about to occur, and is a further update to that provided in our email to all parties of 22 February 2010:
 - 5.1 *Noise*: As noted above, it is hoped that caucusing will occur in the week of 8 March 2010;
 - 5.2 *Landscape*: Landscape caucusing has been occurring since January 2010 between some experts, is ongoing, and should be completed by 15 March 2010;
 - 5.3 *Terrestrial ecology*: Caucusing between the ecological experts has been undertaken, the outcome of which was filed with the Board and served on other parties on 22 February 2010;
 - 5.4 *Aquatic ecology*: Caucusing between the aquatic ecology experts is currently underway, and should be completed by 15 March 2010;
 - 5.5 *Traffic*: We expect to receive further caucusing reports regarding traffic issues following the second traffic management meeting with residents of Greens and Kahuterawa Roads, which is scheduled for this evening (3 March 2010);
 - 5.6 *Water quality*: Caucusing regarding water quality issues has been undertaken to the extent possible given the unavailability of some of Palmerston North City Council's experts. This has resulted in the recommendation of an additional consent condition regarding buffer areas for runoff from spoil disposal sites within the Kahuterawa Catchment, as outlined in the response to the Board's Memorandum regarding water quality and sediment runoff issues. That response will be filed on the Board and served on all parties today.
 - 5.7 *Planning*: Caucusing between the planning experts is currently underway, and is likely to be ongoing during the remainder of the hearing.

6. We also note that caucusing with other experts regarding the revised conditions could not occur until the revised design was available, as Palmerston North City Council was not able to commit its experts until this time.



K R Price
Counsel for Mighty River Power Limited
3 March 2010