

Decision No: W 98/92 File → 0 4/3/9

IN THE MATTER of the Water and  
Soil Conservation  
Act 1967

AND

IN THE MATTER of an inquiry  
under section 20C  
of the Act into a  
draft NATIONAL  
WATER CONSERVATION  
ORDER for the  
Rangitikei River

(Inquiry No: TCP  
180/86)

BEFORE THE PLANNING TRIBUNAL

His Honour Judge Treadwell presiding  
Mr R G Bishop  
Ms J D Rowan

HEARING at Wanganui on the 16th day of November 1992

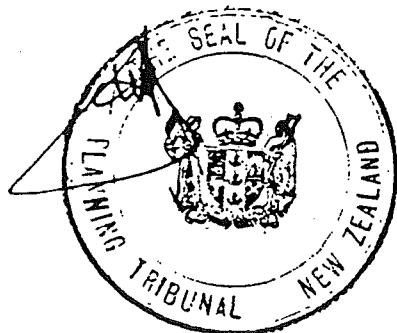
COUNSEL

Mr B I J Cowper for NZ Fish and Game Council  
Mr D H Brown for Wanganui-Rangitikei Electric Power Board and  
Manawatu-Tararua Electric Power Board  
Mr S J Ross for Rangitikei District Council  
Ms R J Feary for Electricity Corporation of NZ Ltd.  
Miss B H Arthur for Minister for the Environment  
Mr P J Milne for Manawatu-Wanganui Regional Council

DECISION

Report and Recommendation pursuant to s.20C of the Water and  
Soil Conservation Act by the Planning Tribunal comprising  
Planning Judge W J M Treadwell presiding; Mr R G Bishop and  
Ms J D Rowan, Members.

This is an inquiry pursuant to the provisions of s.20C of the  
Water and Soil Conservation Act 1967 in respect of a draft  
National Conservation Order affecting the Upper and Middle  
reaches of the Rangitikei River, the extent of those reaches  
being now defined.



An application was lodged for the order on 3 August 1984, the Wellington Acclimatisation Society and Others and in March of 1986 a draft order was advertised. Two parties lodged formal submissions/objections:

- (i) the applicant society and others
- (ii) a joint objection by the Wanganui-Rangitikei Electric Power Board and the Manawatu-Oroua Electric Power Board.

The National Water and Soil Conservation Authority (NWSCA) held an informal public hearing to determine the geographical limits of the order. Other interested parties took part in those discussions.

A Judicial Conference was held at Palmerston North on 19 November 1990. At that stage the interested parties pursuant to s.20C(1)(b) were:

The Minister for the Environment  
 The Wellington Fish and Game Council (statutory successor to the original applicant by virtue of s.17(26B) of the Conservation Law Reform Act 1990)  
 The Wanganui-Rangitikei Electric Power Board  
 The Manawatu-Tararua Electric Power Board (formerly the Manawatu-Oroua Electric Power Board)  
 The Rangitikei District Council  
 The Electricity Corporation of New Zealand Limited  
 Federated Farmers (Manawatu-Rangitikei Council)  
 The Manawatu-Wanganui Regional Council  
 Mr P G Pharazyn

The latter two parties have now indicated that their concerns have been met. The remaining parties were all represented before us and were in agreement upon the terms of a draft order.

The Tribunal, despite the consensus between the parties, is still required to conduct an inquiry in terms of the Act and to that end we heard submissions from those parties who wished to make them and also heard evidence from Mr I M Buchanan, Field Officer for the Wellington Fish and Game Council, which was unchallenged.

For the purposes of this report we repeat the conclusion reached by Mr Buchanan fully supported by the evidence he gave. His conclusion was:

"That portion of the Rangitikei River defined as the 'Upper River' has highly valued wild and scenic characteristics and outstanding recreational and fisheries values warranting preservation as far as possible in its natural state. The portion defined as the "Middle River" exhibits outstanding scenic, recreational and fisheries features which should be protected by prohibiting damming and by restraints on water resource development to maintain fish passage, spawning conditions and angling opportunities".

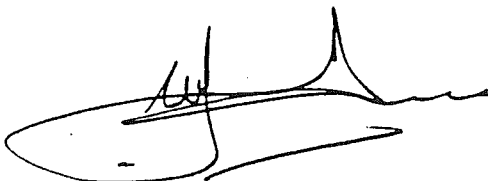


It will be noted that the terms of the recommended order do not prevent impoundment of water by dams constructed downstream of the protected areas, but the extent of upstream effect is defined. That is the intent of Clause 4(4) of the recommended order which is not a prohibition on downstream dams but a prohibition on the impoundment effects i.e a dam is not permitted if its effects on the water of the "middle river" exceed certain parameters.

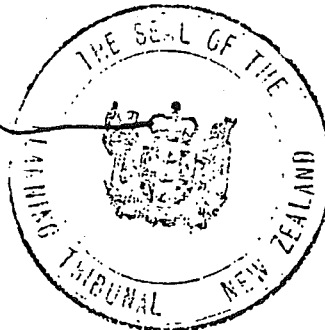
We also sound a note of caution should it be thought that this order is protective of the scenic features which surround the protected waters. It will be noted that Clause 3 of the order uses the expression "includes and provides for". Thus whilst the declaration made in that clause "includes" the scenic land features which surround the waters those features are not the subject of protection under the provisions of ss.20A or 20 B of the Act although they are a consideration to be taken into account. Section 20 restricts the application of the order to any specified river, stream or lake or any specified part thereof. In order to protect the scenic values of the surrounding land other measures will be required.

The foregoing is our report and we again record that all parties concur in making an order in the terms set forth in the annexed draft marked "A". We recommend that a National Water Conservation order issue in those terms.

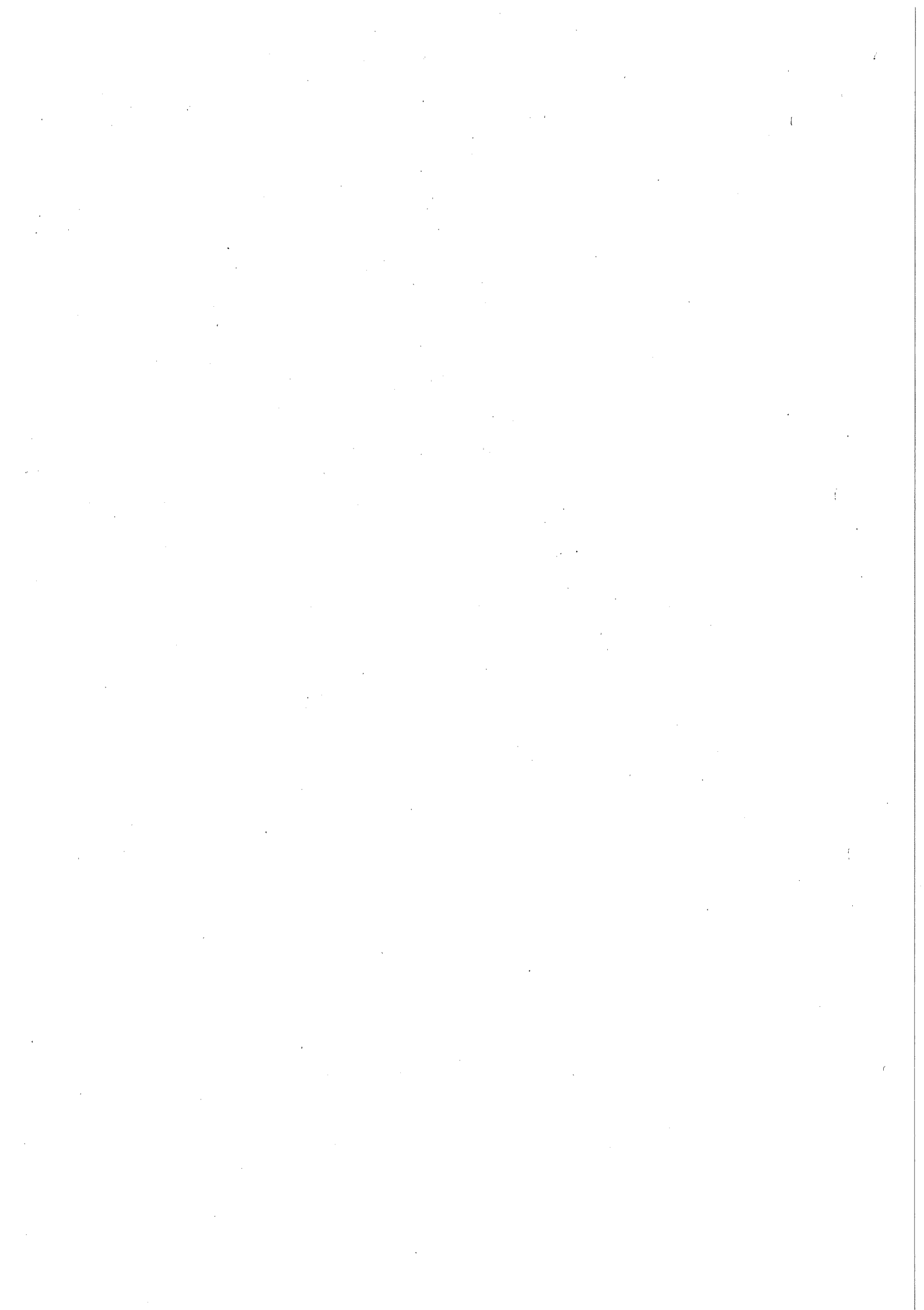
DATED at Wellington this 24<sup>th</sup> day of December 1992



W J M Treadwell  
PLANNING JUDGE



0543P



Worsh 1/2/9

P.C.O. 18/P  
Drafted by I. E. Hurrell

# RESTRICTED

## THE WATER CONSERVATION (RANGITIKEI RIVER) ORDER 1993

Governor-General

### ORDER IN COUNCIL

At Wellington this                      day of                      1993

Present:

IN COUNCIL

PURSUANT to section 214 of the Resource Management Act 1991, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

### ORDER

**1. Title and commencement**—(1) This order may be cited as the Water Conservation (Rangitikei River) Order 1993.

(2) This order shall come into force on the 28th day after the date of its notification in the *Gazette*.

**2. Interpretation**—In this order, unless the context otherwise requires,—

“Act” means the Resource Management Act 1991:

“Middle River” means—

(a) The Rangitikei River itself from its confluence with the Makahikatoa Stream (approximate map reference Infomap 260 U21/725 888) to the Mangarere Bridge (approximate map reference Infomap 260 T22/483 496); and

*Water Conservation (Rangitikei River) Order 1993*

(b) The Whakaurekau River plus all its tributaries and the Kawhatau River plus its following tributaries, namely, the Pouranaki River and the Mangakokeke Stream:

“River flow” means for any given point on the Middle River and Upper River—

(a) The mean daily flow occurring at that point; plus

(b) The sum of abstractions from the Upper and Middle River upstream of that given point expressed as a daily mean, but not including any abstraction from the Moawhango River at the Moawhango Dam (approximate map reference Infomap 260 T20/471 962) for hydro-electric power generation purposes:

“Upper River” means—

(a) The Rangitikei River itself from its source (approximate map reference Infomap 260 U19/723 313) to its confluence with the Makahikatoa Stream (approximate map reference Infomap 260 U21/725 888); and

(b) All rivers and streams contributing water to the Rangitikei River upstream of that confluence.

**3. Outstanding characteristics and features**—(1) It is hereby declared that the Upper River includes and provides for—

(a) Outstanding wild and scenic characteristics; and

(b) Outstanding recreational, fisheries, and wildlife habitat features.

(2) It is hereby declared that the Middle River includes and provides for—

(a) Outstanding scenic characteristics; and

(b) Outstanding recreational and fisheries features.

**4. Waters to be protected**—Because of the outstanding characteristics and features specified in clause 3 of this order, the waters of the Upper River and Middle River are, subject to clause 5 of this order, to be protected as follows:

(a) The quantity and rate of flow of natural water in the Upper River shall be retained in its natural state:

(b) The rate of flow of the natural waters at any point in the Middle River shall not be less than 95 percent of the river flow at that point:

(c) Resource consents under the Act shall not be granted to dam the Upper River or the Middle River:

(d) Resource consents under the Act shall not be granted to construct any dam downstream of the Middle River, which has the effect of impounding water in the Middle River upstream of the confluence with the Hautapu River:

(e) In granting any resource consents under the Act or making a rule in a regional plan, in respect of the Upper River or the Middle River, the regional council shall ensure that, after allowing for reasonable mixing of the discharge with the receiving water,—

(i) The natural water temperature shall not be changed by more than 3 degrees Celsius; and

(ii) The acidity or alkalinity of the water as measured by the pH shall be within the range of 6.0 to 9.0; and within that range the natural pH of the water shall not be changed by more than 1.0 unit; and

*Water Conservation (Rangitikei River) Order 1993*

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- (iii) The concentration of dissolved oxygen shall be not less than 80 percent of saturation concentration; and
- (iv) There shall be no undesirable biological growths attributable to contaminants.

**5. Scope of order—**(1) Nothing in this order shall be construed as limiting any right to the use of water for domestic needs, for the needs of animals, and for or in connection with fire-fighting purposes.

(2) Nothing in this order shall prevent the renewal of any general authorisation granted under section 22 of the Water and Soil Conservation Act 1967 and deemed to be a provision of a regional plan under section 368 of the Act, or any resource consent under the Act which is current on the commencement of this order, or the granting of resource consents under the Act in substitution for existing use rights which are current on the commencement of this order.

(3) Nothing in this order shall prevent the granting of resource consents under the Act, or the making of rules in regional plans, in respect of the Upper River or the Middle River, for the purposes of—

- (a) Research into, and enhancement of, fisheries and wildlife habitats;
- (b) Maintenance and protection of roads, bridges, and other necessary public utilities; and

(c) Soil conservation, rivers control, or other activities undertaken pursuant to the Soil Conservation and Rivers Control Act 1941.

(4) Nothing in this order shall prevent the granting of resource consents under the Act for the construction of any dam downstream from the Middle River which has the effect of impounding water in the Middle River as far upstream as the confluence with the Hautapu River.

Clerk of the Executive Council.

EXPLANATORY NOTE

*This note is not part of the order, but is intended to indicate its general effect.*

This order, which comes into force 28 days after its notification in the *Gazette*, declares—

- (a) The waters of the Upper Rangitikei River—
  - (i) To have outstanding wild and scenic characteristics; and
  - (ii) To have outstanding recreational, fisheries, and wildlife habitat features; and
- (b) The waters of the Middle Rangitikei River—
  - (i) To have outstanding scenic characteristics; and
  - (ii) To have outstanding recreational and fisheries features.

The order specifies how the waters are to be protected and the limitations of the protection.

