

**IN THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

ENV-2011-CHC-090

In the matter of the Resource Management Act 1991

Between **MERIDIAN ENERGY LIMITED**

Applicant

And **HURUNUI DISTRICT COUNCIL and
CANTERBURY REGIONAL COUNCIL**

Consent Authorities

**MEMORANDUM FOR HURUNUI DISTRICT COUNCIL IN OPPOSITION TO AN
APPLICATION BY TIPAPA LIMITED DATED 24 MAY 2012 RELATING TO DR
DAVID WELCH**

DATED 24th May 2012

BUDDLEFINDLAY
Barristers and Solicitors
Christchurch

Solicitor Acting: **K G Smith**
Email: kerry.smith@buddlefindlay.com
Tel 64-3-379 1747 Fax 64-3-379 5659 PO Box 322 DX WP20307 Christchurch 8140

MAY IT PLEASE THE COURT:

1. Hurunui District Council is opposed to the application made by Tipapa Limited on 24 May 2012 seeking to have Dr David Welch attend expert caucusing on health matters scheduled for 30 May 2012.
2. The grounds of this opposition are that the application is fundamentally flawed and misplaced.
3. In support of those grounds the Council notes:
 - (a) Dr Welch is not a witness identified for any party in the proceedings. On 16 February 2012 and 16 March 2012 Tipapa Limited gave notice of its list of witnesses and did not include Dr Welch, or any reference which might be interpreted as being to him.
 - (b) Evidence from Tipapa as a submitter opposed to the application was required to be filed on 27 April 2012. What was filed by Tipapa did not include a brief of evidence, or any other material, from Dr Welch.
 - (c) No interlocutory application, supported by an appropriate affidavit, has been filed seeking to extend the time within which evidence from Dr Welch might be provided, or explaining why there has been a delay from 27 April 2012 through to and including 24 May 2012 to seek Dr Welch's participation.
 - (d) The reasons now advanced for Dr Welch's participation are inadequate and do not include an assertion that some aspect of the health-related effects cannot be addressed by the experts already scheduled for the caucus meeting.
 - (e) The grounds advanced appear to rely on a suggestion that Dr Shepherd is outnumbered and there is a vaguely expressed benefit from having Dr Welch's participate, but those grounds fall well short of justifying Dr Welch's attendance.
4. As to the vague assertion that Dr Shepherd might be outnumbered, the Council observes:
 - (a) That this caucusing is being chaired by an Environment Court Commissioner so there is no justification to assume Dr Shepherd will be unable to properly state his expert opinion; and

- (b) No basis has been made out for any suggestion that the exchanges of expert opinion would be compromised or frustrated merely because of the numbers of parties attending; and
- (c) Mr Carr's letter does not acknowledge attendance by Professor David McBride who has been retained by the Council as an expert witness; and
- (d) The Code of Conduct for expert witnesses requires a frank exchange in a professional matter including a statement not to be an advocate (refer paragraphs 5.4.1 and 5.4.2). The claim by Mr Carr implies potential departure from that Code by some of the other witnesses but offers no evidential support for that proposition.

5. From the Council's perspective this application is too little and too late.

DATED at Christchurch this ^{24th} day of May 2012



K G Smith
Counsel for Hurunui District Council