

Before the Environmental Protection Agency Decision Making Panel
at Wellington

under: The Exclusive Economic Zone and Continental Shelf
(Environmental Effects) Act 2012

in the matter of: Trans Tasman Resources ironsand application

by: **Sanford Limited**

Statement of evidence of Alison Elizabeth Undorf-Lay on behalf of Sanford
Limited

Dated: 23 February 2017

REFERENCE: Ali Undorf-Lay (aundorflay@sanford.co.nz)

ORAL STATEMENT BY ALISON ELIZABETH UNDORF-LAY ON BEHALF OF SANFORD LIMITED

QUALIFICATIONS AND EXPERIENCE

- 1 My full name is **Alison Elizabeth Undorf-Lay**. I am the Industry Liaison Manager for Sanford Limited (**Sanford**) based in Auckland. I work in Sanford Operations across the company and support the Executive and senior management team on fisheries and aquaculture matters. I have held this position for six years.
- 2 I have a Masters of Science (Resource Management) and 20 years practical experience working with the Resource Management Act (**RMA**). While I do not consider myself a RMA expert I do have a good understanding of the principles of sustainable management and the resource consenting process including the writing of conditions. Through my involvement with the Fisheries Act I have frequently negotiated adaptive management procedures, which are relatively common in fisheries management.
- 3 I am authorised to present this submission on behalf of **Mr Volker Kuntzsch**, Chief Executive of Sanford. Following more than a year of meetings with Trans Tasman Resources (**TTR**) at both management and officer level during which we shared information and views, Sanford has become sufficiently confident with the application to support it being granted subject to conditions.
- 4 Critical to Sanford support was the TTR agreement to undertake two years of base line monitoring prior to beginning the dredging activity. Sanford and TTR have also discussed and agreed that any additional fisheries (or fishing) questions could be best addressed (and our views managed) by the fisheries representative member on the Technical Review Group (**TRG**). Sanford sat with TTR on two occasions and jointly crafted several of the proposed marine consent conditions, these conditions are critical to Sanford extending its support to the application.

- 5 Sanford was motivated to work collaboratively with TTR because we strive to take a fair, evidence based approach to other users' actions, within the overarching aim of carrying out business while being minimally disruptive to the marine environment. As a fishing company it is in our utmost interest to protect the life in New Zealand waters.
- 6 Sanford support for the TTR application is conditional on the Environmental Protection Agency's (**EPA**) deeming TTR's sediment plume modelling predictions reasonable, and therefore the anticipated adverse effects on commercial fish stocks and commercial fishing being no worse than predicted. To this end, Sanford has read the ***Lodgement Review of Effects on Plankton, Fish and Marine Mammals, Chiffings*** 2016, and taken advice from our own fisheries' experts **Drs David Middleton and Paul Starr**.
- 7 Drs Middleton and Starr were engaged by Sanford to review documents provided by TTR on the impacts of their proposal on fishing and fisheries. NIWA's analysis of the overlap between the estimated sediment plume and South Taranaki fisheries was revised following their input.

Scope of submission

- 8 My submission will:
 - 8.1 Describe Sanford's existing use rights within the proposed mining area including the potential adverse effects on our wild harvest and aquaculture business, and how these are proposed to be avoided or mitigated by TTR.
 - 8.2 Explain how TTR approached Sanford, the conditions of engagement we agreed upon, our process of collaboration and the on-going working relationship between the two companies primarily through the TAG.

- 8.3 Work through some of the resource consent conditions proposed by TTR in their application, explain why these are important to Sanford and why we seek that these be reflected in the final decision if consent is granted.
- 8.4 Finally I touch on the Sanford-Moana Maui Dolphin Protection Plan that was announced last year, and the some of the monitoring discussion raised in the expert evidence of **Dr Elizabeth Slooten**. I suggest that there appears to be a mutually beneficial overlap between what **Dr Slooten** is suggesting, TTR's monitoring of dolphins in the area and our own dolphin work.

SUMMARY OF ISSUES

- 9 The key issues raised by Sanford in our conversations with TTR over the last year were:
 - 9.1 Like TTR, Sanford is a user of the ocean's resources. In our view it is only by learning to work together and pooling our collective and diverse expertise, and by using the best available data can we ensure the vision of successful businesses functioning in a healthy and sustainable marine ecosystem is met – all marine users and stakeholders need to start working together.
 - 9.2 We all share a responsibility to safeguard our ocean environments.
 - 9.3 Sanford accepts that there will never be absolute certainty, therefore the role of the resource consent conditions is to set limits on sediment and other adverse effects. The on-going opportunities to monitor the environment, and if necessary review the conditions in response to unanticipated consequences on other users, will be key to

ensuring the long term sustainability of the proposed mining operation within the wider ocean environment.

SANFORD'S EXISTING USE RIGHT

Wild harvest

- 10 The proposed iron sand mining operation is located in Fish Management Area 8 (FMA 8) and is within the New Zealand Fisheries Statistical Area 040. The evidence of **Dr Jeremy Helson** from Fisheries Inshore New Zealand explains the importance of the FMA relative to fish stocks, fishing and the annual catching entitlements of fishers (**ACE**).

- 11 Sanford holds a license to fish across New Zealand waters, is a significant quota owner in FMA 8 and has some quota in FMA 7. Sanford has a long and well established catching presence in Statistical Area 040 (the Rolling Grounds). Sanford and companies that Sanford has purchased have fished within the area of the proposed mining site since the introduction of the Quota Management System (**QMS**) in 1986. Whanganui Seafoods, a company Sanford purchased mid 1990s, was catching trevally in the Rolling Grounds from the 1960s.

- 12 Commercial fishing rights are recognised in the EEZ and Continental Shelf Act 2012 as lawfully established activities. Sanford's FMA8 quota package and ACE includes the following key species:
 - Snapper (Sanford owns 60.8% of the SNA 8 Total Allowable Commercial Catch (**TACC**)),
 - Trevally (Sanford owns 56.7% of the TRE 7 TACC),
 - Tarakihi (Sanford owns 35.4% of the TAR 8 TACC), and
 - Blue mackerel (Sanford owns 21.5% of the EMA 7 TACC).
 - Leatherjacket (Sanford owns 20.5% of the LEA 2 TACC)

- Red cod (Sanford owns 20% of RCO 2 TACC)
 - Rough skate (Sanford owns 47.5% of RSK 8 TACC)
 - Spiny dogfish (Sanford owns 31.6% of SPD 8 TACC)
 - Jack mackerel (Sanford owns 37.5% of JMA 7 TACC), and
 - A significant interest in skipjack tuna.
- 13 Both Sanford's North Island trawl and purse seine fleets target fish in and around the Rolling Grounds, within the TTR proposed mine site. The geography of this area is a series of ridges running parallel to shore that are 23km long and 4km wide with an uplift of between 5 and 15 meters (39°54'S, 174° 10'E). Fish congregate in the Rolling Grounds and our vessels work along its ridges.
- 14 Fish stocks and fishing activity occurring over the plume will without doubt be adversely affected, as shown in the **Dr Alison MacDiarmid** calculations. Sanford based its tolerance of these effects on the fact that they were modelled with the worst case scenario in mind, the species mix and nature of the fishing in the area, and the that the area in our understanding is not a significant nursery ground or significant contributor to the overall health and abundance of the FMA 8 fishery. Most recently, I have read the evidence of **Dr Donald Robertson**, the EPA appointed fisheries expert, and understand that his view of the estimate of effects calculated by **Dr MacDiarmid** were reasonable.
- 15 For Sanford, we also viewed the EPA legislative powers to call in the consent, the two years of baseline monitoring, and then the ongoing TRG process of reviewing and mitigation (unanticipated) effects as being sufficiently robust and protective of existing user rights so as to enable resolution and mitigation of any long term untenable effects on fish stocks and fishing. We also consider our relationship with TTR, which is based on a strong desire to co-exist amicably, will enable discussion and resolution of conflict as issues arise.

Aquaculture

- 16 The proposed TTR mine site is 142 nautical miles from the closest Sanford farms in the top of the South Island. The proposed TTR safe haven for their dredging vessels is Admiralty Bay, where 1500 tonnes per annum of Sanford aquaculture product is harvested from 16 farms that we are involved with. There are 25 farms owned by others located in the same bay.
- 17 Sanford has committed significant financial resource into acquiring water space for aquaculture development, which is valued in a range between \$70,000 - 150,000 a hectare depending on location, without product.
- 18 In total Sanford owns, leases or has shares in approximately 12,572,000 meters of crop and seed line of Greenshell mussels grown in the top of the South Island. These mussels are processed in two Sanford owned plants (Havelock and Tauranga), the efficient running of these processing operations is dependent on receiving a consistent flow of product.
- 19 Sanford has understood that modelling of the plume, even under worse case scenarios (that is 100% mortality of fish, and 100% loss of habitat), shows that it is highly unlikely to move into South Island waters. This means that our concerns for aquaculture are now limited to TTR vessel activities in Admiralty Bay, where safe haven is sought in severe weather, refuelling, and biofouling and ballast water marine pathways. The mitigation of these risks are managed through the consent conditions, see clauses 27 - 38 of this submission.

Collaboration

- 20 At the TTR 2013 EPA hearing Sanford's position was supportive of the consent being granted subject to the conditions that we offered

up at the hearing, and noting that we had asked the DMC to adopt a very precautionary approach given the increasing uncertainty arising from what we considered were last minute changes being made to the application during the hearing.

- 21 Following on from EPA decision to decline the application, the TTR Chief Executive **Shawn Thompson** met with **Volker Kuntzsch** - Sanford CEO, **Greg Johansson** - Sanford Chief Operations Officer and **myself**. Shawn said, TTR was intending to reapply for the consent and in preparing its new application was reaching out to all fishing companies who had submitted against them and asking for advice on how Sanford would like to engage.
- 22 At this meeting Sanford offered and subsequently organised opportunities for commercial seafood companies – wild harvest and aquaculture to meet with TTR. These invitations were extended to others and outcomes of our discussions circulated.
- 23 Through this process of engagement, at Sanford's request TTR reimbursed the costs of external experts, namely **Drs David Middleton** and **Paul Starr** to work with NIWA, and **Dr Barrie Forrest** to advise on biofouling. These experts were chosen by Sanford, we had worked with them in the past and they understood our industry and our business. Based on their advice, Sanford accepted in principle that likely adverse effects of the mining activity could be avoided or mitigated. We then turned to the draft marine consent conditions proposed by TTR.
- 24 On behalf of Sanford I had several meetings with **Dr Phil Mitchell**, the TTR planning consultant, to work through and amend the proposed resource consent conditions until both TTR and Sanford were in agreement that sufficient conditions and processes were in place to protect our business in the event of unanticipated consequences.

- 25 Throughout this collaboration with TTR, Sanford acted as a conduit sharing technical reports and the proposed resource consent conditions with others in the industry, including all who had submitted on the 2013 application.
- 26 A misunderstanding occurred in that the final recommendations of Dr Middleton were inadvertently not passed onto NIWA. These recommendations make no substantive difference to the final report, but would be helpful in the ongoing baseline monitoring of seafood resources. It is our view this can be addressed in the resource consent condition 16.

Proposed Resource Consent Conditions

- 27 The consent conditions that Sanford collaborated on, is satisfied with, and which we do not want to see substantively changed through the hearing and DMC considerations are:
- 28 **Conditions 5(d) and (e)** commitment to transparency in decisions around the event of non-compliance (exceedance) of Operational Standards and response limits. Knowing early that there has been non-compliance issue allows other users of the water space to adapt or adopt extra precautions such as changing the location of planned fishing or introducing additional quality assurance testing.
- 29 **Condition 6 (c)(i)** in the preparation of investigation reports and the requirement to summarise the commentary received from the TRG, and explain why any TAG recommendations were not acted upon ensures that that the EPA is made aware of all views (especially those of existing users) is taken into account.
- 30 **Condition 9** provides for six monthly meetings between TTR and representatives of the commercial fishing industry. Representatives are nominated by Fisheries Inshore New Zealand (**FINZ**). It is our view that this forum is one of the key ways that our existing use rights are given effect and any operational concerns, such as

restrictions on vessel movements etc. can be discussed and resolved. Sanford proposed that FINZ take the lead in coordinating this group to ensure representation includes quota owners and fishers across all stocks and methods.

- 31 **Condition 11(c)** and the use of electronic monitoring to record dolphin sightings. I will speak to this condition more fully in clause 40 of this submission when I discuss the Sanford-Moana Maui Protection Plan. At first blush this provision would seem to also address some concerns expressed by **Dr Elizabeth Slooten** who sought more baseline monitoring for dolphin sightings.
- 32 **Condition 14** and the two year base line monitoring of seafood resources. We have spoken to TTR about what we consider is meant by seafood resources and how this is monitored. We will rely on the TRG fisheries expert and the six monthly fishing industry catch ups to put more specification around 'seafood resources', and who the experts are that prepare the Baseline Environmental Monitoring Plan (**BEMP**).
- 33 **Condition 17** which requires the consent holder to share the outcomes of the BEMP, and in particular the 'numerical values' in both the response limits and compliance limits with the TRG prior to lodging with the EPA; and when in receipt of comments or recommendations from the TRG to pass these on to the EPA if not acted upon. We think it is important that these triggers and the discussion around them are well understood by all parties.
- 34 **Conditions 20 and 25** that relate to the ongoing monitoring of 'seafood resources' so as to ensure that the compliance levels set out in the resource consent do not have adverse effects on the commercial (and recreational) fishing sectors. These conditions, and the definition of what constitutes seafood resources are essential because they will establish the baseline data. We support the recommendation made in the DHI **Dr Chiffing** peer review for TTR to also 'express the result in terms of variations in the changes

for durations of time' and space (page 23)¹. This will provide for cumulative effects to be recorded.

35 **Conditions 28, 29, 30, 31 and 32** relating to the establishment, membership and terms of reference for the TRG. We note that while it was Sanford who proposed to include FINZ under condition (f), in the event that FINZ does not wish to take up this role Sanford is willing to be named in the condition.

36 **Condition 59** and the requirement to ensure that the pits and mounds are re-established at a height of not more than nine meters. This will ensure that the Rolling Grounds contribution to fish aggregations, and trawling activity is not impeded into the future.

37 **Conditions 73, 74, 75, 76, 77, 78** biosecurity provisions including ballast water, hull fouling and marine pest pathways. These conditions were negotiated as part of our meetings with TTR, and were recommended by **Dr Barrie Forrest**. Again, Sanford proposed the inclusion of AquacultureNZ in Condition 75 as the industry representative of all marine farmers' interests in Admiralty Bay. AquacultureNZ have confirmed to us they are happy to take this role.

38 **Conditions 79(j)** repeats earlier requirements that tracks how TAG recommendations are addressed and reported upon, and

39 **Condition 83** deals with risk management and the holding of insurance, which is another matter sought by Sanford. TTR have agreed not to refuel inside Admiralty Harbour.

MAUI PROTECTION PLAN

40 In December 2016 Sanford working with Moana New Zealand, another large inshore fishing company, announced its Maui Dolphin

¹ Lodgement Review of Effects on Plankton, Fish and Marine Mammals, DHO, September 2016

Protection Plan. This plan includes commitments that we as commercial fishing companies will make to protect the dolphin by further reducing residual risk, and in order to gather better information about the location (range and habitat) of the dolphin.

- 41 It makes good sense that any monitoring data that TTR is required to gather during its two year base line work, and ongoing through the duration of this consent if it is granted, be made available to other stakeholders with an interest in this area.

CONCLUSION

- 42 In conclusion, Sanford's submission is one of support conditional on the EPA upholding the plume modelling. We appreciate the relationship of good communication we have with TTR and look forward to an ongoing positive co-existence on the water.

Alison Undorf-Lay

February, 2017