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MHV Water: “Researching and addressing nitrate issue for more than a decade”

A recent Newsroom article, about the Environmental Law Initiative’s (ELI) Court of Appeal case against Environment Canterbury (ECan) and MHV Water (MHV), gives a selective and, in important respects, misleading account of the legal proceedings and MHV’s environmental position, says Chief Executive Andrew Mockford.

“The article leaves the reader with the impression that MHV is trying to use the court case to avoid taking action on nitrate,” Mockford says. “That could not be further from the reality of our situation and practice.

“MHV accepts that nitrate is a real issue in parts of the Hekeao Hinds Plains catchment. We, our farmer-shareholders and the wider community, have been actively working to understand and address it for more than a decade – long before the current proceedings. It has involved changes to farming systems, stronger environmental requirements, extensive groundwater monitoring, scientific research and substantial investment in catchment interventions. It’s, therefore, disappointing that the article gives little to no acknowledgement of our many years of effort to address issues and improve outputs.

Mockford says the matter before the Court is a much narrower legal question about the appropriate remedy.

“ELI has asked the Court of Appeal to quash the existing consent and return it for reconsideration. MHV Water’s submission, alongside ECan’s, is that this particular order would serve no useful practical purpose, given that the consent expires on 31 December 2030 and the legislation that would apply to any reconsideration. The High Court had already concluded that a relevant change in the law made ELI’s disputed point moot, and the outcome of reconsideration would have been inevitable.

“This is not an argument that nitrate does not matter, that environmental progress is unnecessary, or that MHV Water should be exempt from scrutiny. It is an argument about whether the specific remedy ELI is seeking would achieve anything useful. The legal proceedings should not be presented as a choice between defending the consent and addressing nitrate. Our work on nitrate is continuing, regardless of the outcome of this case.”

More than a decade of work on nitrate

Mockford says nitrate was a central reason for the development of Plan Change 2, the introduction of Farm Environment Plans and nutrient-loss requirements, and the establishment of the Hekeao Hinds Water Enhancement Trust. MHV Water has routinely monitored groundwater since 2016 and substantially expanded that programme in 2020.

“Farm practices have changed materially over this period. Nitrogen use and modelled nitrogen losses have reduced; irrigation infrastructure and management have improved; and environmental auditing has become embedded in farm businesses. MHV Water and the wider community have also invested significantly in monitoring, research, managed aquifer recharge and other catchment interventions.

“None of this means the problem has been solved. Groundwater nitrate remains too high in parts of the catchment. We take that seriously and are not shying away from it. We are actively working with farmers and the community to understand the causes, assess the effectiveness of changes already made, and identify what more can be done.”

Understanding a complex groundwater system

A key part of this work, Mockford says, is understanding the groundwater environment in detail, including how activities at the surface affect the water below. One important factor often missing from public discussion is the considerable lag between changing practices on the land and seeing the effects of those changes in groundwater.

He explains that groundwater beneath the Hekeao Hinds Plains is extremely complex, flowing through an underground network of different gravels, soils, old riverbeds and natural channels – rather like a three-dimensional braided river. Water moves at different speeds and volumes depending on the ground it passes through. This means two bores just a few kilometres apart can produce very different results, influenced by factors such as depth, geology, rainfall and the water’s journey underground.

“Understanding what is happening therefore requires looking at the whole picture, rather than drawing conclusions from limited data or assuming a simple cause and effect.”

Research led by MHV Water principal hydrogeologist and University of Otago PhD candidate Justin Legg illustrates this complexity, Mockford says.

“Following the major May 2021 rainfall event, intensive monitoring found markedly different nitrate responses between bores. Some responded rapidly, others weeks later; some showed increases, some decreases, and some little change. The findings have been internationally peer-reviewed and published in the Journal of Hydrology. Other groundwater-age research in the catchment (undertaken by GNS (now Earth Science NZ) has identified shallow water only a few years old alongside deeper groundwater that can be several decades old.

“MHV Water monitors around 160 groundwater bores across approximately 110,000 hectares, with bore depths ranging from 5 to 155 metres. This is one of the most comprehensive groundwater datasets in the country. It helps us move beyond assumptions and build an evidence-based understanding of how changes in land management translate into groundwater outcomes.”

Acknowledging progress while recognising the work ahead

The picture is more complicated than either “everything is fine” or “nothing farmers have done is working”, Mockford says. “Neither is true. Farmers have made substantial changes to their farming systems and modelled nitrogen losses have reduced. MHV Water and the wider community have invested heavily in understanding and addressing the issue. At the same time, groundwater nitrate remains a concern, and there is more work to do.”

Environmental systems, he adds, do not respond on the same timetable as regulation, farming practice or public expectations.

“Given the complexity and age of groundwater, we cannot credibly promise that every groundwater measure will improve by a particular date. What we can, and will, do is continue reducing nitrogen losses at source, invest in interventions where the science supports them, monitor the catchment comprehensively, and use the evidence to assess whether the changes made are producing the outcomes we all want. This takes time, sustained effort and a sound understanding of the science.”

Mockford says MHV Water welcomes scrutiny of its environmental performance.

“ It is appropriate that we are challenged, but that challenge should be based on complete, objective evidence and an accurate account of the situation – including the work that has been under way for many years.

“The Newsroom article takes a narrow legal argument out of context, combines it with selected groundwater results and presents a much simpler story than the science, the history of this catchment and the actions of its farming community justify. The nitrate issue is real; we recognise that and are committed to seeing it addressed. That commitment is demonstrated by the considerable work already undertaken and the work that will continue.

Both the nitrate challenge and the sustained effort to address it deserve to be reported accurately.

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Media inquiries to:

Steve Attwood

C: 027 419 1080

E: PumpPR@outlook.com