

STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Neil Tyson, Consent Planner - Water

REFERENCE: RM090747

SUBJECT: **MARAHAU ESTATES LIMITED - REPORT REP11-03-03-** Report prepared for meeting of 8 and 9 March 2011

1. PROPOSAL

Marahau Estates Ltd have applied for a suite of resource consent applications to increase the scale of the Old MacDonald's Farm and Holiday Park (the Park) at Harvey Road in Marahau. This report assesses the water permit application which is summarised as follows:

RM090747: To increase the rate of taking of water from Barrons Creek, a tributary of Marahau River, from 100 cubic metres per day to 700 cubic metres per day (maximum 2 litres per second) and the use of this water for potable supply and other related water uses in the camping ground. The 1 in 5 year low flow is understood to be 25.8 litres per second. If granted, this consent will replace existing water permit NN000364.

This report should be read in conjunction with the other Council officer's reports which together provide an assessment of the relevant resource management aspects of the proposal.

Further Information received since Submissions Closed

The applicant provided various further information as follows:

- A revised *Envirolink* report received on 19 November 2010.
- An *Envirolink* report received on 30 November 2010.
- An *Envirolink* report received on 21st February 2011 confirming the lodging of the additional application RM110162 and updating the flow data for Barron's Creek.

No changes to the application have been proposed by the applicant as a result of the matters raised in submissions.

Office Well Supply

Since public notification of the Marahau Estates Ltd suite of applications, the need for an additional resource consent has been identified relating to the camp office well that supplies potable water to that (eastern) end of the camp. Installation of a water meter in December 2010 identified an instantaneous maximum pumping rate of 1.26 litres per second and an average daily usage of 14.6 cubic metres over the 70 days since the meter was installed. These rates from the office well exceed the Council's permitted activity rate of 5 cubic metres per property per day. McDonalds advised there were up to 350 persons in the camp during this (70 day) period.

On the basis that this office well is an existing water supply, the applicant lodged an additional application RM110162 to authorise this supply, which was granted by Council staff under delegated authority, and on a non-notified basis, on Friday, 25 February 2011 for the following rates:

Maximum rate of take:	1.26 litres per second 4.5 cubic metres per hour
Average Daily Rate	19 cubic metres per day
Maximum Weekly Rate	133 cubic metres per week

It is relevant that McDonalds indicated that the volume taken and used from the Office Well seemed to be high and he suspected a leak or some other reason for this level of use. However, McDonalds confirmed that the actual rate was likely to exceed the permitted activity rate and that an additional was required. During the inspection, McDonalds showed that the Office Well Supply is also UV treated, filtered and metered.

2. STATUS OF APPLICATION

Water Zone: Marahau Plains Zone - Abel Tasman

The proposed activities breach the Permitted Activity Rule 31.1.2 of the TRMP because the rate of taking and use exceeds 5 cubic metres (5000 litres) per day. By its self, the water permit application to take and use in the Marahau Plains Zone would be assessed as a Restricted Discretionary Activity under Rule 31.1.6 of the TRMP. However, bundling of the applications means that overall the proposal is assessed as a Discretionary activity under the RMA.

3. RELEVANT SUBMISSIONS

The following submissions are relevant to this water take application:

NZ Fire Service Commission - submit that regarding the provision of sufficient water for fire fighting for the development, the application is inadequate in that it does not take into account the operational requirements of the Commission or demonstrate compliance with the Code of Practise SNZ PAS 4509:2008. This issue is addressed in the staff landuse consent report and it is relevant to this water permit only if there is a change in the design and capacity of the proposed water scheme. At the time of writing it was considered unlikely that there would need to be any change to the rate of taking from Barron Creek for fire fighting use. It is relevant that the taking of water for fire fighting use the only *fully permitted* water use under Section 14 of the RMA.

Wakatu Incorporation - Wakatu submit that the proposed water take should not adversely affect the ecology of the (Marahau) river. Wakatu also seek a shorter consent term, and appropriate monitoring. Wakatu identify that the applicant has not consulted with Iwi and has not ensured that cultural and environmental issues relevant to Iwi are identified and mitigated.

Tiakina te Taiao Ltd - submit they are concerned about the potential impact of the proposed water take on the water quantity and quality of the Marahau river including the impact on recreational use and on native fish. Tiakina are also critical of the length of the consent term and the lack of volunteered conditions and confirm that the applicant has not consulted with them. Should the application be granted, Tiakina suggests a 15 year consent term with five yearly reviews and annual monitoring in February each year of water quality and river flow.

Tom Horn and Ingrid Wagner - submit they are concerned about potential contamination of the Marahau River.

Rhonwen Seager and Anthony Opie - submit that it is likely that the proposed water take of 100 cubic metres per day will have downstream adverse effects and that the activity is a risk to the ecology of the Marahau river and the estuary. They also consider it likely that the ecology and aquatic life of Barron's Creek upstream of the applicant's intake will be negatively affected by the taking particularly in dry summers. Should the application be granted, the submitter suggests that restrictions apply to the rate of taking (and the number of persons accommodated), sufficient to protect the stream ecology.

3.1 Comments on Submissions

This report addresses the water related issues raised in submissions including the likely impact of the take on both Barron's Creek and the Marahau River.

The recommended consent conditions are discussed in this report. The applicant has not requested a particular term for the replacement water permit consent and they are aware of Schedule 31.1A TRMP which specifies 31 May 2015 as the common term in this Marahau/Abel Tasman Zone. The applicant's existing water permit NN000364 has this (2015) expiry date.

Iwi's concern that the applicant has not consulted with them and not ensured that relevant cultural and environmental issues are identified and mitigated is addressed under the landuse consent application assessment.

4. STATUTORY CONSIDERATIONS

4.1 Section 104

A decision on this application must be made under Section 104 of the Act. The matters for the Council to address are:

- Part 2 (Sections 5, 6, 7 and 8)
- Effects on the environment (positive and negative)
- Objectives, Policies and Rules of the TRMP

- Any other matters

4.2 Sections 6, 7 and 8

Assessing the water permit application against Sections 6, 7 and 8 of the RMA, the writer considers the following matters as potentially relevant:

- S.7(b) *the efficient use and development of natural and physical resources.*
- S.7(d) *intrinsic values of ecosystems.*
- S.7(f) *maintenance and enhancement of the quality of the environment.*

The writer considers that this report adequately addresses the relevant matters.

5. ASSESSMENT

5.1 Statutory Setting

Section 14 - Section 14 of the Resource Management Act 1991 states that no person may take, use, dam, or divert any water unless expressly allowed by a rule in a regional plan, any relevant proposed regional plan or a resource consent.

Council has a regional water plan covering all Tasman District, including the Abel Tasman Zone which includes the Marahau Catchment. Part V of the Tasman Resource Management Plan (TRMP) is not yet fully operative but it is considered that any remaining appeals do not apply to this application.

Under Rule 31.1.2 of the TRMP, landowners may take up to 5 cubic metres per property per day of water from the Abel Tasman Zones as a *permitted* activity. The Scheme's existing and proposed taking and use of water exceeds this daily amount and, under Rule 31.1.6, is a *restricted discretionary* activity.

Section 13 - Activities in the river bed require consent under Section 13 of the Resource Management Act 1991 (RMA), unless otherwise authorised under a regional plan. Part IV of the TRMP deals with Section 13 activities and has been publicly notified. A hearing of submissions has not yet been held and this part of the plan is not fully operative. Regarding the applicant's intake structure, the writer's assessment is that it does not require a separate (Section 13) resource consent and it is a permitted activity in that it complies with proposed Rules 28.1.2 and 28.1.3 and in particular it does not:

- dam the stream
- take up more than 2 m² in area of the bed and does not extend over 10% of the bed width
- Is maintained.

Photos of the intake are included in this report.

5.2 Planning Documents

With regard to the relevant provisions of the following planning documents:

- (a) the Tasman Regional Policy Statement (TRPS); and

(b) the Tasman Resource Management Plan (TRMP).

Most of the objectives and policies contained within the TRPS are mirrored in the TRMP and the activity is considered to be consistent with the relevant objectives and policies contained in Chapters 30 and 31 of the TRMP.

5.2.1 Tasman Resource Management Plan (TRMP)

The relevant policies in the TRMP are considered to be as follows:

30.1.7 To manage the allocation of water taken from water bodies so that the cumulative effect of water takes does not exceed;

- (a) the stated flow or water level regime;*
- (b) any allocation limit for water takes for consumptive use for the water body;*
- (c) the sustainable yield of the aquifer;*

30.1.9 When assessing resource consent applications to take water, particularly those applications to take water from water bodies where no allocation limit has been established, to take into account actual and potential adverse effects, including cumulative adverse effects of the proposal in combination with any existing authorised takes, on:

- (a) natural character of the water body and its margins;*
- (b) associated wetlands;*
- (c) cultural and spiritual, amenity and recreational values;*
- (d) aquatic habitat, including plants and animals;*
- (d) other water users;*
- (e) water reserved for other uses;*
- (f) hydrological regime of the water body;*
- (g) capacity to dilute contaminants;*
- (h) uses and values identified in Schedule 30.1*

As identified in the applicant's AEE, TRMP Policies 30.1.10-11 provide guidance on the appropriate allocation limit for rivers without an allocation limit. The policies state that no more than 10% of the 5 year 7 day low flow should be allocated if the stream has regionally or nationally significant aquatic values. This can increase to 33% if the instream values are not regionally or nationally significant.

With regard to the relevant rules contained in the TRMP, a *Restricted Discretionary* activity may be granted subject to conditions or declined by Council under Rule 31.1.6 TRMP. The writer's assessment is that the application fully complies with the stated standards and terms under Rule 31.1.6. Therefore, if consent is granted, conditions of consent are required to fall within the following relevant discretionary matters (Rule 31.1.6(1)-(14) TRMP):

- 1. The quantity, rate and timing of the take*
- 3. The effects of the take on other uses or values of the water body.*
- 4. Effects on other water users.*
- 5. Information to be supplied and monitoring requirements.*

6. *The effects of the take, use, or diversion, including takes from groundwater, either by itself or in combination with other existing takes, on aquatic and riparian ecosystems, fish and eel passage and flows in rivers, coastal streams or coastal water, including in estuaries*
10. *Measures to achieve efficient water use or water conservation, including preparation of property water management plans, and measures to monitor water use.*
- 10.A *The extent to which the need for water has been demonstrated, including an assessment of the alternative water supply or augmentation options for that property*
14. *The nature, scale and distribution of beneficial effects resulting from the proposed water take, use or diversion*

5.3 Principal Issues (Actual and Potential Effects on the Environment)

The principle issues associated with the proposed taking of water relate to the following actual and potential effects on the environment:

- (a) any effects of the proposed taking from Barrons Creek on instream values and habitat and that the proposed taking is likely to comply with future allocation limits;
- (b) that the rate of take is available and sustainable;
- (c) ongoing monitoring of the use of water, ensuring that water taken is and continues to be used efficiently and monitoring actual effects on the environment;
- (d) Consent Term/Expiry date.

5.4 Actual and Potential Effects of Surface Water take

(a) Barrons Creek Scheme

The application is to increase the rate of taking and use of water from Barrons Creek. The existing scheme consists of a 50 mm alkathene intake pipe laid in the stream with its intake located immediately downstream of the Opie-Seager boundary. The application states that the scheme intake is screened, but this was not the case when inspected on 18 February 2011. McDonalds advised that the screen had been removed as it required cleaning too regularly.

From the stream intake, the alkathene pipe (estimated maximum capacity 2.0 L/sec) gravity feeds down to two in-line settling tanks, and then to an old concrete lined well with an installed ball cock valve. There are two off-takes from the settling tanks, which McDonalds assured the writer were for stock water troughs and occasional, very minor, irrigation of some fruit trees. McDonalds also advised that the well is not a sealed unit, and that seepage losses are evident.

From the well, scheme water is pumped up to two (23 cubic metre) tanks near the applicant's existing house. From these tanks, Scheme water passes through a recently installed UV treatment plant, in-line filters and an in-line water meter, after

which it enters the scheme reticulation supplying the bulk of camp ground including in the Bull Paddock.

Apart from the applicant, there are no other consented takes from Barrons Creek and no other known users or landowners taking for stock water or other permitted activity uses. The following are Envirolink's revised flow data for Barrons Creek:

Barrons Creek	L/sec	M3/day
MALF	30	2,592
1 in 5 year 7 day low flow	25.8	2,229

The revised application (Envirolink report 21 February) proposes a maximum demand amounting to (100/2229) 4.5% of the 5 year 7 day low flow, which is less than the 10% interim allocation limit that complies with the TRMP Policy 30.1.10.

(b) Instream Values

Council Scientist Trevor James advises that no actual fish data is recorded or available for the Marahau River or its tributaries, including for Barrons Creek. Trevor James advises that the waterway has good habitat for several fish species and invertebrates. The following fish species would be expected in this waterway: long-fin eel, koaro, banded kokopu, red-fin bullies. While these species are not rare they are reasonably significant regionally.

(c) Office Well Supply

As discussed above, an additional resource consent has been granted to authorise the existing water supply from the office well under RM110162. The rates of taking from the office well exceed the permitted activity of 5 cubic metres per day and was granted as a *restricted discretionary* activity under the TRMP.

Relevant to this application is that the supply is also UV treated, filtered and metered and, according to McDonalds, both supplies are now compliant.

(d) Allocation Limit

Under the TRMP Figure 31.1F, the Marahau Plains Zone has an allocation limit of 43 litres per second. A review of the Council's consent database identifies the following three users and consents in the Marahau Plains Zone, which includes the applicant's recently granted RM110162 and existing consent NN000364 as follows:

Consent	Consent Holder	Source	m3/week
NN000342	R Taylor	Groundwater	105
NN000364	D W McDonald	Barrons Creek	105
RM050296	S Tate	Unnamed Stream	252
RM110162	D W McDonald	Groundwater	<u>133</u>
		TOTAL	595

The total currently allocated water in the Marahau Plains Zone in the above table amounts to 595 cubic metres per week or an average rate of taking of 0.98 litres per second. If the application RM090747 is granted in full the following would be the table of users and usage:

Consent	Consent Holder	Source	m3/week
NN000342	R Taylor	Groundwater	105
RM090747	D W McDonald	Barrons Creek	700
RM050296	S Tate	Unnamed Stream	252
RM110162	D W McDonald	Groundwater	133
		TOTAL	1,190

The total allocated water in the Marahau Plains Zone in the above table amounts to 1,190 cubic metres per week or an average rate of taking of 1.97 litres per second. This is clearly less than and fully compliant with the TRMP Marahau Plains Zone allocation limit of 43 litres per second.

(e) Fish Passage

Some submitters are concerned about fish passage in the dewatered section of Barron's Creek ie from the intake down to the Marahau River confluence. The applicant's AEE is silent regarding this and any other impediments to fish passage in Barron's Creek. Fish passage can also be blocked by natural waterfalls within the stream.

To monitor and confirm the health of the stream, it is recommended that the applicant be required to provide an ecological assessment of the stream upstream and downstream of the intake within five years of the granting of this consent.

(f) Intake Screening

A photo of the applicant's intake location is attached to this report. The writer's assessment is that the minor modification to the intake pool is unlikely to be a blockage to fish. The (re)establishment of a fully compliant fish screen on the intake is critical.

Intake screening is an issue for all surface takes where fish are likely to be present. Means of compliance are stated in Note 2, Rule 31.1.2 in the TRMP, and a consent condition to this effect is adopted in the draft consent.

(g) Water Quality

As identified in the AEE, river water typically requires treatment to achieve potable standards under the New Zealand Drinking Water Standards (2005). The writer understands that appropriate water treatment has now been installed.

(h) Monitoring

The applicant has already installed a water meter on each supply to monitor their rate of taking and this is confirmed in recommended consent conditions with weekly meter

readings to be forwarded to Council. Council's specifications for water meters is stated in Chapter 2 of the TRMP and includes a +/-5% meter accuracy requirement.

6. TERM OF CONSENT

Various submitters are concerned about the term of any consent and do not wish to see consent granted for the maximum term under the RMA. The applicant has advised that they accept the common expiry date for the Marahau catchment in Schedule 31.1A TRMP, which is 31 May 2015. While this is relatively short term it is the same as their existing consent NN000364. Furthermore, replacement consents are *controlled* activities under the TRMP and this gives a significant degree of certainty to consent holders.

7. SECTION 5 AND RECOMMENDATION

As a planner weighing up all of the relevant considerations relating to the taking and use of water and in terms of Section 5 of the Act, I consider that a grant of consent **would** have only minor effects on the instream values of Barrons Creek and, on balance, I **RECOMMEND** that the application(s) be **GRANTED**, subject to conditions.

Should consent be granted the writer has appended a recommended set of conditions.

Neil Tyson
Consent Planner



RESOURCE CONSENT

Resource consent number: RM090747

That pursuant to Section 104B of the Resource Management Act 1991, the Council hereby grants resource consent to:

Marahau Estates Limited
(hereinafter referred to as “the Consent Holder”)

Activity authorised by this consent: To take surface water for potable supply at a camping ground, for associated dwellings and for campground related uses.

Location Details:

Address of Property: 54 Harvey Road, Marahau
Property Valuation: 1931007601
Legal Description: Proposed Subdivision of Part Sec 115 Motueka Survey District
Sec 10 Blks V & VI Kaiteriteri

Pursuant to Section 108 of the Act, this consent is granted subject to the following conditions and an expiry date of **31 May 2015**:

Location, Take and Use Details:

- Category of Water Source: Surface water
Name of Source: Barrons Creek
Catchment: Marahau
Zone: Marahau Plains - Abel Tasman
River Number: R.610
Map references at take point: Easting: 2509808 Northing: 6024169 NZ
Map Grid Datum
Maximum rates of take: 2 litres per second
7.2 cubic metres per hour
100 cubic metres per day
700 cubic metres per week
- At no time shall the rates of taking and use from Barrons Creek exceed those stated in Condition 1.

Water Meter Specifications, Maintenance and Readings

3. The Consent Holder or their agent shall, at their own expense, install, operate and maintain a water meter to record all water taken under this consent and the meter shall be installed no later than 31 May 2014. The meter shall comply with the Council's Water Meter Specifications as stated in the Tasman Resource Management Plan and, furthermore, the meter shall be installed in accordance with the water meter manufacturer's specifications.

Advice Note:

In order to record all water taken under this consent the meter should be positioned up-gradient of any water outlet or point of use.

4. The Consent Holder shall record and supply to the Council a complete record of their taking of water required under Condition 3 accurate to $\pm 5\%$ and at no time shall usage exceed the rates authorised by this consent. The Consent Holder shall, as a minimum, record weekly water meter readings during every November to April inclusive and shall supply these readings weekly during these periods including by the dates advised by the Council to the Consent Holder each year.
5. The Consent Holder shall pay the reasonable costs associated with the monitoring of this consent including, if and when requested by the Council, the full costs associated with water meter calibration to confirm meter accuracy provided that calibration is not more frequent than 5 yearly.

Intake Screening

6. The (scheme) intake shall be screened so as to avoid the entrainment of fish and the screen shall have a mesh size not greater than 5 millimetres and shall be constructed such that the intake velocity at the outer surface of the screen is less than 0.3 metres per second. Furthermore, the screen shall be maintained in good working order and in compliance with the aforementioned standards at all times when this resource consent is being exercised.

Maintenance Flow

7. At no time shall the exercising of this consent result in the taking of more than 33% of the instantaneous stream flow.
8. The Consent Holder shall, by 1 November 2012, upgrade the water reticulation so that only water required for approved uses is taken from Barron's Creek. The Consent Holder shall therefore either replace or seal the well such that there is no discharge or seepage of water from the well. The Consent Holder shall inform the Council's Co-ordinator Compliance Monitoring in writing when this upgrade has been completed.
9. The Council may, for the duration of this consent and during the months of December, January and February each year, review the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 for the purposes of:

- (a) dealing with any unexpected adverse effect on the environment that may arise from the exercise of the consent and which is appropriate to deal with at a later stage; and
- (b) to reduce the quantities and rates of water authorised to be taken if the consent is not fully exercised; and
- (c) when relevant national environmental standards have been made under Section 43 of the Resource Management Act 1991; and
- (d) to comply with the requirements of a relevant operative rule in the Tasman Resource Management Plan or its successor, including maximum or minimum levels or flows or rates of use of water including water rationing, or water metering requirements.

Additional Monitoring

- 10. The Council reserves the right to require from the Consent Holder a Scheme Management Plan identifying the location of all Scheme pipelines, turnouts, discharge points, reservoirs and other infrastructure (including their location relative to the Council's Road Reserve or other Council assets) and documenting current users, their rates of taking and measures adopted to achieve efficient water use including leak detection programmes, repairs and maintenance and measures to achieve full compliance with these consent conditions.
- 11. Within five years of the granting of consent (ie, no later than 1st March 2016) the Consent Holder shall provide to the Council's Co-ordinator Compliance Monitoring or his agent, an ecological assessment of the stream with particular focus on native fish ecology, populations and fish passage including above and below the intake.
- 12. The Consent Holder shall ensure that the entire scheme is inspected regularly and at least every six months and shall maintain a record of each inspection. The records shall list:
 - a) the date of each inspection
 - b) the state of the scheme with regard to leaks, restrictions, overflows and hydrant pressures
 - c) any component replacement and all scheme modifications undertaken since the last inspection.

A copy of this record shall be made available, upon request, to the Council's Co-ordinator Compliance Monitoring.

- 13. The granting of this consent cancels and replaces NN000364.

ADVICE NOTES

- 1. This consent is a water permit and is, therefore, not subject to Section 134 of the Act and does not "attach to the land". Therefore, when the ownership of the lot that this consent pertains to changes, this water permit should also be transferred to the new owners as there are ongoing consent requirements that must be met.

2. This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
 - (a) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP);
 - (b) be allowed by the Resource Management Act; or
 - (c) be authorised by a separate resource consent.

3. This resource consent only authorises the taking and use of water and no discharge from any pipe, reservoir, etc was applied for and none is granted. The discharge from the sedimentation tank described in the application (and any other discharge) shall therefore be upgraded and the discharge shall cease. In other words, only water used for the purposes specified in this consent shall be taken.

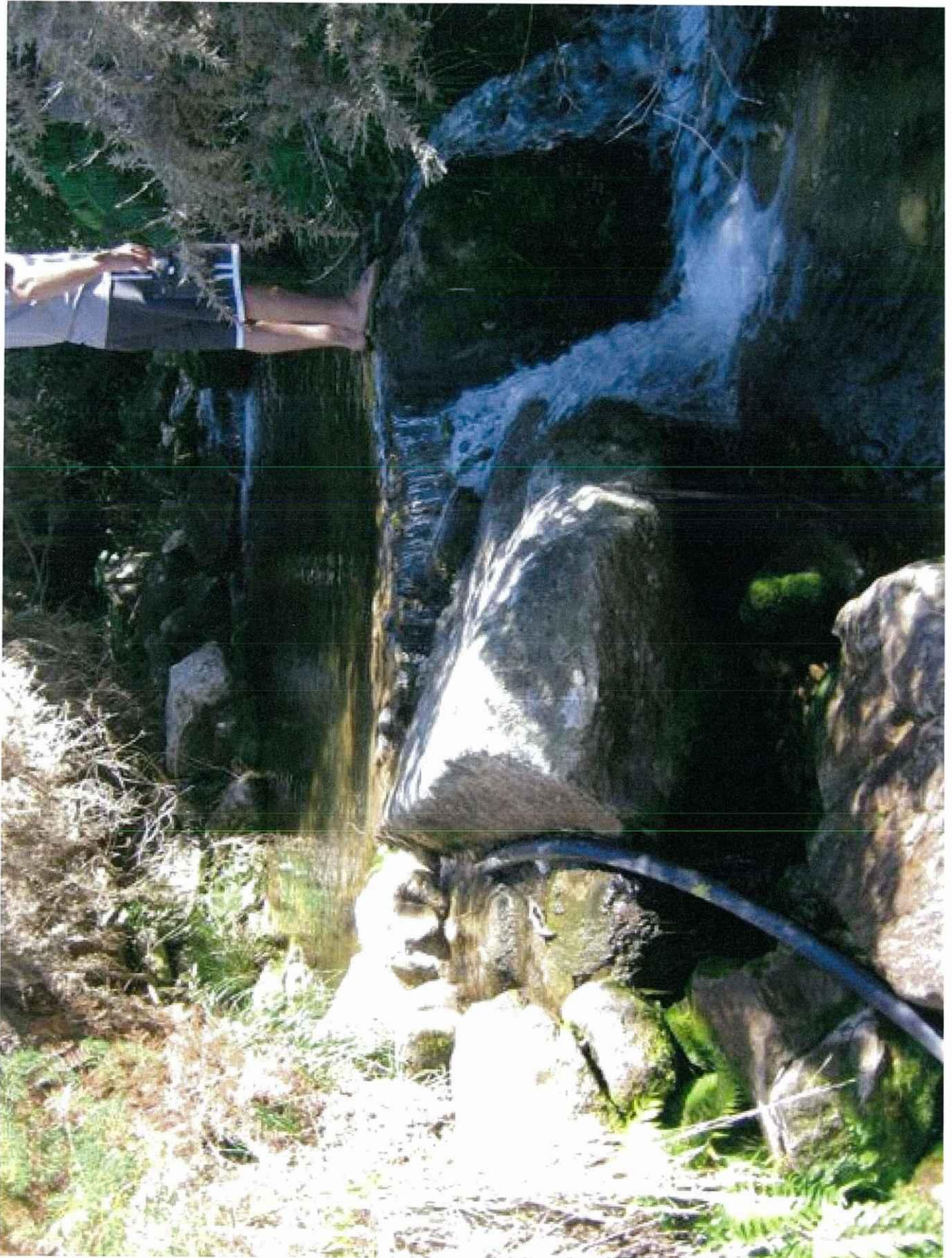


PHOTO 1: Intake pool showing 50mm intake/pipe



PHOTO 3: BARRONS CREEK - GAUGING SITE BELOW BRIDGE