

26 April 2012

Joshua Grainger  
fyi.org.nz

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Dear Mr Grainger

**Official Information Act request: Effects of Mixed Ownership Model**

Thank you for your email dated 29 March 2012 requesting, under the Official Information Act 1982 ("OIA"), information about the effect of the Government's upcoming "Mixed Ownership Model" on Mighty River Power.

You have asked us to provide "any memos, emails, reports, papers, or other documents or forms of information that Mighty River Power has assessing the effects of these upcoming reforms". You have also asked us to provide copies of any correspondence that Mighty River Power has had with the Government about the Mixed Ownership Model.

Enclosed with this letter are copies of the following correspondence between Mighty River Power and the Government:

1. Letter to the Minister for State Owned Enterprises dated 1 April 2011;
2. Letter to the Minister for State Owned Enterprises and the Minister of Finance dated 19 January 2012;
3. Letter to the Minister for State Owned Enterprises dated 13 February 2012; and
4. Email to Treasury dated 23 February 2012.

In all other respects, your request is refused. Although Mighty River Power holds some documentation relevant to your request, it is necessary for us to refuse your request, in each case for one or more of the following reasons:

1. so as not to unreasonably prejudice the commercial position of Mighty River Power (OIA, s9(2)(b)(ii));
2. to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials (OIA, s9(2)(f)(iv));

3. to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown and Mighty River Power (OIA, s9(2)(g)(i));
4. to maintain legal professional privilege (OIA, s9(2)(h));
5. to enable Mighty River Power to carry out, without prejudice or disadvantage, commercial activities (OIA, s9(2)(i));
6. to enable Mighty River Power to carry on, without prejudice or disadvantage, negotiations (OIA, s9(2)(j));
7. the information requested does not exist (OIA, s18(e)).

We are, however, able to provide the following responses to your specific queries:

1. Although Mighty River Power will no longer be required to respond to OIA requests, this will not affect our FTE requirements as Mighty River Power has no dedicated FTE resource focused on OIA requests.
2. The issue of upholding the principles of the Treaty is a matter between the Crown and iwi as you may now be aware from the submissions by Maori and recent informed editorial comment. Our close relationships with our Maori stakeholders confirm this, and one of the underlying strengths of our relationships is that we have always acknowledged and respected their direct relationship with the Crown which is separate to and beyond our relationship with them.
3. In terms of administrative requirements associated with the Mixed Ownership Model, we expect very little change in our business operations or people's jobs. Apart from the additional project work associated with the IPO process, the only related organisational changes are the establishment of an Investor Relations function (one position) and a reorientation of the Company Secretarial role to deal with share registry and compliance services. The primary driver of all decisions made around our workforce will continue to be focused on alignment with our business direction and strategy. There will be some new compliance requirements of continuous disclosure, share transactions and engagement with the market in line with the requirements for any publicly-listed company, but these are incremental to the current disclosure practices.

We trust that this response is of assistance. To the extent that you are not satisfied with our response, you are of course entitled to raise the matter with the Ombudsman.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Glenn Rockell". The signature is written in black ink on a white background.

**Glenn Rockell**

Acting General Counsel



1 April 2011

Hon Simon Power  
Minister for State Owned Enterprises  
Parliament Buildings  
Wellington

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Dear Minister

### **Rugby World Cup 2011 Hospitality Invitations**

To avoid any possible perception of a conflict of interest with regard to the consideration by Government of the mixed ownership model (MOM), the Mighty River Power Board has resolved that no directors or senior management within the Company will be accepting invitations offered to Rugby World Cup 2011 matches.

We believe this to be a prudent approach for any State Owned Enterprise under consideration as part of the MOM process.

This resolution relates specifically to a pool of advisors – including investment banks, legal counsel and chartered accountancy firms – and extends to requiring directors and management to return and decline invitations that may have been accepted prior.

If there is a case where there is any doubt about a potential or perceived conflict of interest, this would be referred to me as Chair for a final decision.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Joan Withers'. The signature is written in a cursive style and is positioned to the right of a large, empty oval shape.

**Joan Withers**  
Chair

R712/024

**MIGHTY RIVER POWER**

19 January 2012

Shareholding Ministers  
Hon Tony Ryall - Minister for SOEs  
Hon Bill English - Minister of Finance

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Dear Ministers

**Delay in release of Interim Accounts**

This letter is to advise you of the necessity of delaying the release of the Company's 31 December 2011 interim accounts until 31 March 2012 at the latest, in order to allow a full audit of the interim accounts to be completed. The potential for this delay was first raised with Treasury officials some months ago. More recently, discussions with officials have indicated that you as Minister should be made aware that this may present some minor issues under the SOE Act and these are discussed later in this letter.

The potential for a mixed ownership process to require the use of the half year accounts in a prospectus has, in the Board's view, required our interim accounts to be audited. This also requires that the prior comparable period be audited as this has not previously been our practice, although in line with the practice of most major corporates, the interim accounts have historically been informally reviewed by our auditors. The additional time requirements to perform what is effectively two audits, combined with a desire to undertake an even more thorough internal review of the accounts appropriate for a prospectus, means the company cannot satisfy the two month time constraint imposed in section 16 of the SOE Act for submission of a report to the Minister.

Under Section 17 clause 4 of the Act, the Minister for SOEs has a subsequent obligation to the House to table the report within 12 sitting days after receiving the half-yearly report. We note that the Minister's obligation arises only after receiving the report from the company. Last year our interim report was tabled in the House on 21 March 2011. The half year report for 2012, as previously noted, will be made available to the Minister by 31 March 2012 at the latest. This delay is necessary to provide management and the Board time to complete the

audit for both interim periods, which in turn will make available audited interim accounts for use in any mixed ownership process should it be undertaken prior to completion of the audit and Board approval of the full year accounts for the year ended 30 June 2012, which is expected to be no earlier than late August.

I would be happy to discuss any issues that arise for you from this delay.

Yours sincerely

  
**Joan Withers**  
Chair

R412/065



13 February 2012

Hon Tony Ryall  
Minister for State Owned Enterprises  
Parliament Buildings  
Wellington

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Dear Minister

**SOEs Act - Section 27B**

In the course of a recent discussion, you asked whether Mighty River Power held land that was subject to the section 27B memorials process under the State-Owned Enterprises Act.

The answer is yes, we do. Not all freehold land we hold is subject to the 27B process, and we can supply details of the freehold parcels that are outside the 27B process.

Specifically, 27B memorials are in place for the Marsden (Whangarei) "core site" totalling 56 hectares, but which does NOT include the balance of 130 hectares of land subsequently acquired (ie post the ECNZ split) at Marsden. [REDACTED]

The other freehold areas subject to 27B memorials are the core operating sites for the Waikato River dams and power stations at Aratiatia, Ohakuri, Atiamuri, Maraetai, Waipapa, Arapuni, and Karapiro. [REDACTED]

IN-CONFIDENCE

[REDACTED]

The geothermal stations at Rotokawa and Nga Awa Purua are located on land that is owned by the Tauhara North No.2 Trust and which is leased to the commercial enterprise that operates those stations. Because this is land held privately by the Trust, no 27B memorials attach to it.

The land on which the station at Kawerau is located is owned by Norske Skog Tasman Ltd and is leased to Mighty River Power. Other land at Kawerau was acquired in 2005/2006 to support our geothermal business. It is NOT subject to a 27B memorial.

The existing station at Mokai is on land owned by Tuaropaki Trust is leased to the Tuaropaki Power Company (in which we have a 25% equity interest), and likewise is land that is NOT subject to 27B.

The station being built at Ngatamariki [scheduled for completion in mid-2013] is being built on land owned by interests associated with corporate forestry/farming entity Wairakei Pastoral Ltd and which is leased to Mighty River Power. No 27B memorial attaches to this land.

You will be aware that geothermal resources are not capable of being currently "owned" in the conventional sense - it is the landowner holding title to locations above where the resource is situated who has the practical capacity to utilise those resources principally through the consenting processes under the Resource Management Act. [REDACTED]

There may be other specific matters you wish to raise with us, and if that is the case, I am happy to arrange for officials to do so directly with Mighty River Power management.

Yours sincerely



Joan Withers  
Chair

## Glenn Rockell

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**From:** David Glendining  
**Sent:** Tuesday, 20 March 2012 3:30 p.m.  
**To:** Glenn Rockell  
**Subject:** FW: Interim Results timing - response to Dompost

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**From:** David Glendining  
**Sent:** Thursday, 23 February 2012 4:48 p.m.  
**To:** Angus White (MIN)  
**Cc:** juston.anderson@treasury.govt.nz; Andrew Craig (Andrew.Craig@parliament.govt.nz); Doug Heffernan  
**Subject:** Interim Results timing - response to Dompost

Angus,

As discussed, we have this afternoon responded to a question from Hamish Rutherford at the Dompost about the timing of our 2012 Interim Results announcement. The response is as follows:

*The change in timing of the release of the Company's Interim Results for 2012 relates to accounting preparation work for the Crown's proposed Initial Public Offering of shares in Mighty River Power. The Shareholding Ministers have been advised of this timing. The Company continues to comply with its information disclosure requirements.*

Regards,  
David.

**David Glendining**  
Head of Corporate Communications  
**Mighty River Power Limited**

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