

18 October 2013

Rt Hon David Carter  
Speaker of the House of Representatives  
Parliament Buildings  
WELLINGTON

Mr Speaker,

I am having difficulty deciphering the claim of a breach of privilege by Hon Ruth Dyson in her letter of 16 October. She has not provided any evidence in her long letter of quotes that amounts to any contempt.

The letter of complaint is heavily focused on my accuracy over dates and demands 100% accuracy. This is ironic when her letter of complaint of 16 October in the first substantive paragraph refers to 31 September, a date that does not exist. I suspect she means 31 July. I have not found any error in my 100 plus answers to the opposition oral and written questions on the subject, but for a complaint of contempt and a breach of privilege she must show a deliberate misleading of Parliament. I maintain that I have diligently and honestly answered all questions.

In the quote of 17 September, I said I did not have access to the leaked draft submission. This is true and has been confirmed independently in the statement by Deputy Director-General Ms Doris Johnston (see the transcript of her Radio New Zealand interview attached). Nobody has provided any evidence that I saw this draft submission prior to it becoming public on 17 September.

I do not think anybody is seriously now suggesting that I saw the 34 page draft submission that was leaked. The argument has become that because the Department had given some advice that it had concerns about the nutrient modelling, that I in effect knew its contents. I reject this on two grounds. The first is that the substantive brief I received on March 5<sup>th</sup> told me that DOC believed the project would improve water quality, not make it worse. Secondly, the language used in the 34 page leaked draft that described the scheme as “*untested, risky and could kill the Tukituki river*”, was far more concerning than the quite moderate additional statements in any of the short briefs contained in my weekly reports.

I also note that there have been numerous false statements on this issue by the opposition. Mr Cunliffe has stated “*Dr Smith clearly intervened to stop the leaked draft on the Tukituki catchment proposal from being submitted*”. This was made after the public reported statements by Doris Johnston, a well-respected neutral public servant appointed during the previous Government, that she made the decision, that

I did not play any role in the decision making, that she did not know my view and that I never saw the leaked draft submission. If anybody has deliberately misled the House on this issue it is the opposition.

I also enclose a timeline of the officials work on the Tukituki submission from 5 March to 31 July. You will see a progression from DOC being very supportive of the project in March, to some concerns being raised about nutrient modelling, to DOC discussing these concerns with Hawkes Bay Regional Council and its scientific advisers NIWA, to the final briefing on 31<sup>st</sup> July confirming what DOC would submit on. It is important to note that not until the 31 July briefing did DOC make a decision on the submission.

It is quite clear from the full paper trail that my answers in the House were honest and a fair representation of what I knew of the process by which DOC decided on its submission to the Board of Inquiry.

If you require any additional information to aid in your deliberations please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nick Smith', with a stylized flourish at the end.

Hon Dr Nick Smith

Enc:

- MoC Tukituki Time Line
- Ruataniwha Water Storage Proposal 5 March 2013
- Doris Johnston Radio New Zealand Transcript 19 September 2013