

BEFORE THE ENVIRONMENT COURT

Under the Resource Management Act 1991 ("Act")

In the matter of appeals under clause 14 of the First Schedule to the Act concerning the Proposed One Plan for the Manawatu-Wanganui Region and the topic of Surface Water Quality

between **FEDERATED FARMERS OF NEW ZEALAND**
ENV-2010-WLG-000148

and **MINISTER OF CONSERVATION**
ENV-2010-WLG-000151

and **DAY, MR ANDREW**
ENV-2010-WLG-000158

and **HORTICULTURE NEW ZEALAND**
ENV-2010-WLG-000155

and **WELLINGTON FISH & GAME COUNCIL**
ENV-2010-WLG-000157

and **MANAWATU-WANGANUI REGIONAL COUNCIL**
Respondent

between **FEDERATED FARMERS OF NEW ZEALAND**
ENV-2010-WLG-000148

Statement of Rebuttal Evidence of **ANDREW EDWARD DAY**

Dated: 18 April 2012

1. My full name is Andrew Edward Day. I have prepared evidence in chief on this topic and set out my qualifications and experience in that evidence. In this rebuttal evidence I rebut matters raised in the evidence of Shaun Newland (for Fonterra) in relation to equitable allocation of nutrient loss rights.

2. I share Mr Newland's concern for the "equity for existing dairy farmers with other land users" (para 26.13) however I believe he has amalgamated resource allocation and regulation in his terminology. His statement more accurately reflects the current situation set out in the decision version (DV) where existing and new dairy farms are the only land uses formally allocated nutrient loss through regulation. Indeed had Fonterra still sought through this appeal process their previous nutrient allocation framework put forward at the council level hearing (Willis 2009), Mr Newland's concerns of equitable treatment of other land users, a concern which I share, would largely be resolved.

2.3. Attachment 4 of Mr Willis's document (ibid) put forward a set of LUC leaching numbers for Table 13.2 (that reduced over time) that Fonterra sought along with a reducing grand parented lid (percentage reduction) for those that couldn't meet Fonterra's LUC numbers. That is, previously Fonterra had considered other land uses in their preferred allocation framework by supporting an LUC allocation method that applied to all land (albeit at slightly inflated values compared to Council's values in the notified version (NV) of the Plan, particularly for Fonterra's LUC 6). The grand parenting approach proposed in that framework only applied to landowners who were not able to achieve the LUC limit for their land, so provided a mechanism to manage only land uses with very high existing nutrient loss relative to their share of the resource. All other land was managed under the LUC allocation method.

3.4. I disagree with Mr Newland's statement in para 28 where he states with reference to the hearing panel's decision; "***This decision did however***

recognise issues of equity and practicality by grand parenting (through the expectation of operation at good industry practice) existing dairy farmers affected by the regulation at a level of good practice appropriate to their individual farm circumstance.” I consider that Mr Newland has again confused allocation and regulation and has treated them as the same thing. He has focussed on dairy farms to reach this conclusion and has assumed that because dairy farmers are the only land users being regulated in the DV, they should be allocated as much of the resource as they can justify. If the resource was only to be used by dairy farmers then Mr Newland’s statement might have merit, however the scarce capacity of the Region’s water bodies to assimilate nitrogen loss is needed by many users of that resource i.e. the nitrogen assimilative capacity of the waterways isn’t there solely for the benefit of dairy farming.

4.5. I believe that those resource users who have gone from being allocated a share of the resource (but were not regulated) in the NV to not being allocated any of the resource in the DV would dispute that this is an equitable outcome.

5.6. Please see my evidence in chief for an explanation of the potential wealth transfer that results from not being allocated a share of the resource.

6.7. The framework supported by the experts for Fonterra (as presented in the evidence in chief of Gerard Willis), which involves grand parenting nutrient losses from existing dairy farms, provides little improvement from the DV in terms of an equitable allocation of the resource because, again, it does not account for other people wishing to use a portion of the resource.

7.8. In my view the current water quality of our rivers is the aggregate of all land use within a defined catchment along with point source discharges, as supported by Mr Newland (26.13 (a) and (b)). To not

allocate these other land use types a share of the resource as per the DV puts at risk any water quality objective. Over time these other land users will respond to market signals in a similar fashion to that which dairy farmers have -done to date. Indeed the relatively low level of inputs over the past few years on sheep and beef farms is likely to have had a positive contribution to aggregate catchment water quality and potentially masked intensification of other sectors. The previous trend of low inputs for sheep and beef farms has reversed as product prices have improved.

~~8.9.~~ Fonterra's current allocation framework that they have put forward to the Environment Court sets up 27kg N loss per ha as the level at which other land owners (non existing dairy) might reasonably expect their intensity to be limited to (via regulation) in the future to retain equitability across land uses. I consider such an approach is extremely unlikely to result in any positive water quality objective being met.

~~9.10.~~ Such an approach also means that a trading regime is unlikely to be appropriate because a uniform N loss limit of 27kg/ha across all land would significantly increase the amount of actual N loss compared with current levels (because the unutilised N loss has an economic value). Therefore the absence of trading eliminates the opportunity to reduce nitrogen loss at the lowest cost in the catchment. It is unclear from the evidence provided by Fonterra why their current allocation framework doesn't allow for the lowest cost option to mitigate N loss whereas their previous one did.

Andrew Day

References

Willis G, 2009, Statement of evidence of Gerard Willis for Fonterra Co-operative Group Limited