

under: the Resource Management Act 1991

In the matter of: Hearings on Submissions on the Proposed One Plan

between: Fonterra Co-operative Group Limited

Submitter

and: Horizons Regional Council

Respondent

*Statement of evidence of John Lewis Hutchings on behalf
of Fonterra Co-operative Group Limited*

Dated: 2 July 2008

Date of Hearing: 2 July 2008

Chapman Tripp Barristers & Solicitors
23-29 Albert St Tel +64 9 357 9000
PO Box 2206 Fax +64 9 357 9099
Auckland, NZ DX CP24029
Reference: S M Janissen/B W Rogers

STATEMENT OF EVIDENCE OF JOHN LEWIS HUTCHINGS

INTRODUCTION

- 1 My full name is John Lewis Hutchings. I appear on behalf of Fonterra Co-operative Group Limited (*Fonterra*).
- 2 I am General Manager, Sustainable Production for Fonterra. My primary responsibility is to develop and implement programmes to assist Fonterra suppliers to adopt sustainable management practices.
- 3 I have a Bachelor of Arts with Honours degree in physical geography/sociology and a Master of Public Policy degree, both from Victoria University of Wellington.
- 4 I have had extensive experience in developing and applying resource management policy:
 - 4.1 I was primarily responsible for the development of the award-winning Taranaki Regional Policy Statement and the Taranaki Regional Coastal Plan in the late 1990s.
 - 4.2 I was the Strategy Leader responsible for environmental and regulatory management within Local Government New Zealand for seven years.
 - 4.3 I spent nearly three years providing advice to the Prime Minister and Cabinet on environmental management, sustainability and local government.
- 5 I am familiar with the Horizons Proposed One Plan (*Proposed One Plan*) to which these proceedings relate. This evidence is given in support of the submissions and further submissions that Fonterra lodged on the Proposed One Plan, which are attached to this statement of evidence as **Appendix A**.

SCOPE OF EVIDENCE

6	My evidence addresses:	
6.1	Fonterra's submissions on the Proposed One Plan;	
6.2	Fonterra's commitment to sustainability; and	
6.3	Dairy industry guidelines for developing RMA policy.	
7	Fonterra is committed to sustainable dairying and to protecting waterways. As I will outline momentarily, Fonterra has launched numerous programmes to achieve sustainability on our suppliers' farms, including:	
7.1	Dairying and Clean Streams Accord;	
7.2	Sustainable Dairying Specialists and the Fonterra Sustainability Leadership Group;	
7.3	Dairy Industry Strategy for Sustainable Environmental Management;	
7.4	Programmes to achieve supplier compliance with Regional Council rules; and	
7.5	Programmes to assist suppliers to understand best practice.	
8	Fonterra has made a number of improvements at our processing facilities as well, including a commitment to significantly upgrade the waste treatment systems at our Longburn facility.	
9	In collaboration with DairyNZ and Federated Farmers, Fonterra has developed the "Dairy Industry Guidelines for Developing	

RMA Policy" (*RMA Guidelines*).¹ As I will explain, the Proposed One Plan falls short of these Guidelines in significant ways.

10 Fonterra is concerned that the Proposed One Plan does not represent good resource management policy. Fonterra is particularly troubled by some of the methods proposed in the plan, especially with respect to:

- 10.1 Regulation of dairy farming (eg Rule 13-1);
- 10.2 Water allocation to hydro-electricity generation (Policy 6-16); and
- 10.3 Achievability of water quality standards (Schedule D).

11 As Fonterra's expert advisers Dr Layton and Mr Baker will explain, Horizons does not appear to have adequately assessed available alternatives to achieve environmental goals, and instead appears to have narrowly focused on certain preferred methods without sufficient consideration of the potential implications of these methods.

12 A consequence of this narrow focus is that certain methods have been proposed when it is not clear that their outcomes are equal (much less superior) to other methods or that the relative costs and benefits of competing policies have been evaluated. For example, it is not clear that the regulatory approach in Rule 13-1 for dairy farming would be more successful than a cooperative approach along the lines of the proposed non-regulatory "whole farm business planning" approach for sheep and beef farming (Policy 5-1). Similarly, it is not clear that the cost/benefit ratio of the regulatory approach (Rule 13-1) has been evaluated relative to a cooperative approach (Policy 5-1).

¹ See Dairy Industry Guidelines for Developing RMA Policy (attached as **Appendix B** to this statement of evidence).

FONTERRA'S SUBMISSIONS ON THE PROPOSED ONE PLAN

13 Fonterra is serious about improving environmental performance. As I will outline shortly, Fonterra considers that more progress can be made through industry-led initiatives than through contentious regulatory approaches. Fonterra welcomes an opportunity to work with Horizons to get it right.

14 Fonterra lodged submissions and further submission on the Proposed One Plan. The submissions addressed, among other things, the adequacy of the analysis of the Proposed One Plan under Section 32 of the Resource Management Act 1991 (RMA).

15 As noted above, Fonterra has significant concerns with the Proposed One Plan. Fonterra will address these (and other) issues in detail at the later hearings on these topics. However, Fonterra considers that it is important to appear before you today because it appears that the inadequate cost/benefit analysis conducted thus far may have inappropriately limited the options available for the Commissioners' consideration. Fonterra considers that we must act now to get going on the right course. Dr Layton and Mr Baker will discuss this issue with you in detail.

16 But before turning to that issue, I want to step back and talk about what we are all here to achieve, and that is sustainability.

FONTERRA'S COMMITMENT TO SUSTAINABILITY

17 I want to start by acknowledging the effort of Horizons. It is easy to lose sight of the overall goal as we wade through the specifics, and I want to emphasise at the outset that Fonterra supports measures to improve environmental quality in the Manawatu-Wanganui Region.

18 Fonterra is committed to sustainable dairying. The future of dairying is dependent upon it. I believe three "drivers" have been at work to make this commitment a core part of our business:

- 18.1 Ordinary New Zealanders care about the environment. This environmental ethic drives local and central government, and underpins environmental policy decisions. Public acceptance of dairying provides a domestic "licence to operate", and if the public considers that dairying is not doing its share to minimise environmental effects, more stringent rules will result.
- 18.2 Dairy farmers share the public's environmental ethic. With some occasional exception, dairy farmers view themselves as being stewards of the natural resources upon which their businesses depend.
- 18.3 Operating "clean and green" dairy farms opens and helps to maintain access to international markets. International constraints on market access and reduced sales are a potential consequence of poor environmental performance.
- 19 Fonterra leads and/or participates in a wide range of programmes to assist our suppliers to adopt environmentally sustainable milk supply practices. In the next section of my evidence I will make comment on the most significant of these programmes:
- 19.1 Dairying and Clean Streams Accord;
- 19.2 Sustainable Dairying Specialists and the Fonterra Sustainability Leadership Group;
- 19.3 Dairy Industry Strategy for Sustainable Environmental Management;
- 19.4 Programmes to Achieve Supplier Compliance with Regional Council Rules; and
- 19.5 Programmes to assist suppliers to understand best practice.

Dairying and Clean Streams Accord

20 The Dairying and Clean Streams Accord is an agreement between the Ministries of Agriculture and Forestry and for the Environment, Fonterra and Local Government New Zealand (on behalf of regional councils), which is attached as **Appendix C**. Signed in May 2003, its aim is to achieve clean, healthy water, including streams, rivers, lakes, groundwater and wetlands, in dairying areas. The Accord sets out five targets for farmers. These are:

- 20.1 Dairy cattle to be excluded from 50 per cent of streams, rivers and lakes by 2007, rising to 90 per cent by 2012;
- 20.2 Fifty percent of regular crossing points to have bridges or culverts by 2007, and 90 per cent by 2012;
- 20.3 All dairy farm effluent discharge to comply with resource consents and regional plans immediately;
- 20.4 All dairy farms to have in place systems to manage nutrient inputs and outputs by 2007; and
- 20.5 Fifty percent of regionally significant wetlands to be fenced by 2005, rising to 90 per cent by 2007.

21 Sustained year-on-year progress has been made against Dairying and Clean Streams Accord targets. Progress against the Accord goals for the 2006/2007 season is as follows:

- 21.1 Targets for excluding dairy cattle from streams, rivers, and lakes, and the provision of bridges and culverts over regular crossing points have already been met for the 2007 season.
- 21.2 Incidence of significant non-compliance with effluent management rules, which have the potential for negative environmental impact, improved against figures recording in 2005/2006. The average significant noncompliance was

10 percent in 2005/2006 and 7 percent in 2006/2007 across the 13 regions where Fonterra suppliers operate.

21.3 Significant progress has been made in the adoption of nutrient budgets, with 97% of Fonterra suppliers having nutrient budgets.

21.4 In regions where councils have identified regionally significant wetlands, the 2007 Accord target has been met.

Sustainable Dairying Specialists and the Fonterra Sustainability Leadership Group

22 Fonterra employs six Sustainable Dairying Specialists. Their task is to develop programmes and work in partnership with regional councils to deliver sustainable dairying advice to suppliers. These specialists assist suppliers by helping them to make on-the-ground improvements to their operations. Mr Sean Newland, who is here with me today, is the Sustainable Dairying Specialist for the Horizons region.

23 The work of Fonterra's Sustainable Dairying Specialists is led by me and guided by the Fonterra Sustainability Leadership Group (FSLT). The FSLT is made up of Directors and high level managers drawn from all relevant parts of the company.

Dairy Industry Strategy for Sustainable Environmental Management

24 The "Dairy Industry Strategy for Sustainable Environmental Management" (the *Strategy*) was released in March 2006. Commissioned on behalf of dairy farmers by Dairy Insight (now DairyNZ), the Strategy is designed to guide sector investment and effort on environmental issues. Actions are defined under headings such as: developing sustainable dairying leadership at national and regional levels; ensuring high quality input to regulatory decision making; developing farmer and stakeholder awareness; researching tools and options to minimise the impact of dairying on the environment; building the capability of

farmers in the field of environmental management; and making significant gains in target catchments.

25 One of the products of the Strategy is a \$17 million four year research agenda. This has a focus on mitigation tools and the measurement of current practice and progress.

26 Implementation of the Strategy is monitored by the "Dairy and Environment Leadership" Group. This Group is made up of senior representatives from the dairy sector, the Chief Executive Officers of the Ministry of Agriculture and the Ministry for the Environment and senior staff from Regional Councils.

27 The hallmark element of these programmes is Fonterra's 2007 "Effluent Indicator System". This system commits to reduce the payout and/or to not pickup milk from persistent and significant non-complying suppliers. The programme also includes the provision of one-on-one advice to those suppliers who may need to improve their management practices and/or upgrade their effluent equipment.

28 I note, for example, that a member of my team of Sustainable Dairying Specialists has provided advice to every one of the 137 significant non-complying suppliers in the Canterbury Region and is facilitating the supply of designs for the upgrade of effluent management systems, when these are deemed necessary. A similar programme is about to be rolled out to suppliers located in Northland and a comparable programme has been implemented with suppliers adjacent to Te Awamutu. I am confident that these types of approaches will assist to achieve 100% compliance with Resource Management Act requirements.

Programmes to assist suppliers to understand best practice

29 In my view, the best means to achieve sustainable dairying is to encourage neighbouring farmers to work with staff from

DairyNZ, research institutes, regional councils and Fonterra to define achievable targets and apply best practice. Such approaches are at the core of work currently underway in catchments draining to the Rotorua Lakes. They are also at the centre of the "Best Practice Dairy Catchments" programme - which includes the Toenepi catchment adjacent to Morrinsville and the Waiohokura catchment in Taranaki.

30 A similar programme is in an advanced stage of planning for application within the upper Karapiro catchment in the Waikato Region.

31 Farmer uptake of best practice methods has been encouraging but it is critical that before regional councils set targets:

31.1 Good information is available about current mitigation practice;

31.2 Farmers have knowledge of the efficacy of available mitigation technology; and

31.3 A rigorous cost/benefit analysis of adopting mitigation practices has been conducted and shared with the public.

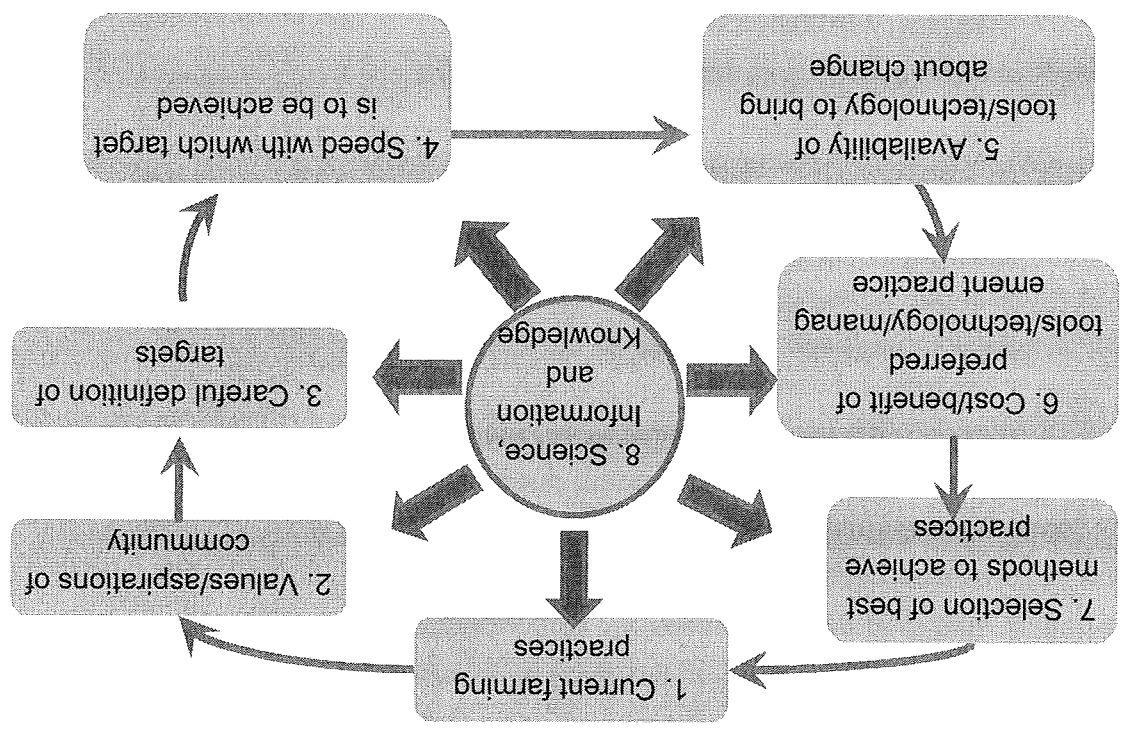
32 **Environmental Improvements at Processing Facilities**
Fonterra's efforts are not limited to helping out on the farm. We frequently initiate programmes and install new technology at our processing facilities to improve environmental performance.

33 For example, Fonterra has made a firm commitment to introduce a new, highly effective wastewater treatment process at Longburn, which represents a capital expenditure of several million dollars. Fonterra is committed to commissioning the first stage of a new wastewater treatment system by 31 December 2009 and a second stage will be commissioned by end of 2014.

DAIRY INDUSTRY GUIDELINES FOR DEVELOPING RMA POLICY

34 As I noted at the outset of my evidence, Fonterra has worked with DairyNZ and Federated Farmers to develop RMA Guidelines.² The introduction to the Guidelines explains that: Ultimately, we are looking for a policy solution that protects the sustainability of both the dairy industry and the environment.³

35 The RMA Guidelines include the following schematic to guide the development of environmental policy:



2 See RMA Guidelines, **Appendix B**.

3 RMA Guidelines, "How to use this document", **Appendix B**.

36 I will now explain how the Proposed One Plan falls short of these Guidelines, especially with respect to farming activities.

Current farming practices

37 There does not appear to have been sufficient evaluation of current farming practices. As the Guidelines explain:

Knowing what is actually happening on farm is critical to determining what controls are required, if any, to address resource management issues. Current farming practices are often not well measured. There is a tendency by councils to use broad models and averages that do not accurately reflect the diversity and scope of on-farm management practices being used.⁴

38 I consider that not enough effort has gone into defining what exactly is occurring on-farm to know what further mitigation opportunities are needed and are possible. While I understand that Horizons has undertaken a six-farm study to assess the feasibility of achieving the nutrient leaching rates, I also understand that the findings of this study were not available at the time the Proposed One Plan was notified.

39 It strikes me as contrary to good-decision making practices to proceed with notification of a Plan in the absence of:

39.1 Sound information on the current status of farming practices; and

39.2 Sufficient analysis to ensure that the proposed approach is technically and economically feasible.

Values/aspirations of community

40 I appreciate that Horizons staff have worked hard to engage with the community throughout the Proposed One Plan development process. And I understand that the Proposed One Plan is aimed

at focussing on the issues of primary importance to the community.

41 I am, however, concerned that the public may not have been given complete information. It is one thing to say that one values water quality, but it is another to say how much one is ready to spend to protect it. As the Guidelines explain:

When it comes to determining critical resource management issues, the community is often not provided with good information on the economic, social and cultural trade-offs that need to be considered when putting rules in place to protect the environment.⁵

42 As Dr Layton will explain, "[t]here appears not to have been a thorough analysis as to the achievability of the proposed water quality standards in Schedule D."⁶ Dr Layton also expresses concern with respect to the analysis of the appropriateness of the nutrient leaching rates.

43 In the absence of rigorous economic analysis, it is impossible to know how much compliance with the proposed water quality standards and nutrient leaching rates will cost. I am concerned that the community has not been given enough information to assess the potential economic implications of the Proposed One Plan to make informed judgments.

Careful definition of targets

44 It likewise does not appear that there has been sufficient evaluation of the appropriateness (technical, practical, and economic) of the nutrient loss limits in Table 13.2 and the proposed water quality values, objectives, and standards in Schedule D.

5 RMA Guidelines, Section 2.1, **Appendix B.**

6 Statement of Evidence of Brent Layton at para 58.

45 A cost/benefit analysis is critical in setting targets because, absent solid information on the costs of achieving a target, a regional council is unable to balance the environmental benefits against the social costs. As acknowledged in the Officer's Report, there appears not to have been a cost/benefit analysis of this nature.⁷

46 **Speed with which target is to be achieved**
It does not appear that there has been sufficient time allowed to achieve the nutrient loss limits in Table 13.2 and the proposed water quality values, objectives, and standards in Schedule D. Table 13.2 requires compliance with "Year 1" levels when the rules comes into force, and Policies 6-3 and 6-4 appear to require compliance with water quality standards immediately.

47 However, as the RMA Guidelines explain:

Timeline for achievement of the target must be established on the basis of the availability of mitigation technology and the required investment to influence farm management practice change.⁸

48 It seems to me to be contrary to good decision-making to require immediate compliance with nutrient rates and water quality standards when the practicalities and costs of such compliance have not been adequately considered.

49 **Availability of tools/technology to bring about change**
Similarly, there does not appear have been an adequate evaluation of tools and technologies available to bring about

7 See Planning Evidence and Recommendations Report at page 57 (explaining that "[i]f there is merit in assessing the economic benefits and costs of particular policies then this will be done. ... We intend to do this with key parts of the [Proposed One Plan] and present this information in the topic hearings so it can be seen in its context) (emphasis added).

8 RMA Guidelines, Section 2.4, **Appendix B.**

change, especially in regard to the practical and economic feasibility of meeting the nutrient loss limits in Table 13.2 and the proposed water quality values, objectives, and standards in Schedule D.

50 Without knowing what is happening on the farm, it is impossible to know what is necessary to bring about the required change. And absent a thorough analysis, it is difficult to know if such change can be practically (what could one do?) and economically (how much would it cost?) implemented.

51 While the six-farm study is a step on the right direction, in my view more evaluation is needed before we become bound to an approach that may prove impracticable and possibly unachievable in practice.

Cost/benefit of preferred tools/technology/management practice

52 I will leave the analysis of the cost/benefit issue to Dr Layton and Mr Baker, but for my purposes, I note that absence of a robust cost/benefit analysis appears to be perhaps the most serious shortcoming of the Proposed One Plan.

53 **Selection of best methods to achieve practices**
A thorough cost/benefit analysis will yield the best method to achieve a particular outcome. As Dr Layton will explain:

[1]It is the comparison of the relative costs and benefits of competing approaches where the analysis pays its greatest dividends. For example, if two approaches achieve the same end (eg better water quality) but one costs a fraction of the other, then the less expensive approach would be more efficient. However, absent a cost benefit analysis of competing options, it is impossible to know if one can achieve the same result at lower cost.⁹

54 From my perspective, it seems impossible to select the best option without an analysis of other approaches. One doesn't find the best route without consulting the map.

55 **Science, information, knowledge**
As can be seen from the schematic (at paragraph 35), science, information, and knowledge feed into the entire decision-making process. However, as I have explained, there appears to be more that could have been done to promote a common understanding of agreed science – particularly in ways that help individual farmers understand the options open to them.

56 **Conclusion**
Fonterra is concerned that parts of the Proposed One Plan may be unsustainable. It is far from clear that the appropriate targets have been set and the best methods to achieve them have been selected.

57 Fonterra considers that there is a better way.

WAY FORWARD

58 Fonterra is particularly concerned with the regulation of dairy farming under Rule 13-1.¹⁰

59 As I have explained, Fonterra has serious reservations with the proposed approach because it is unclear whether we can achieve the targets proposed and (if so) at what cost. And perhaps more fundamentally, Fonterra is concerned that Horizons has started down a regulatory path when it may not prove to be the most appropriate way forward.

10 As noted at the outset of this submission, Fonterra has other significant concerns with the Proposed One Plan that have been addressed in its submissions as well as in legal submissions, Dr Layton's evidence, Mr Baker's evidence, and earlier in this evidence. By my focus on Rule 13-1, I am not downplaying the importance of these other issues. I support the proposal of Dr Layton with respect to these issues.

60 It is my belief that we should give industry-led initiatives an opportunity to take hold and produce results. The first challenge we tackled was stock access, and as noted earlier, we are making significant progress under the Dairying and Clean Streams Accord on this issue. We are now focussing on nutrient leaching, and have a number of initiatives underway to address this issue.

61 Fonterra considers that we can make more progress through a co-operative approach. I have the conditional support of Ravensdown Fertiliser to work with Fonterra to prepare whole farm nutrient plans for every Fonterra supplier in the Horizons Region over the next five years.¹¹ These nutrient plans can be combined with other measures concerning water utilisation (eg permitted activity standards) to yield practical, on-farm measures to protect the environment.

62 We are offering to work with Horizons staff and our suppliers to get this right.

John Hutchings
2 July 2008

¹¹ It is not feasible to do it any sooner given the limited number of nutrient management specialists in New Zealand.

