

under: the Resource Management Act 1991

in the matter of: Submissions on chapters 6, 13 and 15 of the Proposed One Plan

between: **Fonterra Co-operative Group Limited**
Submitter

and: **Manawatu-Wanganui Regional Council**
Respondent

Statement of supplementary evidence of Sean Matthew Newland on behalf of Fonterra Co-operative Group Limited

Dated: 17 February 2010

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**STATEMENT OF SUPPLEMENTARY EVIDENCE OF SEAN
MATTHEW NEWLAND ON BEHALF OF FONTERRA CO-
OPERATIVE GROUP LIMITED**

INTRODUCTION

- 1 My full name is Sean Matthew Newland and I have the qualifications and experience described in my Evidence in Chief (*EIC*).
- 2 In this supplementary evidence I respond to the supplementary evidence of Mr Carlyon, who appears as a witness for the Manawatu-Wanganui Regional Council (*Horizons*), and the opening statement of Mr Maassen, counsel for Horizons. In response to these statements I provide further detail as to the nature of the non-regulatory approach proposed by Fonterra Co-operative Group Limited (*Fonterra*). I also provide information relevant to questions from the Commissioners during the course of the Water Hearing.
- 3 The fact that this supplementary evidence does not respond to every matter raised in supplementary evidence relevant to my area of expertise, or every witness raising those matters, should not be taken as acceptance of the matters raised by them. Rather, I rely on my EIC and this statement to set out my view on what I consider are the key issues concerning water quality, nutrient losses (*N-loss*) from dairy farming, and Fonterra's proposals to address N-loss, in this proceeding.

NON-REGULATORY VS "VOLUNTARY/NO ACTION"

- 4 In his submissions to the Panel at the opening of the Water Hearing, Mr Maassen portrayed Fonterra's alternative approach to the proposed N-loss targets as "voluntary"¹ or being "no action".²
- 5 Fonterra has asked for a "non-regulatory" approach to be taken for a period of 5 years at which point a review of the success of the approach would be carried out. Demonstration of a suitable level of improvement in practice would negate the need for the imposition of rigid consent-based regulation to be put in place.
- 6 This is not a "no action" or "voluntary" approach, but is a planned approach, that allows for the dairy industry to demonstrate its ability to achieve and sustain improved environmental practices. It proposes to do so in a manner that:
 - 6.1 Allows for the current N-loss and on-farm management activities within the Region to be assessed;

¹ See paras 35, 39, 40 and 42.

² See para 43.

- 6.2 Informs and supports farmers in making changes to their on-farm practices;
 - 6.3 Documents change in practice and subsequent N-loss reductions that can be sustained over time; and
 - 6.4 Provides confirmation of Fonterra's belief that sufficient progress can be made in a more efficient manner than the regulatory alternative.
- 7 By placing a 5 year review date on the approach the industry is not choosing to do nothing – it is in fact very motivated to achieve as much as it can within the time frame.

- Programme to build supplier nutrient management capacity**
- 8 I had not provided specific details in my EIC of Fonterra's suggested programme to build supplier nutrient management capacity because Fonterra had anticipated that such a programme would be developed in conjunction with Horizons and the Region's dairy farmers. However, as noted above, Messrs Carlyon and Maassen³ have both suggested that the reason Fonterra has not provided these details is because it has not developed its thinking in this area. In order to provide the Panel with confidence that Fonterra's work in this area is well-advanced, I have attached as **Appendix 1**, a summary of Fonterra's suggested approach. I also briefly describe it below. Of course, Fonterra expects this approach to be further developed, in response to the Panel's decisions on the Proposed One Plan (POP), and after consultation with Horizons and dairy farmers.
- 9 The proposed programme includes a goal linked specifically to improvement in dairy activity on-farm that relates to those issues identified in the POP (as notified). In part it could be described as an extension of the Dairying and Clean Streams Accord (*Accord*). Its purpose is to provide greater awareness, focus and support for farmers when dealing with the issue of N-loss from pasture. Fonterra intends to continue with the work of the Accord in conjunction with the proposed programme.
- 10 The programme would be largely funded by Fonterra, DairyNZ, and Horizons, as key stakeholders. While not providing monetary funding, Federated Farmers, fertilizer companies and rural professionals would contribute with their expertise and systems. Individual dairy farmers would contribute by investment in the farm system changes and infrastructure required to reduce nitrate losses. As water quality is an issue which is important to the whole community, Horizons may wish to consider levying a general rating charge, so that funds can be directly allocated to the programme,

³ See also paragraph 4(e) of Mr Maassen's letter to the Panel regarding the provision of supplementary evidence, dated 29 January 2010.

the preparation of whole farm nutrient management plans or indeed any water quality measures preferred by the Panel.

- 11 A number of possible programmes have been developed, considered and discarded by Fonterra since the POP was notified. These considerations have occurred in parallel with ongoing thinking about how the dairy industry can best respond to the challenge of N-loss at a national level. This brought with it the complication of not wanting to set policy “on the fly”, and ensuring any programme developed for the Horizons Region does not reduce the chances of developing the optimum national programme.
- 12 After initial (and ongoing) discussions with Horizons staff, it became apparent that there was a considerable difference in position as to what approach would be acceptable to each party. Given Fonterra had, and retains, strong concerns with the POP approach it was not amenable to picking up the proposed rules and operating them as they stood within an industry Code of Practice, which Horizons staff had indicated was their preference.
- 13 With N-loss from pasture being a relatively new issue for the industry to grapple with, and certainly a new issue to deal with at the regional level, determining an appropriate response and bringing other industry stakeholders with us has taken considerable time and effort. As I have stated, it is hoped that, as the programme is consulted on and implemented, it will be developed further.
- 14 The work being carried out by the dairy industry in conjunction with other regional councils, such as Environment Canterbury, to collaboratively develop and implement approaches to manage N-loss from pasture will also assist with this process.

THE IMPACT OF FONTERRA GROWTH TARGETS

- 15 A question was raised by the Commissioners (20 January 2010) as to how the POP rules relating to N-loss and any industry alternatives would impact on “Fonterra’s 3% growth strategy”.
- 16 Neither the New Zealand dairy industry nor Fonterra has a target or strategy to achieve any particular level of growth in milk production. The New Zealand Dairy Industry Strategy⁴, driven by DairyNZ and with support and input from Fonterra, Federated Farmers and the Dairy Companies Association of New Zealand, concentrates on profitability, sustainability and competitiveness. This is in direct response to changing markets and customer/consumer expectations.

⁴ The Strategy for New Zealand dairy Farming - <http://www.dairynz.co.nz/page/pageid/2145843853>

- 17 Dairy farming was once all about low cost, high volume production. We now have international competitors with higher intensity and lower cost farming systems. The DairyNZ Strategy is aimed at achieving higher farm profitability, and an internationally competitive milk supply that provides the best returns to farmers. The Strategy aims to achieve these goals in a way that is sustainable and recognised as such. The Strategy recognises the clear tension between any ambitious production and productivity goals, and the reduction of dairy farming's environmental footprint.
- 18 The Strategy was adopted last year and runs to 2020. It reflects Fonterra's own core strategy of being a sustainable, low cost and competitive producer.

NUTRIENT LOSS FROM PASTURE BEING A KEY REGIONAL ISSUE

- 19 In his supplementary evidence, Mr Carlyon⁵ comments that there has been *"...a track record of non-delivery by Fonterra and the dairy sector in terms of environment performance..."*. This sentiment would seem to be the basis for his contention that rules to regulate N-loss are necessary - because Fonterra and the dairy industry have had an opportunity to manage this issue themselves, but have not taken up that opportunity. This so called lack of action and delivery has been used as a basis for the need to impose regulation now. It is my belief that at best there has been a level of "mis-communication" between the parties.
- 20 I am unaware of any historical communication from Horizons to Fonterra, either directly or otherwise, outside of the recent POP process, indicating that the issue of diffuse N-loss from the discharge by animals of dung and urine to pasture was a, or the, key issue for the industry to address within the Horizons Region.
- 21 Over the course of the past several months I have raised this question with other members of staff within Fonterra and with representatives of other primary industry groups within the Horizons Region. None of the persons I consulted indicated that they or their organisations were aware of any such communications or, until the POP process began, of the priority Horizons intended to give to controlling diffuse N-loss. I understand from these discussions that Table 13.2 in the POP was never released in draft prior to the POP being notified.
- 22 Accordingly, Fonterra does not consider that it was given a chance to implement a programme to control N-loss. The changes Fonterra seeks to the POP would give it such an opportunity.

⁵ Page 2, paragraph 5.

TABLE 13.1 – AMENDMENT THAT CAPTURED “ALL CATCHMENTS”

- 23 The “pink version” of the POP provisions, which was circulated with supplementary officer reports, included a cell within Table 13.2 which referred to “all other catchments”. Fonterra was concerned that this amendment could lead to all catchments within the Region being required to meet the requirements of Rule 13.1.
- 24 Horizons staff (Helen Marr) have assured me that this was not the intention of the amendment. This issue is addressed in part in the Response to Questions on Rule 13.1 and Related Policies and Tables⁶ (response to question 38 c). However, Horizons’ final intentions for the redrafting of this Table are still unclear. Fonterra requests that a redrafted table be provided for the consideration of all interested submitters, and that those submitters be given the opportunity to provide their comments on the redrafted table to the Panel.

CONSIDERATION OF A “USE” AND “AREA BASED” PERMITTED WATER TAKE RULE

- 25 Fonterra has submitted that a permitted water take rule based on land use and area be used. A draft of such a rule has been provided to Horizons by Fonterra (a rule which is currently under consideration by Environment Waikato) and a number of scenarios representing different options for permitted water take allocation have subsequently been developed by Horizons staff. These were provided in supplementary evidence by Dr Jon Roygard.
- 26 Fonterra has provided⁷ comments to Horizons on the scenarios and options described in the report appended to the supplementary evidence of Dr Roygard. In doing so we have noted two issues of concern:
- 26.1 The figures for catchment area vary between scenarios (e.g. for the Upper Manawatu in the initial scenarios an area of 105816 hectares is used while for scenario 15 an area of 166018 hectares is used. Similar differences occur in the land area used for scenarios modelling the Mangatainoka catchment). Differences in catchment area figures such as this are likely to have significant impact on the total volume of water allocated under each scenario; and
- 26.2 When using similar assumptions for water use by stock and stock numbers, significantly different volumes of allocated

⁶ Dated 29 January 2010.

⁷ Email of 19/01/2010 to J Roygard and H Marr from myself (with follow-up phone call on the same day), plus email of 03/02/2010 to H Marr from G Willis.

water appear between scenario 4 (Horizons "best approximation of current water take") and scenario 15 (Fonterra "best approximation of current water take").

- 27 Fonterra will continue to work with Horizons staff to determine why this has occurred and what impacts this has on determining the suitability of different methods for allocating permitted water takes. Until these questions have been addressed Fonterra asks that the Commissioners note these issues exist and are yet to be addressed.

CONCLUSION

- 28 I confirm the conclusions set out in my EIC.

Sean Newland
17 February 2010