

IN THE ENVIRONMENT COURT AT WELLINGTON

IN THE MATTER of the Resource Management Act 1991
 (“**the Act**”)

AND

IN THE MATTER of clause 14 of the First Schedule of the
 Act

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

AND **MERIDIAN ENERGY LTD**
 ENV-2010-WLG-000149

AND **MINISTER OF CONSERVATION**
 ENV-2010-WLG-000150

AND **PROPERTY RIGHTS IN NEW ZEALAND**
 ENV-2010-WLG-000152

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

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

Appellants

AND **MANAWATU-WANGANUI REGIONAL
 COUNCIL**

Respondent

**REBUTTAL EVIDENCE OF CHRISTOPHER KEENAN FOR HORTICULTURE NEW
 ZEALAND IN RELATION TO THE APPEALS ON THE PROPOSED ONE PLAN FOR
 MANAWATU WANGANUI REGIONAL COUNCIL ON SUSTAINABLE LAND
 USE/ACCELERATED EROSION**

2 APRIL 2012



ATKINS | HOLM | MAJUREY

Helen Atkins
 PO Box 1585
 Shortland Street
 AUCKLAND 1140

Solicitor on the record
 Contact solicitor

Helen Atkins
 Helen Atkins

Helen.Atkins@ahjmlaw.com
 Helen.Atkins@ahjmlaw.com

(09) 304 0421
 (09) 304 0421

QUALIFICATIONS AND EXPERIENCE

1. My name is Christopher Martin Keenan and I prepared a statement of evidence dated 17 February 2012. In that statement of evidence I have set out my qualifications and experience and reaffirm that they are correct and I will not repeat that information here.

SCOPE OF THIS REBUTTAL STATEMENT

2. In this statement of rebuttal I comment on the following matters, the insertion of the deposited sediment standards in Schedule D of the One Plan and the relationship of this to the planning principles referred to by the Council planner, Ms Clare Barton in her evidence in chief on Surface Water Quality.
3. I also comment on why Horticulture New Zealand is concerned with the Fish and Game's proposal that the active bed of river be reduced from 2 metres to 1 metre.

DEPOSITED SEDIMENT STANDARDS

4. Associate Prof Russell Death¹ refers to the applicability of new deposited sediment standards to be used as an assessment of ecological health in the Horizons region.
5. Horticulture New Zealand is a section 274 party to Fish and Game appeal point 6.44 which sought a deposited sediment standard. Our comment in our 274 notice reads:

"The appellant seeks that a deposited sediment standard be introduced to the Plan. Any such standard should be added via a Plan Change process and full public consultation."

6. This particular appeal point in the Fish and Game appeal came as a complete surprise to Horticulture New Zealand, because in the initial submission of Fish and Game Schedule D was supported as notified, that is without a deposited sediment standard.
7. I have discussed this matter with the grower members and they were also unaware that such change was being proposed by Fish and Game as it did not arise in the context of the hearings in front of the Hearings Panel.

¹ Paragraphs 37-41 Evidence in Chief

8. From the discussions I have had with growers they are currently unwilling to commit to a new set of sediment standards in Schedule D without an appropriate level of scrutiny from all parties being undertaken. This is particularly important for the growers because their activities will be measured against the standard in terms of ongoing state of the environment monitoring.
9. I note also that the introduction of this deposited sediment standard has not been discussed in any mediations that have involved Horticulture New Zealand. Given our stated interest in this, and the lack of mediation regarding this topic our position adopted in our section 274 notice remains in opposition of adopting these new deposited sediment standards without a full process of discussion being undertaken.
10. In her statement of evidence in chief on the Water Quality topic, Ms Clare Barton for the respondent Council notes²:

Before delving into the specific issues, I wish to preface this statement of evidence by noting the following, matters that I had in my mind as guiding principles in arriving at the proposed amendments to the rules and policies:

(a) There is no such thing as "perfect" environmental science in the field of managing contaminants to air or water there will always be an element of uncertainty both as to the precise environmental risks of various options and the precise environmental benefits that will be created. This is particularly so in the complex field of managing land use to achieve surface water quality outcomes. Nevertheless the science is compelling (and multi-disciplinary) as to the relationships between land use and surface water quality and outcomes that are likely based on the various options available and requires a coherent management regime in light of the statutory tests in the RMA.

(b) There are limitations in any management approach that is taken and it is the 'best management fit' option or 'most appropriate' option that should be selected. This should be a principled regime that will achieve the desired planning goals. Like any regime it will have a methodology with small

² Clare Barton EIC Water Quality Chapter Paragraph 10

scale contradictions or fact specific limitations that do not make the regime flawed. These limitations should be analysed and addressed as required.

(c) There needs to be a realistic weighing of the economic impacts of a regime with the benefits there will be in relation to environmental outcomes. In addition rates of change should recognise social and cultural and economic matters relevant to the industries affected and the communities that rely upon those industries.

(d) The policy approach can allow for improvements to be a journey over time i.e. immediate improvement or comprehensive coverage of the regulatory regime is not necessary or indeed always possible. There are also resource capacity issues at the Council level to consider when introducing new regulation."

11. I fully concur with the comments made by Ms Barton. In the course of preparing evidence on behalf of growers for these appeals I have endeavoured to understand the view of the growers by seeking the information and asking many questions about how they work within the region.
12. In relation to the proposed sediment standards in Schedule D the simple reality is that a grower on a tractor will not be able to determine whether or not they are meeting the standards in Schedule D.
13. Rather than focussing on the need to meet the standard the issue is whether growers are adopting and implementing good management practices in relation to the production activities they are undertaking.
14. Horticulture New Zealand accepts that Rule 12-3 relating to cultivation could be improved by the addition of a standard requiring completion of risks based paddock assessments. Such a condition requiring paddock assessments is included in the amended version of Rule 12-3 attached to the evidence of Lynette Wharfe. It is my understanding that in Planning Caucusing on Chapters 5 and 12 the planners for all the parties have accepted this as an appropriate condition.

THE ACTIVE BED OF A RIVER BEING 1 METRE

15. The concern that Horticulture New Zealand have over the reduction in the width of active bed of a river from 2 metres (in

the decisions version) to 1 metre (Fish and Game request) is that this will capture a significant number of water bodies in the region.

16. To provide information to Mr Stuart Ford I asked growers to provide information on the extent of surface water drainage systems (natural or modified). We have then sought to analyse representative grower units in Horowhenua, Opiki and Ohakune.
17. The information from growers was about any watercourse with an active bed width greater than 1 m. In the course of seeking this information, I also asked how many watercourses would exist on grower properties or land used by growers with an active bed width greater than 2 metre.
18. Responses from growers indicate that there is a significant difference in impact that results from the choice of a 1 metre active bed width over a 2 metre bed width. There are some, but very few, instances of watercourses with an active bed width greater than 2 metres.
19. In most instances, growers will have watercourses with an active bed width greater than 1 metre, but less than 2 metre. Growers have been conservative in defining watercourse due to uncertainty over the definition of river, by which I mean that growers have not distinguished between natural, modified or completely man-made watercourses. In many cases it is almost impossible to determine what watercourses are truly natural.

Christopher Keenan

2 April 2012