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Bay of Plenty Regional Council	
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Signature	

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of an appeal under clause 14 of the First Schedule to the Act

BETWEEN

FEDERATED FARMERS OF NEW ZEALAND (INC)

ENV-2012-AKL-000087

Appellant

AND

BAY OF PLENTY REGIONAL COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge J A Smith sitting alone under section 279 of the Act
IN CHAMBERS at Auckland.

CONSENT ORDER

Introduction

1. The Court has read and considered the appeal and the memorandum of the parties dated 22 March 2013.
2. This consent order relates to the part of the appeals seeking relief in respect of the Topic **ENV-2012-348-000009 Rotorua Lakes Specific: Timeframes and collaboration** against parts of the decisions by the Bay of Plenty Regional Council on submissions to its Proposed Regional Policy Statement.
3. Federated Farmers of New Zealand Incorporated lodged an appeal **ENV-2012-AKL-000087** seeking the following changes:

- 3.1 at paragraph 8.iii to amend the RPS to include the use of collaborative processes and governance structures to manage the programme and mitigation funds;



- 3.2 at paragraph 9.iii to provide an alternative framework for a nutrient discharge management regime;
- 3.3 at paragraph 11.iii changes to **Policy WL6B** seeking to amend the Policy to:
- (a) extend the timeframe out to at least a minimum of 2035.
 - (b) replace the term "best practice" with "good practice" and facilitate a collaborative process with stakeholders to reach agreement on what such practices are and how they can change over time.
 - (c) make reference to "land management change" not "land use change".
4. The following parties have notified a particular interest pursuant to section 274 of the Act in the above topic, and have signed the memorandum setting out the relief sought:
- (a) Horticulture New Zealand, Avocado Industry Council and New Zealand Kiwifruit Growers Incorporated
 - (b) Fonterra Cooperative Group Limited
 - (c) Lake Rotorua Primary Producers Collective
 - (d) DairyNZ
 - (e) John Green;
 - (f) Royal Forest and Bird Protection Society of New Zealand Incorporated;
 - (g) James Warbrick.

Order

5. The Court is making this order under section 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 279. The Court understands for the present purposes that:

- (a) All parties to the proceedings with an interest in this Topic have executed the memorandum requesting this order;



- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and confirm to the relevant requirements and objectives of the Resource Management Act, including in particular Part 2.

6. Therefore the Court orders by consent that the Proposed Bay of Plenty Policy Statement be amended as shown in underline (for additions) and ~~strike-through~~ (for deletions):

Policy WL 6B: Managing the reduction of nutrient losses

Require, including by way of rules, the managed reduction of any nutrient losses that are in excess of the limits established under Policy WL 3B by ensuring that:

- (a) Rural production land use activities minimise their loss of nutrients as far as is reasonably practicable by implementing on-farm best management practices; and
- (b) Any Land use change that is required within the Rotorua Te Arawa lakes catchments to achieve the limits takes into account an equitable balancing of public and private costs and benefits; and
- (c) No discharges of nitrogen onto or into land or water in the Lake Rotorua catchment shall be authorised beyond 2032 that results in the exceedance of limit for that Lake Rotorua is authorised by a rule in a plan or a discharge permit beyond 2022 being exceeded. A catchment intermediate target for the managed reduction of nitrogen loss is to be set to achieve 70% of the required reduction from 746 t/yr to 435 t/yr by 2022.

Explanation

A Managed reduction in the amount of nutrients derived from land use activities, ~~such as dairying,~~ is necessary to halt the decline in water quality in at-risk catchments.

On-farm best management practices should be implemented to ensure that all rural production land use activities minimise their nutrient losses as far as is reasonable, practicable and affordable. The aim is to ensure that all rural production land users are operating in accordance with industry best practice.

For Lake Rotorua, current on-farm best practice alone will not achieve the nitrogen load reduction required to reach the sustainable nitrogen load of 435 tN/yr and land use change will be necessary. Beyond 2032 only discharges which enable the 435 tN/yr to be met will be authorised. The development of further resource management policy will have regard to the Oturoa Agreement.

The cost of achieving any further reduction in nutrient losses over and above on-farm best practice in a particular catchment will have a mix of public and private benefits and should be funded accordingly. Consequently, the implementation of Policy WL 6B will require the development of further policy under the Regional Council's Resource Management Act 1991 and Local Government Act 2002 responsibilities.

Nutrient reduction targets have been established to enable lakes such as Rotorua, Rotoiti, Ōkaro, Rotomā, Rotoehu and Ōkāreka to meet their target trophic level indices (TLIs).



Table reference: **Objective 28**, 2, 10 and 17, Methods 2, 3 and 28

Appendix A – Definitions

Managed reduction: In relation to nutrients and water quality, "managed reduction" means planned progressive lowering of excess nutrient losses; where a target date exists, the progressive lowering is to reach the nutrient limit by that date.

Oturoa Agreement: The 18 February 2013 Memorandum of Understanding between Bay of Plenty Regional Council, Federated Farmers Rotorua and Lake Rotorua Primary Producers Collective.

7. The consent order disposes of the relief in Federated Farmers Appeal **ENV-2012-AKL-000087** paragraph 8.iii in relation to a collaborative approach, paragraph 9.iii in relation to a nutrient discharge management regime, and paragraph 11.iii in relation to **POLICY WL6B**. The remaining parts of appeal **ENV-2012-AKL-000087** remain extant.
8. There is no order as to costs in relation to this order.

DATED at AUCKLAND this 27th day of March, 2013



J A Smith
Environment Judge

