

**AGENDA AND SUPPORTING PAPERS  
FOR COUNCIL'S OCTOBER MEETINGS**

**TO BE HELD IN THE OFFICES OF THE WEST COAST REGIONAL COUNCIL  
388 MAIN SOUTH ROAD, GREYMOUTH**

**TUESDAY, 8 OCTOBER 2013**

**The programme for the day is:**

**10.30 a.m:**

**Resource Management Committee Meeting**

**On completion of RMC Meeting:**

**Council Meeting**

# **RESOURCE MANAGEMENT COMMITTEE**

**THE WEST COAST REGIONAL COUNCIL**

Notice is hereby given that a meeting of the **RESOURCE MANAGEMENT COMMITTEE** will be held in the Offices of the West Coast Regional Council, 388 Main South Road, Paroa, Greymouth on **Tuesday, 8 October 2013**

**B.CHINN**  
**CHAIRPERSON**

**M. MEEHAN**  
**Planning and Environmental Manager**  
**J. ADAMS**  
**Consents and Compliance Manager**

<b><u>AGENDA NUMBERS</u></b>	<b><u>PAGE NUMBERS</u></b>	<b><u>BUSINESS</u></b>
<b>1.</b>		<b>APOLOGIES</b>
<b>2.</b>	<b>1 – 6</b>	<b>MINUTES</b> 2.1 Confirmation of Minutes of Resource Management Committee Meeting – 10 September 2013
<b>3.</b>		<b>PRESENTATION</b>
<b>4.</b>		<b>CHAIRMAN'S REPORT</b>
<b>5.</b>		<b>REPORTS</b>
		<b>5.1 Planning and Environmental Group</b>
	<b>7 – 9</b>	<b>5.1.1</b> Planning & Environmental Manager's Monthly Report
	<b>10</b>	<b>5.1.2</b> Hydrology and Flood Warning Update
	<b>11</b>	<b>5.1.3</b> Reefton Air Quality Summary for 2013
		<b>5.2 Consents and Compliance Group</b>
	<b>12 – 13</b>	<b>5.2.1</b> Consents Monthly Report
	<b>14 – 16</b>	<b>5.2.2</b> Compliance & Enforcement Monthly Report
		<b>6.0 GENERAL BUSINESS</b>

**THE WEST COAST REGIONAL COUNCIL****MINUTES OF THE MEETING OF THE RESOURCE MANAGEMENT COMMITTEE  
HELD ON 10 SEPTEMBER 2013 AT THE OFFICES OF THE WEST COAST REGIONAL  
COUNCIL, 388 MAIN SOUTH ROAD, GREYMOUTH, COMMENCING AT 10.32 A.M.****PRESENT:**

B. Chinn (Chairman), R. Scarlett, T. Archer, A. Robb, D. Davidson, A. Birchfield, I. Cummings, J. Douglas, F. Tumahai

**IN ATTENDANCE:**

C. Ingle (Chief Executive Officer), R. Mallinson (Corporate Services Manager), M. Meehan (Planning & Environmental Manager), J. Adams (Consents & Compliance Manager), T. Jellyman (Minutes Clerk)

**1. APOLOGIES**

There were no apologies.

**2. PUBLIC FORUM**

Owners of Schedule 2 Wetlands addressed the meeting. Mr & Mrs Dymock, Mr Tom Nolan, Mr Francis Graham from Whataroa were present. Mrs Dymock addressed the meeting. Mrs Dymock stated that she and her husband do not want schedule 2 wetland status over any of their property. Mrs Dymock stated that their property has now become worthless and this is not fair.

Cr Chinn asked the CEO to comment. C. Ingle advised that the wetland process was kicked off around ten years ago. He stated that council used to have a Land and Riverbed Plan that said that a resource consent was required for land development in any wetland. C. Ingle stated that he had been involved in a wetland process in Otago and realised that this would be problematic here because of the high rainfall as a lot of our land is wet a lot of the time. C. Ingle advised that the definition of wetland in the RMA says "*any land that supports plants or animals adapted to wet conditions*". C. Ingle stated that this could even apply to moss growing in someone's back lawn. C. Ingle advised that with help from MfE, Ecologists from Boffa Miskell in Christchurch were consulted and a long list of wetlands were compiled and these were then whittled down to 23 that council put forward as significant wetlands. C. Ingle stated that submissions were received from Forest & Bird and Friends of Shearer Swamp and DoC. He stated that all three of these parties were saying that these 23 wetlands weren't enough and there were a lot more that had significant habitat values that were not included though at the Council's plan hearing they presented no evidence on where these wetland areas were. These three groups took council to the Environment Court and said that council had not done its job properly identifying these wetlands. C. Ingle stated that a huge process was then undertaken to find out what areas they were talking about as initially they weren't entirely clear about this. The Environment Court accepted the DoC evidence on the new wetland areas despite council's lawyer warnings that some areas were over mapped. C. Ingle stated the council took the case to the High Court and said that this is wrong and unfair on those who have freehold land. Council lost the high court case. C. Ingle stated that council did manage to win a few parts and one is that schedule 2 wetlands are not classed as significant wetlands, they are classed as wetlands but there is no presumption that there are values that are significant there. C. Ingle advised that in these cases landowners need to go through a consent process and get an Ecologist to look at this. Mrs Dymock stated that they do not want to consult an Ecologist as they are mindful that the Ecologist will find something of significance.

C. Ingle advised that council told the Judge that the landowners who were affected were not aware that their land was being classed as wetland, but were told by the Court not to communicate with landowners. C. Ingle stated that after the court decision was finalised, the council wrote to landowners stating that if a mistake has been made and their land is not actually wet, then this land needs to be removed from the plan. C. Ingle advised that council will need to go through another plan process to get these areas removed.

Cr Robb added that it is not council who made the mistake but the court. Cr Scarlett advised the landowners present to ensure that they get a good practical and sympathetic ecologist. Cr Scarlett stated that there are probably 200 wet sites on DoC land alone and why do they need private landowner's wetlands as well. Mrs Dymock stated that the landowners have never had an opportunity to meet with DoC and DoC has got away scot-free. She asked where do they go from here. Mrs Dymock stated that it is unfair that the landowners have to pay for this. Mrs Dymock stated that she is extremely disappointed with this whole process. She thanked council for the opportunity to speak. Cr Robb stated that council would have been in contempt of court had they given out this information. He said that landowners need to look at where the decision came from and it was from the court and not this council.

Cr Birchfield stated that he put a letter in the Greymouth Evening Star in 2010 warning people about this. He stated that DoC hijacked the procedure and took it over and named their own wetlands. Cr Birchfield stated that he owns a coal mine and he has just been informed that a piece of this land has been included as a schedule 2 wetland. He stated he is in the same boat as the landowners. Cr Birchfield stated that he feels this process is open to challenge as the landowners were not notified and that this should be looked at after the local body elections. Cr Cummings asked C. Ingle how much of ratepayers money has been spent fighting this. C. Ingle responded that it would be over \$300,000 and this is only lawyer's costs and not staff time or his time.

Mr Francis Graham addressed the meeting. He stated that 96% of his land has been classed as a wetland. Mr Graham stated that he did not believe in his wildest dreams that this could happen to his freehold land. Mr Graham is concerned that he was not informed about this and he would like to know why he was not told about this. Cr Scarlett stated that he feels that there is a case to answer. He feels that they have been denied natural justice. Cr Davidson stated that he feels this is a grave injustice and it is unbelievable that the government has allowed this to happen.

Mr Tom Nolan addressed the meeting. Cr Chinn stated that the Nolan family has a long history of farming in the Whataroa area. Mr Nolan provided a history of the farm. He read a letter from his late father to the meeting. Mr Nolan stated that he finds this situation unbelievable.

C. Ingle clarified to those present that a resource consent is not required to continue grazing on a wetland but a consent would be required if a landowner wanted to put new drains in or to do humping and hollowing.

Cr Chinn stated that council staff will help landowners to gain a resource consent if they want one. C. Ingle advised that currently the Wetlands Co-ordinator is looking at those areas that are blatant mistakes (areas that are not even wet), and for those areas that are wet then the question is, if the landowner does want to develop them, are they significant or not? C. Ingle stated that this is very much open for a consent process. J. Adams confirmed that four resource consents have already been granted for schedule 2 areas and none have been declined yet. Cr Robb asked for an estimate of the costs involved. C. Ingle stated that the cost does depend on the size of the area. M. Meehan advised that he is aware of one consent that cost \$1500 for the Ecologist Report and the council's consent costs would have been under \$1000.

Cr Chinn thanked the presenters for their attendance. He stated that council staff would help landowners as much as they can with the consent process.

The meeting resumed at 11.10 a.m.

### 3. MINUTES

**Moved** (Robb / Davidson) *that the minutes of the previous Resource Management Committee meeting dated 13 August 2013, be confirmed as correct.*

*Carried*

#### Matters Arising

There were no matters arising.

### 4. CHAIRMAN'S REPORT

Cr Chinn reported that he has fielded further enquiries regarding schedule 2 wetlands. He stated that this matter is heating up and the time has come where something needs to be done.

**Moved** (Chinn / Davidson)

*Carried*

### 5. REPORTS

#### 5.1 PLANNING AND ENVIRONMENTAL GROUP

##### 5.1.1 PLANNING & ENVIRONMENTAL MANAGER'S MONTHLY REPORT

M. Meehan spoke to his report and advised that the Waiuta Clean Up has begun. M. Meehan advised that this site is on the hazardous site register and funding has been sought from MfE and DoC with both parties sharing the costs equally. M. Meehan advised that once the tender has been let it will take around a month for the work to be completed.

M. Meehan advised that Mr Elwell-Sutton's appeal on the Land and Water Plan is still before the Environment Court with decision on security of costs still awaited.

M. Meehan reported that 29 wetland landowners have contacted council requesting site visits following the sending out of the follow up letter and maps. M. Meehan advised that it may now be early next year before the variation to the Proposed Land and Water Plan is notified.

**Moved** (Robb / Scarlett) *that the report is received.*

*Carried*

##### 5.1.2 REEFTON AIR QUALITY SUMMARY

M. Meehan spoke to this report and advised that 15 exceedances of the NES for PM<sub>10</sub> have been recorded so far this year. He advised that 27 exceedances were recorded last year. M. Meehan stated that the reduction in exceedances with year may be related to the efforts of residents to improve air quality.

**Moved** (Archer / Scarlett) *that the report is received.*

*Carried*

##### 5.1.3 REEFTON AIR SHED COMMITTEE

M. Meehan spoke to this report and advised that this committee was given Terms of Reference to address the air quality issues in Reefton and to make recommendations back to council on how to meet the NES. M. Meehan advised that the committee has worked very hard on analysing the issues and good progress is being made with the trial for the Oeko tube electrostatic filter and the testing of the down draught burner technology. M. Meehan

advised that the committee needs more time to assess the new technologies and to have the supporting information behind the trials. Cr Scarlett asked if the electrostatic filter has actually been trialled before. M. Meehan responded that Ecan has done a trial using wood burners and once more funding partners have been found (Crown Public Health is one) then the trial on coal burners will get underway.

**Moved** (Archer / Robb)

1. *That Council receives this report.*
2. *That Council amend Objective 3 from the Reefton Airshed Committee's Terms of Reference to read: "To present the recommendations to the West Coast Regional Council, by March 2014"*

*Carried*

#### **5.1.4 REVIEW OF HYDROLOGY AND FLOW RECORDING SITES**

M. Meehan spoke to this report and advised that regional councils have over 1,000 sites nationally compared to 120 NIWA sites. He advised that in this region there is a much higher proportion of NIWA sites compared to the rest of New Zealand with around 50 / 50. M. Meehan advised that council works very closely with NIWA to provide these services to the community. He stated that this relationship works both ways and allows council to provide a strong flood warning service to the community. M. Meehan stated that a new site was to be set up at Seddonville on the Mokihinui River but now that NIWA is rationalising its sites this work was put on hold. M. Meehan met with NIWA on the 14<sup>th</sup> of August to discuss this matter and NIWA have now put their sites into four different categories. He explained the categories and advised that of the sites that are still to be decided two are very critical to our flood warning network, they are Karamea River at gorge and Hokitika River at gorge. M. Meehan advised that NIWA have stated that these two sites are still up for discussion. Council has expressed that these sites are critical to flood warning and council would like them to remain. M. Meehan stated that NIWA has indicated that these sites will remain for this financial year. M. Meehan advised that if NIWA sites were to be closed, council's current flood warning budgets are not likely to be able to sustain a new Mokihinui flood warning service, long term. Cr Scarlett asked what would be the cost of the flood warning site on the Mokihinui River. M. Meehan advised that it would be around \$20,000 to \$30,000 with ongoing costs in maintaining the site of around \$15,000 for a site like this. Discussion ensued. C. Ingle advised that if NIWA pulled out completely then council may need to take on another staff member to cover this work. C. Ingle stated that this is a major problem for the West Coast. For the last 20 years NIWA has been contracted by the government to collect environmental data and now the NIWA board has made a decision to pull away from collecting environmental data. Cr Birchfield stated that he feels council should be looking at why they are doing flood warning at all. He stated that everyone knows that once it starts raining the river is going to come up. Cr Scarlett stated it is a bit different if you are farmer as you need to know whether or not to move stock. Cr Archer stated that he is very disappointed that NIWA has taken this position. He stated that NIWA is a state owned enterprise and there should have been some sort of ministerial input into any decision making when it comes down to the effect on communities. Cr Archer is opposed to the recommendation as he feels that the Mokihinui River has more regular flooding of residential properties than any other river on the West Coast. He feels that council should continue on with advancing the Mokihinui flood warning site. Cr Robb agreed with C. Ingle's comments and feels that the public need to be aware of the issues with NIWA. Cr Robb stated that analysis needs to be done on some sites as it could be that a new flood warning site is more needed than some of the other sites.

1. *That Council receives this report.*
2. *That Council continues with investigations into a potential Mokihinui River flood warning site on hold.*

3. *That Council undertakes a risk evaluation on all council flood warning sites before deciding whether to continue or discontinue these sites.*
4. *To engage at the highest level with Government regarding the declining level of Government funding for our biggest hazard risk on the West Coast.*

*Carried*

### **5.1.5 RESOURCE MANAGEMENT ACT – REFORM PROPOSALS**

M. Meehan spoke to this report and stated that the proposals are expected to proceed to Parliament as a Bill within the next month or so. M. Meehan spoke about the four proposed areas of change which are, national planning template, a single resource management plan, plan development and council planning agreement. Cr Robb asked if councillors that are hearing commissioners would be able to be on this panel. C. Ingle said that MFE had initially said yes but the more recent wording was vague. M. Meehan advised that independent people are allowed onto the panel. Extensive discussion ensued on this matter.

**Moved** (Archer / Birchfield) *that the report is received.*

*Carried*

### **5.1.6 REGIONAL POLICY STATEMENT REVIEW**

C. Ingle spoke to this report. Given the current state of the region's economy it is felt that the strategic document that leads and sets the scene for resource management plans throughout the region needs to recognise the positive effects of industry. C. Ingle advised that the RPS at the moment is more about environmental protection and it doesn't really have enabling policies. There is now a more pressing need for promoting the social, economic and cultural wellbeing of the region. C. Ingle stated that Taranaki has found a balance between enabling industries to develop and jobs to grow and the community to grow but at the same time ensuring that the environment is appropriately protected. C. Ingle stated that the way for this council to make a start on the RPS review is to publish a discussion document which sets out in a brief form the direction that council feel is required, prior to notifying a plan change. He stated that the advantage would be that by the time council is at the stage of notifying a plan change, the changes to the RMA might be in place and we might be able to use one of these alternative methods of getting things through. Cr Robb stated that he supports this and stated this it is very important for our region going forward. Cr Scarlett stated that this would bring some balance back and the Taranaki template is a very good one. Cr Archer stated that council needs to be mindful of opposition from extremist whose focus is solely based on ecology. Strong community support will be necessary at the time of public consultation.

**Moved** (Robb / Archer)

1. *That Council receives this report.*
2. *That Council endorses the preparation of a West Coast Regional Policy Statement Review Discussion Document, for consulting with our communities, based on the broader Resource Management approach used in the recent Taranaki Regional Policy Statement.*

*Carried*

### **5.2.1 CONSENTS AND COMPLIANCE GROUP**

J. Adams spoke to this report and advised that two site visits were carried out during the reporting period. There were 14 non-notified consents granted, and 16 changes to consent conditions were granted. J. Adams reported that yesterday was the last day to lodge any appeals against RC12212 and as of this morning there were none lodged.



J. Adams reported that the appeal on the Cypress Mine was not upheld by the Environment Court with all the appeals by the Biodiversity League being dismissed. Mining is due to commence next week.

Cr Archer asked J. Adams for an update on the status of the Buller Coal Ltd appeals. J. Adams advised that the High Court refused to allow Forest and Bird to appeal to the Court of Appeal and Forest and Bird have now requested that the court allow them leave to appeal the court decision. Cr Archer stated that this is an orchestrated campaign to stop lawfully consented work and lawfully upheld appeals.

**Moved** (Archer / Tumahai) *That the September 2013 report of the Consents Group be received.*

*Carried*

## 5.2.2 COMPLIANCE & ENFORCEMENT MONTHLY REPORT

J. Adams spoke to this report advising that 53 site visits were completed with nine of these site visits found to be non-compliant. J. Adams reported that council staff have been busy with the marking out of whitebait stands.

J. Adams reported that 35 complaints were made during the reporting period, three of these resulted in enforcement action taking place. He advised that two formal warnings were issued in relation to riparian margin and unauthorised works, three abatement notices were served, with two of these served on the same mining operation. One abatement notice was served on a forestry block. He advised that nine mining work programmes were received during the reporting period.

**Moved** (Archer / Birchfield) *That the September 2013 report of the Compliance Group be received.*

*Carried*

## 6.0 GENERAL BUSINESS

There was no general business.

It was agreed that letters will be written to the three wetland owners that attended today's meeting.

**Moved** (Robb / Archer) *that individual letters are written to the three wetland owners that presented to today's meeting.*

*Carried*

Cr Chinn stated that today is his last meeting. He stated that he has found his three terms on council to be very rewarding. Cr Chinn said that he found council staff to be very cooperative and approachable. Cr Chinn stated he will miss being on council. Cr Chinn expressed his disappointment that the wetlands matter has not been tidied up prior to his departure. He stated that he hopes that the proposed changes to the RMA can help with this.

Cr Chinn wished his fellow councillors well for the up and coming local body elections.

The meeting closed at 12.18 p.m.

.....  
Chairman

.....  
Date

## 5.1.1

### THE WEST COAST REGIONAL COUNCIL

Prepared for: Council Meeting – 8 October 2013  
Prepared by: Michael Meehan, Planning and Environment Manager  
Date: 30 September 2013  
Subject: **Planning and Environment Manager's Report**

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#### Reefton Air shed Committee work

Council has received a commitment of \$5,000 from Community and Public Health and \$5,000 from the Ministry of Health towards a trial of the Oeko Tube. Council has approached the Ministry for the Environment and the Coal Association of New Zealand to make similar contributions towards the trial, at the time of writing this report a response had not been received.

It is anticipated that once funding is received that the trial would take one month to complete.

The committee did not meet during the last reporting period.

#### Drought Committee Meeting

On 16 September 2013, Council attended a meeting of the Drought Committee. This committee was formed in March 2013 in response to the drought conditions throughout the region.

The information provided by the committee led to the Minister of Primary Industries declaring a drought for the Buller and Grey Districts. This declaration enabled the Rural Support Trust to access funding in order to give advice to farmers on how to manage feed through this period. Dairy NZ held information days which allowed farmers to learn more about getting through dry conditions.

The Council provided in kind support to the Rural Support Trust during this time (attached letter of thanks).

#### Land and Water Plan Update

The appeal from Mr. Paul Elwell Sutton remains before the Environment Court. In June 2013 Council and the Department of Conservation made an application for security of costs.

The Environment Court convened a teleconference on 19 September 2013 to discuss the case. From this teleconference the experts have been directed to joint conferencing. The joint conferencing will include planning and ecological experts, and will take place prior to any exchange of evidence.

The key issue to discuss is whether, having regard to their efficiency and effectiveness, the rules are the most appropriate for achieving the settled policies and objectives (see section 32 of the Act). The court did note the lengthy court case which it oversaw which led to those policies and objectives being included in the plan.

The Department of Conservation withdrew its application for security of costs following the submission of expert evidence from Mr. Elwell Sutton. Council has not withdrawn its application for security of costs and seeks a determination on this matter from the court.

#### Hazardous sites

Council is in the process of submitting a funding application to the Ministry for the Environment to cover 50% of remediation costs for an old gold processing plant in the Alexander River catchment

(upper Grey), with the Department of Conservation (DOC) funding the remaining 50%. WCRC are providing in kind support.

Ore processing occurred from 1924 to 1943, which led to soil at the site being contaminated with arsenic. Remediation will make the site safe for those visiting it, and remove a source of arsenic that can be transported downstream by the Alexander River. Total funding required will be approximately \$347,500.

Council are working with DOC to identify any other contaminated sites in the region that are on DOC land. This has been requested by central government, who have funded several large land remediation projects on crown land in the past few years. The goal is to prioritise (if necessary) remediation activities on crown land across New Zealand. If the Alexander River application is successful, it will equate to approximately 1 million dollars in support granted to the West Coast region this financial year, from central government sources, to remediate contaminated land.

#### Proposed National Monitoring System for the RMA

Further to the August 2013 report to Council meeting, a submission was lodged on the proposed National Monitoring System for the RMA highlighting the following points:

- The proposed monitoring framework is generally supported as it will elicit better information on plan-making to show how long plans are taking to get from notification to becoming operative, and where the delays occur. The additional consent processing information required will outline where processes are working well, and what needs improving.
- Council agrees with other agencies providing information on their resource management roles, it will bring transparency and accountability for the length of time it takes some agencies to deal with resource management processes.
- A national, automated information retrieval system would be a very efficient way of providing monitoring information to the Ministry, especially if it is compatible with the IRIS system which this Council and others are in the process of installing. However, if a nationally automated system is not compatible with IRIS, and any of our databases have to be changed to provide standardised, comparable data, this could potentially be a large cost for Council. If Council needs to change its databases, our preference would be to submit the information manually, similar to the current biennial local authority survey.
- If Council is required to change any of its computer systems to implement the NMS, it is likely IT assistance will be needed.
- A mandatory user satisfaction survey would add costs and time for Council potentially for no benefit, and we are opposed to any requirement to do one. A user satisfaction survey may not fully reflect a council's customer service performance. For example, if a customer is philosophically opposed to the Council they are likely to give negative feedback regardless of how well the Council is undertaking its functions.

#### **RECOMMENDATION**

*That the report is received*

Michael Meehan  
**Planning and Environment Manager**

1620 Arnold Valley Road  
R D 1  
DOBSON 7872

28 September 2013

Dear Members

As you are probably aware a Debrief Meeting of the West Coast Drought Steering Committee was held on Monday 16<sup>th</sup> September 2013.

It was resolved that a letter of appreciation be sent to members of the wider group who met on 15<sup>th</sup> March and helped pull all the information together enabling the Drought Declaration to be requested from The Minister for Primary Industries.

I therefore express our gratitude to you for your involvement in what has been a very difficult and enlightening adverse event for the West Coast. Your ongoing involvement in the recovery by assisting the Trust and/or direct involvement with farmers was greatly appreciated.

Enclosed is a copy of my report to give you a brief overview of how the event played out.

It was also decided it would be valuable for this wider group to meet again perhaps in February/March 2014. Ongoing contact would be helpful for the rural sector to be prepared for a major adverse event in the future.

Thank you once again.

Yours Sincerely



Dianne Milne  
**CHAIRMAN**

**THE WEST COAST REGIONAL COUNCIL**

Prepared for: Resource Management Committee Meeting 8 October 2013  
 Prepared by: Stefan Beaumont, Hydrologist  
 Date: 30 September 2013  
 Subject: **HYDROLOGY & FLOOD WARNING UPDATE**

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**Flood Warning**

Council responded to a large rain event on 11 September 2013, which resulted in flood warning alarms being triggered from Hokitika to Karamea. In a 36 hour period 250-500mm of rain fell in the ranges, with 50-120mm recorded in lower areas.

The event also produced lightning strikes which damaged the Cronadun radio link causing a temporary communication outage. This was fixed prior to any alarms being triggered.

On 28 September 2013, a smaller event caused the flood warning alarm to be triggered in Karamea.

Site	Time of peak	Peak level	Warning Issued	Alarm threshold
Hokitika River at Gorge	11/09/2013 04:00	4815mm	10/09/2013 22:15	3750mm
Grey River at Dobson	11/09/2013 10:00	5107mm	11/09/2013 20:20	3400mm
Karamea River at Gorge	11/09/2013 19:45	4540mm	11/09/2013 16:45	4000mm
Buller River at Te Kuha	11/09/2013 21:15	9950mm*	11/09/2013 11:35	7400mm
Karamea River at Gorge	28/09/2013 21:15	4075mm	28/09/2013 19:30	4000mm

\*Between an annual and 1 in 5 year return period flood event for Buller River at Te Kuha

**RECOMMENDATION**

*That the report is received*

Michael Meehan  
**Planning and Environment Manager**

**THE WEST COAST REGIONAL COUNCIL**

Prepared for: Resource Management Committee Meeting 8 October 2013  
 Prepared by: Emma Chaney, Resource Science Technician  
 Date: 30 September 2013  
 Subject: **REEFTON AIR QUALITY SUMMARY FOR 2013**

There were fifteen exceedances of the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 for PM<sub>10</sub> in Reefton this winter (See Figure 1).

The highest 24hr average PM<sub>10</sub> during this period was 87 micrograms/m<sup>3</sup> on 11 July. See Table 1 for comparison of winter 2013 PM<sub>10</sub> exceedances to previous years.

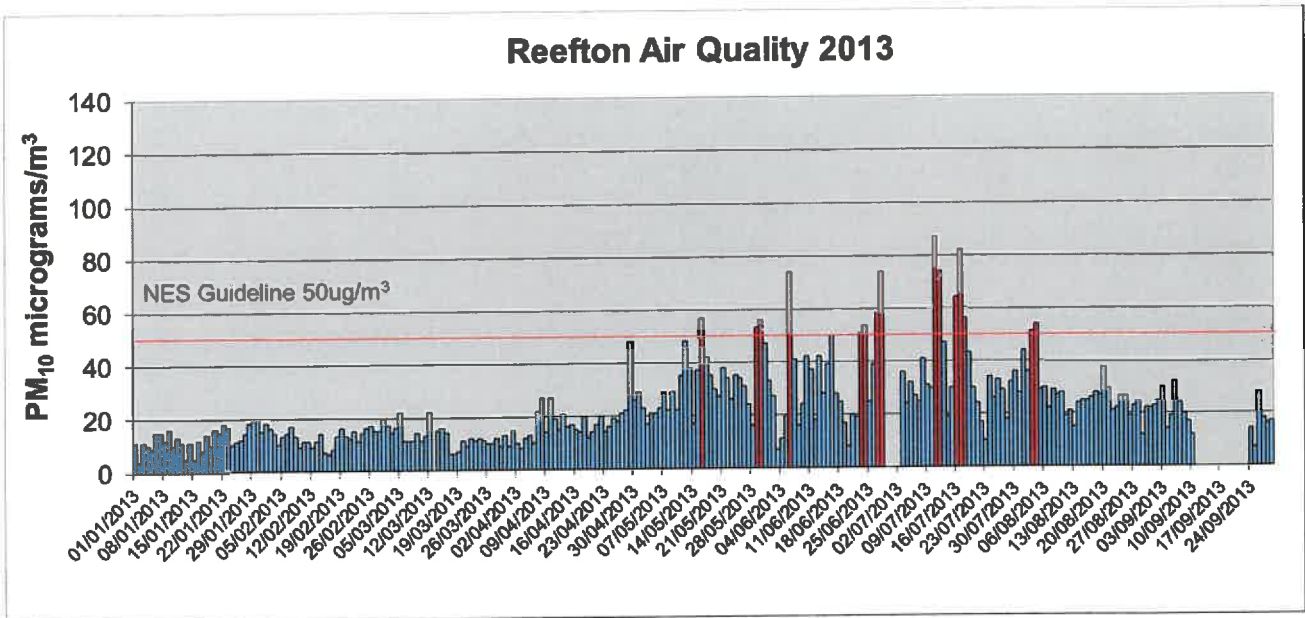


Figure 1. Graph showing daily average PM<sub>10</sub> for Reefton 2013 with exceedances of the national guideline in red.

	2006	2007	2008	2009	2010	2011	2012	2013
Number of exceedances (over whole year)	16	25	18	16	22	7	27	15
Maximum recorded 24hr average (µg/m <sup>3</sup> )	86	129	78	91	99	68	115	87

Table 1. Number of yearly exceedances of the Resource Management Regulations for PM<sub>10</sub> and the maximum recorded 24 hour averages at the Reefton air quality site since 2006.

**RECOMMENDATION**

*That the report is received*

Michael Meehan  
**Planning and Environment Manager**

**THE WEST COAST REGIONAL COUNCIL**

Prepared for: Resource Management Committee  
 Prepared by: Jackie Adams - Consents & Compliance Manager  
 Date: 27 September 2013  
 Subject: **CONSENTS MONTHLY REPORT**

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**Consents Site Visits 30 August – 26 September 2013**

<b>DATE</b>	<b>NAME, ACTIVITY &amp; LOCATION</b>	<b>PURPOSE</b>
05/09/13	RC13134 - RJ & JD Holdings Ltd, Humping & hollowing, Little Totara	Visited site with applicant's consultant and Rebecca Inwood representing BDC. Inspected site of humping and hollowing.
09/09/13	PA13016, Kevin and Sally Anne Mills, Septic tank discharge, Greenstone	Onsite waste water evaluation. Complied with Permitted Activity rule 79.
10/09/13	RC13159 – C Lowe, Coastal Protection, Oparara River	To gain a better understanding of the proposed coastal protection.
13/09/13	Buller District Council, Earthworks within a Schedule 2 wetland, Westport	To gain a better understanding of the proposed earthworks within a Schedule 2 wetland.
23/09/13	RC13156 - Westland District Council, Earthworks, Kaniere	Visited site with applicant and Martin Kennedy representing WDC (processing consent) to review site of extension of cycle track.

**Non-Notified Resource Consents Granted 30 August – 26 September 2013**

<b>CONSENT NO. &amp; HOLDER</b>	<b>PURPOSE OF CONSENT</b>
RC12033 Phoenix Mining Ltd	<p>To undertake earthworks associated with alluvial gold mining adjacent to Cockabulla Creek within MP41845.</p> <p>To undertake alluvial gold mining activities including diversion in the bed of Cockabulla Creek within MP41845.</p> <p>To discharge sediment-laden water to land in circumstances where it may enter Cockabulla Creek and tributaries associated with gold mining activities within MP41845.</p> <p>To discharge sediment-laden water to water associated with alluvial gold mining activities within MP41845.</p>
RC13069 Paramount Mining Ltd	<p>To undertake earthworks associated with alluvial gold mining at Rimu.</p> <p>To disturb the bed of an unnamed creek at Rimu associated with its diversion.</p> <p>To take and use water from old dredge ponds at Rimu for alluvial gold mining.</p> <p>To divert water of an unnamed creek at Rimu.</p> <p>To discharge sediment-laden water to land at Rimu in circumstances where it may enter groundwater.</p>

RC13116 Callery Holdings Ltd	To discharge treated sewage effluent to land in circumstances where it may enter water at Franz Josef.
RC13142 Robert Quigley	To discharge treated sewage effluent to land at 838 Nelson Creek Road.
RC13147 New Zealand Transport Agency	To disturb the bed of the Maruia River to undertake rock protection works. To permanently divert water from rock protection works, Maruia River.
RC13152 Dempster Ltd	To undertake earthworks associated with alluvial gold mining at Waimea. To take groundwater at Waimea via seepage for alluvial gold mining. To discharge sediment-laden water to land at Waimea in circumstances where it may enter surface water in Waimea Creek.
RC13154 Westpower Ltd	To disturb the bed of the Wanganui River for the purpose of removing and reinstalling power pole protection structures.

#### Changes to Consent Conditions granted 30 August – 26 September 2013

<b>CONSENT NO, HOLDER &amp; LOCATION</b>	<b>PURPOSE OF CHANGE</b>
RC02007[v1] Keoghan Farm Ltd Giles Creek, Westport	To allow for extraction of gravel.
RC12162[v1] Canaan Farming Ltd Haupiri	To allow for a larger area to be used as a feed pad.

No Limited Notified or Notified Resource Consents were granted 30 August – 26 September 2013.

#### Notified Consents Updates

The Bio Diversity League have appealed the court's decision over the Cypress mine consent. I am waiting on a date for the hearing.

The Supreme Court found in favour of BCL in the greenhouse gas appeal.

#### Public Enquiries

30 written public enquiries were responded to during the reporting period. 27 were answered on the same day, 2 the following day, and the remaining 1 no more than 10 working days later. 5 LGOIMA requests were responded to, all within the required timeframe.

#### **RECOMMENDATION**

*That the October 2013 report of the Consents Group be received.*

Jackie Adams  
**Consents & Compliance Manager**



**THE WEST COAST REGIONAL COUNCIL**

Prepared for: Resource Management Committee  
 Prepared by: Jackie Adams – Consents & Compliance Manager  
 Date: 26 September 2013  
 Subject: **COMPLIANCE & ENFORCEMENT MONTHLY REPORT**

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**Site Visits**

A total of 65 site visits were undertaken during the reporting period (29 August 2013 to 26 September 2013), which consisted of:

Activity	Number of Visits
Resource consent monitoring	20
Mining compliance & bond release	21
Dairy	14
Complaint Related	10

Out of the 65 site visits for the reporting period, 48 were compliant, 17 were non-compliant. One abatement notice, five formal warnings and 15 infringement notices have been issued in relation to these visits.

**Specific Issues****Dairy farms:**

Dairy Farm inspections are underway again with 14 farms being inspected for the reporting period. There were no significant issues as a result of the inspections.

**Alluvial Gold Mining:**

An abatement notice was served on a gold mining operation at Blue Spur to cease mining until such time as the bond requirements of its resource consent are fully met. A cash bond was lodged soon after and the abatement notice was no longer required.

A gold mining operation at Blue Spur received 14 infringement notices for discharge incidents that occurred over July and August. Since these infringements were issued a subsequent discharge incident has taken place and further enforcement action is pending.

**Whitebait:**

After the last big flood all the rivers seem to have been given a flush and from all reports the fish have started to make their move. Inspections were undertaken on the Hokitika River, Waitoto, and the Turnbull with minor queries and complaints being resolved with no issues. Inspections were also undertaken on the Buller River after receiving complaints about the legitimacy of stands by DOC. These inspections were carried out with 2 formal warnings being issued for stands being built in the bed of the river; these issues are still on-going.

**Complaints/Incidents between 29 August 2013 & 26 September 2013**

The following 12 complaints/incidents were received during the reporting period:

Activity	Description	Location	Action/Outcome
Discharge to water	Complaint regarding the discharge of sediment from a gold mining operation.	Marsden	Site visit was undertaken and the complaint was found to be unsubstantiated.

Activity	Description	Location	Action/Outcome
Discharge to Air	Complaint regarding the burning of materials	South Beach	Site visit undertaken and established no breach of the rules.
Discharge to water	Complaint that there was diesel in the Blaketown Lagoon	Blaketown	Site visit was carried out and no remedial action was required.
Discharge to land	Complaint alleging that there was cow effluent on the Karamea Beach.	Karamea	Site visit undertaken and established that the substance on the beach was algae.
Rubbish within the CMA	Complaint notifying of rubbish washed up on the beach.	Westport	Site visit undertaken by the BDC and the tide had removed the rubbish off the beach.
Sewerage Discharge	Complaint alleging that the Franz Josef town sewerage ponds had been flood damaged.	Franz Josef	Site visit was undertaken and the complaint was found to be unsubstantiated.
Stormwater Discharge	Complaint that storm water from a neighbouring property is causing flooding.	Ikamatua	Site visit undertaken and the complaint was unsubstantiated.
Stock Access to Water	A complaint was received that stock were crossing a creek onto a neighbouring property.	Kotoku	Enquiries established no breach of the rules.
Discharge to Water	A complaint that a forestry logging operation has damaged the banks of a creek	Ikamatua	Site visit was undertaken and enforcement action is pending.
Discharge to water	Complaint regarding the discharge of sediment from a gold mining operation.	Marsden	Site visit carried out and the operator had resolved the issue prior to the visit.
Discharge to Land	Complaint that rubbish had been dumped over the edge of the 10 Mile Car Park.	Coast Road	Site visit undertaken. Unable to identify the person responsible. Opus to organise a contractor to remove the rubbish.
Discharge to water	Complaint that Jones Creek is running dirty.	Birchfield	Enquiries are continuing

**Formal Warnings:** Five formal warnings were issued during the reporting period.

Activity	Location
Unauthorised Structure in the bed of a River	Westport
Unauthorised Structure in the bed of a River	Westport
Discharge of Sediment to Water	Marsden
Discharge of Sediment to Water	Marsden
Discharge of Sediment to Water	Arahura

**Abatement notice:** 1 abatement notice was served during the reporting period:

Activity	Location
Gold Mining	Blue Spur

**Infringement Notices:** 15 infringement notices were issued during the reporting period.

Activity	Location
Gold Mining: 14 Notices issued to the company and the operator which consisted of, (8) Discharge of sediment (4) Breach of Abatement Notice (2) Deposition of sediment on the bed.	Blue Spur
Gravel Extraction	Blaketown

### **Mining Work Programmes**

The Council received the following 4 work programs during the last reporting period. Two programmes were approved in the 20 day timeframe. The remaining work programmes have been recently received and require site visits prior to approval.

Date	Mining Authorisation	Holder	Location
1/9/13	RC12035	TLD Investments	Buller
9/9/13	RC03120	Crusader Coal Ltd	Reefton
17/9/13	RC12212	Rothera, Marshall and Craw	Cameron's
19/9/13	RC13069	Paramount Mining Ltd	Rimu

The following bonds were received during the reporting period:

Mining Authorisation	Holder	Location	Amount
RC13069	Paramount Mining Ltd	Rimu	\$12,000
RC11057	Little Paddock (2010) Ltd	Blue Spur	\$4,000

### **RECOMMENDATION**

*That the October 2013 report of the Compliance Group be received.*

Jackie Adams  
Consents & Compliance Manager

# **COUNCIL MEETING**

## THE WEST COAST REGIONAL COUNCIL

Notice is hereby given that an **ORDINARY MEETING** of the West Coast Regional Council will be held in the Offices of the West Coast Regional Council, 388 Main South Road, Greymouth on **Tuesday, 8<sup>th</sup> October 2013** commencing on completion of the Resource Management Committee Meeting.

A.R. SCARLETT  
CHAIRPERSON

C. INGLE  
CHIEF EXECUTIVE OFFICER

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<b><u>AGENDA NUMBERS</u></b>	<b><u>PAGE NUMBERS</u></b>	<b><u>BUSINESS</u></b>
<b>1.</b>		<b>APOLOGIES</b>
<b>2.</b>		<b>PUBLIC FORUM</b>
<b>3.</b>		<b>MINUTES</b>
	1 – 3	3.1 Minutes of Council Meeting 10 September 2013
<b>4.</b>		<b>REPORTS</b>
	4 – 6	4.1 Planning & Environmental Manager's Report on Engineering Operations
	7	4.2 Corporate Services Manager's Report
	8 – 18	4.2.1 Transfer of Functions
<b>5.</b>		<b>CHAIRMAN'S REPORT</b>
<b>6.</b>	19	<b>CHIEF EXECUTIVE'S REPORT</b>
<b>7.</b>		<b>GENERAL BUSINESS</b>

# 3.1

## THE WEST COAST REGIONAL COUNCIL

### **MINUTES OF THE MEETING OF THE COUNCIL HELD ON 10 SEPTEMBER 2013, AT THE OFFICES OF THE WEST COAST REGIONAL COUNCIL, 388 MAIN SOUTH ROAD, GREYMOUTH, COMMENCING AT 12.19 P.M.**

**PRESENT:**

R. Scarlett (Chairman), B. Chinn, A. Robb, T. Archer, D. Davidson, A. Birchfield, I. Cummings

**IN ATTENDANCE:**

C. Ingle (Chief Executive Officer), R. Mallinson (Corporate Services Manager), J. Adams (Consents & Compliance Manager), M. Meehan (Planning & Environmental Manager), T. Jellyman (Minutes Clerk)

**1. APOLOGIES:**

There were no apologies.

**2. PUBLIC FORUM**

There was no public forum.

**3. CONFIRMATION OF MINUTES**

**Moved** (Chinn / Cummings) *that the minutes of the Council Meeting dated 13 August 2013, be confirmed as correct.*

*Carried*

**Matters arising**

There were no matters arising.

**REPORTS:**

**4.1 ENGINEERING OPERATIONS REPORT**

M. Meehan spoke to this report. He stated that emergency works to the floodwall in Lower Waiho rating district has been completed. A small amount of repair work to the sea wall in the Okuru rating district was also done.

M. Meehan drew attention to the photographs in his report of the Hokitika foreshore erosion protection work. He stated that the placement of the filter fabric is a crucial part of the job. M. Meehan advised that the milestones have been worked through with engineering staff and the contractor and the expected completed date is the 5<sup>th</sup> of December. Work is on track to achieve this target.

M. Meehan reported that the majority of the work being done in the Camelback Quarry is to supply rock for the Hokitika sea wall. M. Meehan stated that there are good supplies of rock in other council quarries at the moment with work underway in the Whataroa Quarry to increase the stockpile of rock in this quarry.

Cr Birchfield asked M. Meehan if he is happy with the progress and the quality of the work on the Hokitika sea wall. M. Meehan responded that he is pleased with progress to date and work is being surveyed as it goes to ensure that the levels are good. M. Meehan advised that the contractor has installed a GPS device into the digger which is proving to be very accurate and helpful. Cr Cummings commented that the rock that is being supplied for this job is very good quality, it is of a good size and looks to be very durable.

**Moved** (Robb / Archer) *that this report be received.*

*Carried*

#### **4.2 CORPORATE SERVICES MANAGER'S REPORT**

R. Mallinson spoke to his report advising that this report is very brief as he has been focussing on the Annual Report. He advised that the auditors are currently on site. R. Mallinson stated that the unaudited surplus is very close to what he reported on last meeting. He advised that the investment portfolio made good gains in August.

**Moved** (Chinn / Birchfield) *that this report be received.*

*Carried*

#### **5.0 CHIEF EXECUTIVE'S REPORT**

C. Ingle spoke to his report and advising that he attended a meeting with Crown Public Health on the 22<sup>nd</sup> of August to discuss the Reefton Oeko trial. He stated that he is very pleased that Crown Public Health has provided some funding for the trial although more funding is required.

C. Ingle advised that the SOLGM meeting he attended on the 26<sup>th</sup> of August was very interesting with the possibility of a merger with LGNZ discussed.

C. Ingle reported that he met with Ian Goss, a Coastal Engineer on the 29<sup>th</sup> of August to discuss the groyne field at Hokitika Beach. He said this was a very good meeting with the district council engineers present. Mr Goss is to provide a report on what is required for the unprotected part of the beach at the north end which is still eroding.

C. Ingle reported that he attended the Civil Defence Recovery workshop on the 3<sup>rd</sup> of the September which was run by Grey District Council. He stated that this was an excellent workshop with several local businesses in attendance.

Yesterday's Mayors and Chairs Forum discussed the Regional Policy Statement document that council has just adopted. They were pleased to see the intention of the council to move forward on creating jobs for the region rather focusing solely on environmental matters. C. Ingle stated it is important that people realise that it is a sustainable community that we want and not a declining community. This means we need more industry and more jobs to attract people to the region.

C. Ingle stated that the changes to the Local Government Act are unlikely to affect regional councils very much. He advised that a 30 year infrastructure strategy will be required in the next long term plan. C. Ingle stated that this will not be hard for our council to do for its flood control structures.

C. Ingle advised that the CEO of MfE will be responsible for National State of Environment Reporting with a report coming out every six months on this matter. Regional Councils will have to supply their monitoring information to MfE for this but if MfE want us to collect more data than we collect now, then that extra cost will have to be met by MfE. He feels that if it is a government report then it should be a national cost and not a regional cost.

**Moved** (Archer / Cummings) *That this report be received.*

*Carried*

**6.0 CHAIRMANS REPORT (VERBAL)**

Cr Scarlett reported that he attended the Regional Sector Group meeting in Wellington last Friday. He stated that this meeting was a review of the past three year's progress. He stated that the Hon Chris Tremain, Minister of LGNZ, addressed the meeting and advised that there is a real thrust to develop efficiencies with a strong push to get things in place and progressed before the next election.

Cr Scarlett stated that he will be attending a meeting of the South Island Freight Alliance Group next week. He advised that the focus is on where money should be spent and where is the most efficient use of developing roads for the betterment of regional economies as the south island is lacking in this area. Cr Scarlett stated that good progress needs to be made in this area.

**Moved** (Scarlett / Birchfield) *that this report be received.*

*Carried*

C. Ingle advised that Westland District Council have resolved to transfer their mining functions under the RMA to this council. He stated that this is now being formalised by Westland District Council with the drafting of a deed and having the deed legally reviewed. C. Ingle advised that once the deed has been sent to him he will then arrange for a legal review and get council together to decide whether to accept this transfer of services or not. C. Ingle advised that a special meeting may need to be called to adopt this as the full council is required to adopt this.

Cr Scarlett wished everyone well for the elections. Cr Scarlett thanked Cr Chinn for his contribution to council over the years and wished him well for the future.

**7.0 GENERAL BUSINESS**

There was no general business.

The meeting closed at 12.38 p.m.

.....  
Chairman

.....  
Date



**THE WEST COAST REGIONAL COUNCIL**

Prepared for: Council Meeting – 8 October 2013  
 Prepared by: W. Moen – River Engineer and Paulette Birchfield – Engineering Officer  
 Date: 30 September 2013  
 Subject: **ENGINEERING OPERATIONS REPORT**

**RIVER AND DRAINAGE INSPECTIONS**

- Hokitika Foreshore – Inspection
- Punakaiki RD – Inspection
- Grey River – K. Ferguson - Inspection

**WORKS COMPLETED AND WORKS TENDERED FOR**Lower Waiho Rating District – Emergency Repairs

Work involving 2,610 tonnes of rock riprap has been completed by Westland Contractors Ltd. at a cost of \$60,816.60 (G.S.T. Exclusive).

Okuru Rating District – Emergency Repairs

Work involving the placement of 300 tonnes of rock and 260 tonnes of rubble has been completed by J.J. Nolan Ltd at a cost of \$11,960 (G.S.T. Exclusive).

Hokitika Foreshore - Erosion Protection Update

To date, 6,215 m<sup>3</sup> of quarry waste, 7074 m<sup>3</sup> of gravel and 12,467 tonnes of rock have been placed.

Westland Contractors Ltd has completed the first 250m of the seawall which puts them 50m ahead of schedule (see table below).

<b>Seawall construction stages</b>	<b>Date</b>
100m	13 September
200m	27 September
300m	11 October
400m	25 October
500m	8 November
600m	22 November
650m	29 November
Project completed and surveyed	5 December

Council has sought advice from OCEL Consultants regarding the future management of the groynes. Council expects to receive a draft report mid-October, to take recommendations to the Joint Council Working Group on Hokitika Beach Erosion.



*HOKITIKA BEACHFRONT SEAWALL – 27 SEPTEMBER 2013 Bottom View Looking Southwards*



*HOKITIKA BEACHFRONT SEAWALL – 27 SEPTEMBER 2013 Top View Looking Southwards  
Showing completed rockwork and sand bund*

## FUTURE WORKS

- Waitangitona Rating District
- Whataroa Rating District
- Wanganui Rating District
- Vine Creek Rating District
- Nelson Creek Rating District
- Kongahu Rating District

## Quarries

Work is progressing well in Camelback Quarry winning rock for the Hokitika seawall contract.

Approximate rock in quarry as at 20 September 2013 (in tonnes)

Quarry	Rock Available	Emergency Stockpile
Blackball	2,300	
Camelback	8,000	2,000
Inchbonnie	8,000	
Kiwi	4,000	-
Whataroa	1,500	2,000
Okuru	500	-

## RECOMMENDATION

*That the report is received*

Michael Meehan  
**Planning and Environment Manager**

Prepared for: Council Meeting  
 Prepared by: Robert Mallinson – Corporate Services Manager  
 Date: 8 October 2013  
 Subject: Corporate Services Manager's Report

### 1. Financial Report

The annual audit commenced on 9 September and the audit team was on site for two weeks. The annual audit this year has been somewhat more complex due to Council changing financials software in November 2012, part way through the financial year. I am still attending to auditor requests and at the time of writing this report it was unlikely that the audited annual report would be ready for adoption by Councillors at this meeting.

It is proposed that the audited annual report be adopted by Councillors at the triennial meeting. The date for the triennial meeting will be set by the Chief Executive following consultation with elected members following the 12 October election. Provided we adopt by 31 October we will be compliant with legislation.

Due to the need to devote my time to the annual audit and follow up matters, I have not been able to finalise the July / August financial report which I would have normally submitted to an October meeting. I propose to prepare a three month quarterly report which will be submitted to the November Council meeting.

### 2. Investment Portfolio

August 2013	Catastrophe Fund	Major Portfolio	Total
Opening balance 1 August 2013	\$ 683,775	\$ 11,544,386	\$ 12,228,161
Income August 2013	\$ 333	\$ 36,053	\$ 36,386
Deposit	\$ -	\$ -	
Withdrawal			
Closing balance 31 August 2013	\$ 684,108	\$ 11,580,439	\$ 12,264,547
Total income year to date 31 August 2013	\$ 7,648	\$ 136,059	\$ 143,707

### 3. General Comment

The portfolio continued to generate positive gains during August, with total income for the year totaling \$143,707.

### RECOMMENDATION

*That this report be received.*

Robert Mallinson  
 Corporate Services Manager

## 4.2.1

### **THE WEST COAST REGIONAL COUNCIL**

Prepared for: Council Meeting – 8 October 2013  
 Prepared by: Lillie Sadler – Policy Analyst  
 Date: 23 September 2013  
 Subject: **Transfer of Functions**

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#### **Purpose**

This report seeks Council approval to accept the transfer of RMA functions from the Westland District Council for consents and compliance for mining activities in Westland District, as outlined in the draft Deed of Agreement (attached).

#### **Background**

There are opportunities for increased cost efficiency, if one Council performs all regulatory functions for the mining sector. The proposal is for Westland District Council to transfer functions for mining operations under Part 6 and 12 of the RMA, for:

- 1) Processing land use consent applications for mining in the Westland District as required under the Westland District Plan, and
- 2) Undertaking compliance monitoring for mining activities, ensuring compliance with consent conditions and with the District Plan.

The District Council has already resolved to transfer their functions under section 33 of the RMA to the regional council, at their 29 August meeting, and formalised the transfer by adopting the draft Deed (attached) at their meeting on the 26<sup>th</sup> September.

#### **Accepting a Transfer of Functions**

Section 33(4)(c) of the Resource Management Act (1991) requires that both authorities must agree that the transfer is desirable on certain grounds before the transfer can be made. The grounds for accepting the transfer are listed in clause E of the attached draft Deed. The transfer is considered to be desirable for the following reasons:

1. The Regional Council is an appropriate authority to transfer the function to as we already process resource consents required under the Regional Land and Water Plan for mining activities in the Westland District, so we already have relationships with these miners. Regional Council staff also have considerable experience in compliance monitoring of mining operations occurring in the Westland District.
2. The transfer will avoid a duplication of district and regional council staff time spent on site inspections and administration. Regional council staff already visit all mine sites twice a year and district plan compliance work can be conducted using the same site visit. Applicants will only have to deal with one council for all their consent & compliance requirements.

#### **Draft Deed of Agreement**

The attached draft Deed sets out the terms and scope of the transfer. The specific functions to be transferred are outlined in Clause 4 of the Deed.

#### **Next steps**

Once the two Councils formally agree to the transfer, the next steps in the process are:

- 1) The District Council will serve notice on the Minister for the Environment of the proposed transfer as required under section 33(4)(b) of the RMA.
- 2) The District Council will initiate a special consultative procedure under Section 83 of the Local Government Act 2002 (LGA), which involves a one month public consultation process.

- 3) The transfer will then be finalised by the two Councils' putting their seals on the Deed, and agreeing to a commencement date.

**RECOMMENDATIONS:**

1. *That pursuant to Section 33(6) of the Resource Management Act 1991 the West Coast Regional Council hereby accepts the transfer of functions from the Westland District Council as set out in the attached Deed of Agreement.*
2. *That the Council delegates to the CEO and the Chairman the role of finalising the transfer process (after the District Council has completed the Local Government Act special consultative procedure) by signing the deed and affixing its seal, and agreeing to an appropriate commencement date.*

Chris Ingle  
Chief Executive

**DEED TO TRANSFER FUNCTIONS UNDER SECTION 33 OF THE RESOURCE MANAGEMENT  
ACT 1991**

**THIS DEED** is made on the                      day of                      2013

**BETWEEN**                      **THE WESTLAND DISTRICT COUNCIL**, a body corporate under the  
Local Government Act 2002 ("the District Council")

**AND**                                      **THE WEST COAST REGIONAL COUNCIL**, a body corporate under the  
Local Government Act 2002 ("the WCRC")

**WHEREAS:**

- A. Under section 31(1) of the Resource Management Act 1991 ("the Act"), the District Council has the function of controlling any actual or potential effects of the use, development, or protection of land, including the effects of mining-related activities, within the Westland District.
- B. In accordance with the Act, the District Council has prepared the Westland District Plan, which includes objectives, policies, and rules for mining-related activities.
- C. Under section 30(1) of the Act the WCRC has the functions of controlling the use of land for the purpose of soil conservation, and managing effects of water use and discharges, including the effects of mining-related activities, within the West Coast Region.
- D. The District Council has agreed to transfer to the WCRC and the WCRC has agreed to accept transfer of its functions for mining-related activities in the Westland District.
- E. Both the WCRC and the District Council agree that the transfer is desirable on all of the following grounds required by section 33 of the Act:
  - (a) The authority to which the transfer is made represents the appropriate community of interest relating to performance of the function transferred; and
  - (b) Efficiency; and
  - (c) Technical or special capability or expertise.
- F. The proposed transfer was approved by the District Council and the WCRC, after the District Council undertook the special consultative procedure specified in the Local Government Act 2002.
- G. Before using the special consultative procedure, the District Council gave notice to the Minister for the Environment of its proposal to transfer its functions, powers and duties outlined in this Deed.

**NOW THIS DEED RECORDS:**

**1. INTERPRETATION**

1.1 In this Deed, unless the context otherwise requires:

“exploration”, “mining” and “prospecting” have the same meanings as in the Westland District Plan;

“Government Agency” means any national, regional or local governmental or semi-governmental agency, administrative body, judicial body, tribunal, department, commission, public authority, agency, minister, statutory corporation or instrumentality;

“Law” means any legally binding law, legislation, statute, Act, rule, order or regulation which is enacted, issued or promulgated by the Parliament of New Zealand, the Governor General by Order-in-Council or a Government Agency;

“Mining-related activities” includes:

- a) exploration;
- b) mining;
- c) prospecting;
- d) operations which are ancillary to the exploration, mining, or prospecting for any mineral;
- e) the following activities when carried out on the same site as an exploration, mining or prospecting activity and where such activities are ancillary to the exploration, mining or prospecting activity:
  - i. the extraction, transport, treatment, processing and separation of any mineral or chemical substance from the mineral;
  - ii. the construction, maintenance, and operation of any works and other land improvements (but excluding any buildings and structures as defined in the Westland District Plan), and of any related machinery and equipment connected with the operation;
  - iii. the clearance of vegetation by any means;
  - iv. the removal of over-burden by mechanical or other means, and the stacking, deposit, storage, and treatment of any substance considered to contain any minerals;
  - v. the deposit or discharge of any mineral, material, debris, tailings, refuse, or wastewater produced from or consequent on the operations; and
  - vi. the doing of all lawful acts incidental or conducive to the operations; and
- f) includes any access or track formation for the purposes of exploration, mining or prospecting that does not occur on unformed legal road.



1.2 In this Deed, unless the context otherwise requires:

- a) references to clauses are to clauses in this Deed;
- b) headings appear as a matter of convenience and do not affect the construction of this Deed;
- c) including and similar words do not imply any limitation;
- d) a reference to a person includes a local authority, company, limited partnership, and also any body of persons, whether incorporated or unincorporated, and includes their representatives, executors and assigns;
- e) the singular includes the plural and vice versa, and words importing one gender include the other genders; and
- f) a reference to:
  - i. any Law is a reference to that Law as amended from time to time, or to any Law that has been substituted for that Law; and
  - ii. any document is a reference to that document as amended from time to time, or to any document that has been substituted for that document.

## **2. COMMENCEMENT DATE**

2.1 The transfer effected by this Deed commences on 2013.

## **3. TRANSFER**

3.1 The District Council transfers under Section 33 of the Act to the WCRC the functions in Clause 4.

3.2 The WCRC accepts the transfer effected by this Deed.

3.3 This transfer is on the terms and conditions set out in this Deed, and the parties are at all times subject to the provisions of the Act and any other Law.

## **4. FUNCTIONS TRANSFERRED**

4.1 The functions transferred under this Deed are the functions, powers and duties of the District Council in relation to mining-related activities under Section 36, Part 6, Part 6AA and Part 12 of the Act.

## **5.1 WARRANTIES**

5.1 The WCRC warrants to the District Council that in performing the functions, powers and duties transferred and otherwise performing its obligations under this Deed it will:

- a) devote such time, resources (including engaging specialist staff where necessary), care, diligence, attention and skill as is reasonably necessary for the proper and efficient provision of the Functions;

- b) exercise the degree of skill, care, prudence, foresight and diligence which would reasonably and ordinarily be expected from a skilled and competent professional engaged in the same type of undertaking under the same circumstances; and
- c) comply with all applicable Laws and the terms and conditions set out in this Deed.

## **5. COSTS**

5.1 The WCRC may charge and recover fees for mining-related activities in accordance with Section 36 of the Act.

## **6. LIAISON**

- 6.1 The WCRC may consult with the District Council where it considers that in performing the functions, powers and duties transferred, it would be assisted by the technical capability of the District Council.
- 6.2 Where any mining-related activity is immediately adjacent to, or will affect legal road, WCRC will seek comment from the District Assets staff of WDC. This consultation will occur over and above any assessment of affected parties to the consent application. This provision may be met through the agreement of standardised requirements, or consultation on a consent basis with an agreed response timeframe.
- 6.3 To the extent permissible by Law, the District Council shall provide to the WCRC as soon as practicable any information, advice or comment on any mining-related matter reasonably requested by the WCRC to assist the WCRC to carry out the functions, powers and duties transferred.
- 6.4 The parties will cooperate in good faith:
- a) to expedite the transfer to the WCRC of any such matters being handled by the District Council as at the commencement date in Clause 2, which relate to functions, powers or duties transferred to the WCRC pursuant to this Deed; and
  - b) in the event that this Deed terminates in accordance with clause 11, to expedite the transfer to the District Council of any such matters which relate to functions, powers or duties transferred to the WCRC pursuant to this Deed.

## **7. REPORTING**

7.1 The WCRC shall report to the District Council information about any of the functions transferred as agreed with the District Council.

## **8. RELINQUISHMENT**

- 8.1 If the WCRC considers relinquishing the functions, powers and duties transferred, it shall first consult with the District Council as soon as practicably possible.
- 8.2 If, following such consultation, the WCRC decides to relinquish all or any of the functions, powers or duties transferred it shall give one months' written notice of its decision to the District Council.

## **9. CHANGE OF TRANSFER**

9.1 Pursuant to Section 33(8) of the Act, the District Council may change the transfer effected by this Deed at any time, by notice to the WCRC.

## **10. REVOCATION OF TRANSFER**

10.1 Pursuant to Section 33(8) of the Act, the District Council may revoke the transfer effected by this Deed at any time, by notice to the WCRC.

## **11. DURATION**

11.1 This Deed and the transfer made under it shall remain in full force and effect until revoked by the District Council or relinquished by the WCRC under Clauses 8 or 10 of this Deed.

## **12. DEALING WITH DISPUTES**

- 12.1 If any difference or dispute arises as to the interpretation of this Deed or as to any matter arising out of or in connection with this Deed, including any question regarding its existence, validity or termination ("Dispute") (other than a Dispute precluded by clause 13), then either party shall by notice in writing served on the other party inform the other party of the details of the Dispute.
- 12.2 Both parties undertake to use their best endeavours to resolve any Dispute by amicable and bona fide negotiation and discussion or by utilising appropriate alternative dispute resolution techniques.
- 12.3 Where a Dispute remains unresolved for more than four weeks, either party will be entitled to refer the Dispute to mediation by notice in writing to the other party.
- 12.4 The parties will agree on a suitable person to act as mediator. If the parties fail to reach agreement within five business days of the matter being referred to mediation in accordance with clause 12.3, either party may request the President for the time being of the New Zealand Law Society, or the nominee of such President, to appoint a mediator.
- 12.5 The mediation will be in accordance with the Mediation Protocol of the Arbitrators' and Mediators' Institute of New Zealand, Inc. The mediation shall be terminated by:
- a) the signing of a settlement agreement by the parties;
  - b) notice to the parties by the mediator, after consultation with the parties, to the effect that further efforts at mediation are no longer justified;
  - c) notice by one or more of the parties to the mediator to the effect that further efforts at mediation are no longer justified; or
  - d) the expiry of 40 days from the mediator's appointment, unless the parties expressly consent to an extension of this period.

- 12.6 If the mediation is terminated as provided in clauses 12.5(b), (c) or (d) the Dispute shall be referred to and finally resolved by arbitration in New Zealand in accordance with New Zealand law and the current Arbitration Protocol of the Arbitrators' and Mediators' Institute of New Zealand Inc. The arbitration shall be by one arbitrator to be agreed upon by the parties and if they should fail to agree within 21 days, then to be appointed by the President of the Arbitrators' and Mediators' Institute of New Zealand Inc. Any such arbitration shall take place in Hokitika or Greymouth.

### **13. ALTERNATIVE DISPUTE RESOLUTION BY EXPERT**

- 13.1 As an alternative to the dispute resolution procedures in clause 12 the parties may by written agreement elect to engage an Expert in accordance with the following provisions to resolve any Dispute. This procedure, if adopted, is in substitution of the procedure set out in clause 12 and once an election under this clause has been made the parties may not commence the procedures provided for under clause 12 in relation to the Dispute the subject of the election. The parties shall agree on the manner in which the Expert will conduct the Dispute.
- 13.2 If the parties elect by written agreement to engage an Expert to determine a Dispute, then the following provisions apply:
- a) the Expert is to be appointed by agreement between the parties. Failing agreement within 5 business days after the agreement to use an Expert, either party may request the President for the time being of the New Zealand Law Society, or the nominee of such President, to appoint an Expert;
  - b) upon the Expert being appointed, each party will provide the Expert with a written description of the subject matter and details of the Dispute;
  - c) the Expert:
    - i. shall act as an expert and not an arbitrator;
    - ii. may inspect any records kept by a party in relation to the matter being considered by the Expert at any reasonable time;
    - iii. is to consider and take into account material, representations and other relevant matters submitted to him or her by a party in accordance with clause 12.2(b); and
    - iv. shall give the parties, within 30 days after his or her appointment, or such other period as the parties may agree, written notice of his or her decision and that decision shall be final and binding on the parties;
  - d) if, at any time, it becomes apparent that the Expert will not perform his or her duties under this clause 12 (whether by relinquishing his or her appointment, by failing to provide written notice of his or her decision in accordance with subclause (c)(iv), or by death), a new person may be appointed as Expert in his or her place and the provision of this clause 12.2 shall operate in relation to that appointment;

- e) the parties and the Expert shall keep confidential and shall not disclose to any one not involved in the determination any information contained in the decision unless such disclosure is made in any subsequent proceedings to enforce the Expert's decision; and
- f) the parties' own costs and the costs and expenses of the Expert shall be borne and shared by both parties in the manner determined by the Expert and in the absence of any such determination, each party shall bear its own costs and an equal share of the costs and expenses of the Expert.

#### **14. MISCELLANEOUS**

- 14.1 Notices under this Deed must be in writing and sent to the following contact addresses (or alternative addresses notified in writing by the relevant party):

Westland District Council:

The Chief Executive  
Westland District Council  
Private Bag 704  
Hokitika 7842  
Fax: 03 756 9046  
Email: ce@westlanddc.govt.nz

West Coast Regional Council:

The Chief Executive  
West Coast Regional Council  
PO Box 66, Greymouth  
Fax: 03 768 7133  
Email: ci@wrc.govt.nz

14.2 Notices:

- a) delivered or sent by facsimile shall be deemed given when correctly sent provided that notices given after 5.00pm on a business day or at any time on a non business day shall be deemed given on the next business day;
- b) sent by mail shall be deemed given on the date which is three (3) business days following posting; or
- c) sent by email, shall be deemed to have been received at the time of transmission provided that:
  - i. a delivery receipt has been received by the sender; and
  - ii. any email sent after 5.00pm on a business day or at any time on a non business day shall be deemed delivered on the next business day.

- 14.3 This Deed is the entire agreement between the parties about its subject matter and replaces all previous agreements, understandings, representations and warranties about that subject matter.

- 14.4 No delay, neglect or forbearance by any party in enforcing against the other party any right or remedy under this Deed shall be deemed to be a waiver of or in any way prejudice the right or remedy nor shall any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy.
- 14.5 No amendment to this Deed will be effective unless it is in writing and signed by both parties.
- 14.6 Except as expressly provided in this Deed:
- a) nothing in this Deed is intended to constitute a fiduciary relationship or an agency, partnership or trust; and
  - b) neither party has authority to bind the other party.
- 14.7 Any term of this Deed which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity or enforceability of the remainder of this Deed is not affected.
- 14.8 Except as expressly provided in this Deed, the rights of a party under this Deed are in addition to and do not exclude or limit any other rights or remedies provided by Law.
- 14.9 Each party will do all things reasonably required by the other party to effectively carry out and give effect to the terms and intentions of this Deed. This clause is a continuing obligation separate from each party's other obligations under this Deed and survives termination of this Deed.
- 14.10 Except as expressly provided in this Deed, each party must pay its own costs and expenses of negotiating, preparing and executing this Deed.
- 14.11 This Deed is governed by the laws of New Zealand. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of New Zealand.
- 14.12 This Deed may be executed on the basis of an exchange of scanned copies of this Deed and execution of this Deed by such means is to be a valid and sufficient execution.
- 14.13 If this Deed consists of a number of signed counterparts, each is an original and all of the counterparts together constitute the same document.

This Deed was executed on the date appearing at its head.

THE COMMON SEAL of )  
 THE WESTLAND DISTRICT COUNCIL )  
 Was affixed )  
 In the presence of: )

Mayor

Tanya Winter  
Chief Executive

THE COMMON SEAL of )  
 THE WEST COAST REGIONAL COUNCIL )  
 Was affixed )  
 In the presence of: )

Chairman

Chris Ingle  
Chief Executive Officer

**THE WEST COAST REGIONAL COUNCIL**

Prepared for: Council Meeting 8<sup>th</sup> October 2013  
Prepared by: Chris Ingle – Chief Executive  
Date: 27 September 2013  
Subject: **CHIEF EXECUTIVES REPORT**

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**Meetings Attended**

- I met with Chris Hickford and Jonathon Thomas, Department of Conservation Partnership Managers for the West Coast, on 12 September.
- I met with NZTA planning and funding manager Ian McCabe on 16 September.
- I attended the Greymouth, Kaniere, Kongahu and Karamea annual rating district meetings.
- I met with our auditors on 18 September.
- I met with the Directors of Mossman Oil and Gas on the 20<sup>th</sup> of September.
- I attended a meeting with staff and managers at Westland District Council on the 23<sup>rd</sup> of September to help progress the consenting processes for the Hokitika Seawall.
- I attended a meeting of Regional Software Holdings Ltd on the 25<sup>th</sup> of September.

**Rating District Meetings**

It appears the new system for holding rating district meetings has worked very well, with good attendance at those 11 meetings that were held, and no complaints from those who did not have a meeting. Some positive feedback from the Whataroa rating district committee was received.

There are a lot of works to progress in many of the areas where we provide flood or erosion protection or drainage assets and these will all be attended to in due course. Because the number of meetings is reduced the administration tasks (minutes etc.) will be less time-consuming.

The new concept of 'prudent reserve' was one of the key successes of the meetings. Attendees seemed to grasp the concept very well. Having the concept explained up-front in the agenda papers resulted in a sensible discussion taking place on what a prudent reserve should look like for the different rating districts.

**RECOMMENDATION**

*That this report be received.*

**Chris Ingle,  
Chief Executive**



**THE WEST COAST REGIONAL COUNCIL**

To: Chairperson  
West Coast Regional Council

I move that the public be excluded from the following parts of the proceedings of this meeting, namely, -

Agenda Item No. 8.

11 – 12

- 8.1 Confirmation of Confidential Minutes 10 September 2013
- 8.2 Overdue Debtors Report (to be tabled)
- 8.3 Investment Decision
- 8.4 Response to Presentation (if any)
- 8.5 In Committee Items to be Released to Media

<b>Item No.</b>	<b>General Subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under section 48(1) for the passing of this resolution.</b>
8. 8.1	Confirmation of Confidential Minutes 10 September 2013		Section 48(1)(a) and in particular Section 9 of 2nd Schedule Local Government Official Information and Meetings Act 1987.
8.2	Overdue Debtors Report		
8.3	Response to Presentation (if any)		
8.4	In Committee Items to be Released to Media		

I also move that:

- Chris Ingle
- Robert Mallinson
- Michael Meehan
- Jackie Adams

be permitted to remain at this meeting after the public has been excluded, because of their knowledge on the subject. This knowledge, which will be of assistance in relation to the matter to be discussed.

The Minutes Clerk also be permitted to remain at the meeting.