



A voluntary environmental accord for the dairy industry (A)

As the TV cameras rolled, recording the signing of New Zealand's first Dairying and Clean Streams Accord at Parliament on 26 May 2003, Bob Zuur knew the next challenge was looming. As the Sustainable Industries Manager for the Ministry for the Environment (MfE), he was aware that, to the last minute, callers had been urging the Ministers of Agriculture and the Environment not to sign. Fonterra, the co-operative company supplied by 96 percent of New Zealand's dairy farmers, and Local Government New Zealand (LGNZ) were also signatories to the agreement. It offered a voluntary, industry-led solution, instead of government regulation, for a contentious issue being managed with varying success by regional councils. The first year of implementation would be crucial.

The Ministry for the Environment

MfE was a small policy ministry, whose major role was administering the Resource Management Act (RMA) 1991. MfE set environmental policies, and while it had powers to enforce them, had tended not to do so. The RMA devolved implementation, regulation and enforcement of water management to regional councils, whose jurisdiction covered both rural and urban areas. The planning and regulatory priorities of these 12 very autonomous councils reflected their economic and geographic diversity.

Fundamental to the RMA was a process for consulting with stakeholders, who had the right to appeal decisions. Lengthy consultation and appeals meant the rule-making mechanism had a reputation for slowness and high costs. Because this impacted on

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the ability of some authorities to manage issues that were becoming nationally important, the MfE was considering setting national standards that local government would be required to enforce, for some core environmental issues. Pressure from environmental groups about the impact of dairying had become one of these issues.

Environmental sustainability and water quality

Bob Zuur had been closely involved with various MfE initiatives for sustainable management of inland water quality. His 1995 thesis for a Master of Public Policy degree formed the basis of a policy paper, 'Reducing the Impacts of Agricultural Runoff on Water Quality', published by the Ministry in 1997.

This highlighted that good progress had been made in eliminating easily-measured sources of water pollution such as discharges from a single pipe. The focus now was on the less visible impacts, such as general runoff from farmland and the leaching of nitrates from fertiliser into rivers and streams. The source and nature of these pollutants varied according to individual farming practices, making it more difficult to measure and control them.

The paper also pointed out that farmer attitudes were another intangible to be considered in developing sustainable behaviours. It quoted the then President of Waikato Federated Farmers, Graham Pinnell:

“Farmers are fiercely independent by nature and by necessity, in that they have sole management responsibility over a unique and complex system. We resent rules unless they are necessary and there is no better option.”¹

Dairy expansion

Between 1991 and 2001, the national dairy herd increased by 41 percent, to 3.4 million cows. (*Exhibit 1*). Herds of a thousand cows began to appear. The expansion was driven by favourable world market conditions: the milk-fat payout to farmers almost doubled between 2000 and 2001, to reach a record \$5.60 per kg. Established farms, already million-dollar businesses, got bigger and more intensive, and land was being converted from sheep and beef farms.

To meet the feed demands for intensive milk production, greatly increased quantities of fertiliser were applied to pastures.² This in turn increased the potential for nutrients to leach into waterways. Regional councils had the responsibility for making rules to manage this environmental impact.

Aware that dairy development was outstripping regulatory controls in some regions, Bob Zuur, and his then chief executive, Denise Church, had attempted to discuss environmental issues with dairy companies. But key decision-

¹ *Reducing the Impacts of Agricultural Runoff on Water Quality*, Ministry for the Environment, Wellington, 1997, p 11.

² Per hectare application of urea fertiliser, the most commonly used nitrate, almost tripled (+ 162%) between 1996-2002. Source: “Growing for Good” see Case 2004-7.2.

makers were preoccupied by escalating industry amalgamations.³ By May 2000, only two major companies remained. “Pure New Zealand” and “Dirty Dairying”

In 1999, Tourism New Zealand had unveiled its global marketing campaign, targeted at the discerning traveller, to the theme: “One hundred percent pure New Zealand”.⁴ While “pure adventure” and “pure adrenalin” were being promoted, the visual message was of an equally pure environment.

Food exporters had for years been making a feature of the clean green environment from which their products were sourced. Upholding New Zealand’s reputation for clean production became even more essential, following a series of food safety scares in overseas customer countries. While MfE worked behind the scenes to achieve this, others were less patient.

In 2001, prime time TV news programmes showed images in stark contrast to those designed for tourist appeal. Dairy cows fouling streams and trampling their surrounds to mud highlighted the negative impact of dairy expansion. Horrified for opposing reasons, farmers and environmentalists took polarised positions on the issue, attacking each other through the media.⁵

The main lobby group⁶ for farmers was Federated Farmers, whose 18,000 members included about 8500 of New Zealand’s 12,300 commercial dairy farmers.⁷ When they held their annual meeting in the tourist centre of Rotorua in July 2001, a full-page open letter in the local paper⁸ challenged them to deal with “Dirty Dairying”. The catchphrase, and the campaign, had been devised by Fish and Game New Zealand.

Fish and Game

In the letter, Fish and Game Director Bryce Johnson challenged Federated Farmers to respond to eight questions. One asked: “At what point will Federated Farmers say the ‘more education’ and ‘voluntary behavioural change’ approach to getting dairy farmers to clean up their environmental act should be displaced by a more regulatory, compulsory approach?” The final question was whether Federated Farmers would support the establishment of “a mandatory, environmentally friendly, dairy farming accreditation scheme which was a pre-requisite to milk being picked up by the tanker.”

³ Bob Zuur: “The closest we could get to any serious discussion was third tier management. The senior managers were losing their jobs, while factory workers tended to retain theirs. Senior management not surprisingly were much more focussed on governance issues. We couldn’t get any real traction.”

⁴ Downloaded from www.tourisminfo.co.nz 12.1.04.

⁵ Environmentalists called farmers “land rapists” while environmentalists were seen by the rural community as “crazy greenies” ignorant of economic reality and farming practice.

⁶ Equivalent to a peak body in Australian terms.

⁷ Dairy Farmers of New Zealand, ‘Submission to the Fonterra Co-operative Company on the Draft Dairy and Clean Streams Accord’, Federated Farmers of New Zealand, Wellington, March 2003.

⁸ Rotorua *Daily Post*, 17 July 2001.

Providing answers to these questions would give Federated Farmers an opportunity to tell the public what its present attitude actually was towards dairy farming and the natural environment, the letter concluded.

Like Federated Farmers, Fish and Game was a national, non-governmental organisation, with active regional representation. Like the “Feds”, it was dependent on its subscriber base, but its mandate was from the Department of Conservation, which delegated to it the management of introduced fish and game. Fish and Game claimed dairy expansion was destroying the habitat of trout and salmon, and the pristine rivers which were vital to tourism. It threatened biodiversity by damaging the spawning grounds of native fish like whitebait.

Although it did not respond directly to Fish and Game’s letter, Federated Farmers went on the offensive. The Federation pointed out the economic importance of dairying, emphasised how many farmers had already made a significant commitment to environmental management, and highlighted voluntary environmental initiatives like those carried out in partnership with the Waikato Regional Council, known as Environment Waikato (EW). Twenty-two percent of the national dairy herd was farmed within EW boundaries.

Environment Waikato

EW, under its chief executive Barry Harris, had developed a distinctive style and culture. In a region dominated by the iconic Lake Taupo and Waikato⁹ River, and threaded with waterways, wetlands and lakes, water quality had always been of great importance. Its water quality strategy included a range of initiatives, such as providing trees to plant to stabilise riverbanks, and was backed by an extensive body of science. EW’s experience with the farming community, with which its CE had deliberately cultivated good relationships, had taught Harris that:

“The power of voluntary commitment, particularly when you are dealing with the agriculture sector, is huge. If you get people to be part of the solution, you get momentum, enthusiasm, resources poured into something they voluntarily support. If you tell a farmer what to do, [you will get resistance].”

Harris had chaired the Regional Councils’ Chief Executives Forum, which met quarterly.

“There were only about 13 of us and we could get together regularly, reach consensus on a whole lot of stuff that other elements of government would struggle to do. Some of my [urban] territorial colleagues said how great it would be to have a tight unit that they could work in, get to know the personalities and get something done that way.”

In four years as its chairman, Harris had encouraged joint activities, particularly research, to provide an objective basis for decision-making.

⁹ The Maori name Waikato can be translated as “full flowing river.”

Regional authority, regional autonomy

This collaborative activity was a considerable achievement. Each member of LGNZ¹⁰ cherished the independence mandated by the Local Government Act to implement the RMA. Larger regional authorities, like Environment Waikato and Environment Canterbury (*Exhibit 2A & 2B*), were likened to Australian states in power and autonomy.

Many had abandoned the “Regional Council” title. The Manawatu/Wanganui Regional Council, for example, rebranded as horizons.mw.

Most technical personnel around the country agreed on the need to improve water quality. At a political level, however, priorities differed, and the scale and urgency of the problem varied greatly. It was a major issue for EW because dairying was at the heart of the local economy, and likewise in Taranaki, with 17 percent of the dairy herd. On the irrigated plains of Canterbury, stock access to water was much less of an issue, and farm conversions raced ahead of rules to manage their environmental impact.

Relationships with MfE

Environment Waikato was unusual in having a relatively harmonious working relationship with the Ministry for the Environment.

“Farmers distrust them (MfE). The regional councils don’t think MfE needs to be there, MfE doesn’t think that the regional councils are doing what they are supposed to do. MfE has the ability to bring in national standards which override the regional councils’ processes for making rules. So if MfE brings in national standards, the regional councils have got to monitor and make farmers or their constituents meet them. Regional councils don’t like that. They would prefer to do it their own way through their own processes.”¹¹

But the inescapable fact for local authorities was that although regulations were usually in place to achieve water quality targets, they were not easy to enforce. Successful prosecutions were being taken through the Environment Court, but these were for gross breaches like the wholesale discharge of effluent into rivers.¹² The pendulum was swinging back towards giving central government, through MfE, a more directive and activist role. As EW’s Barry Harris put it:

“It’s illegal to have cows shitting in the water (in most regions) now, but the practicality is that [regional council officers] can’t enforce it. You couldn’t trace the offender.”

¹⁰ The New Zealand Local Government Sector comprised 12 Regional Councils, 74 Territorial Authorities (15 city councils and 59 district councils) and 4 Unitary Councils (territorial authorities that also have regional responsibilities). From www.lgnz.co.nz/lg-sector/maps/downloaded 13-7.04.

¹¹ Shane Lodge, Fonterra Technical Services Manager, interview November 2003.

¹² In February 2002, two Wairarapa farmers were fined around \$5000 each for offences of illegally pumping effluent into streams. One case related to pumping a million litres of effluent on one day.

The biggest co-operative

While the impact of dairying on the environment grew, the industry's own focus remained on a radical restructure, eliminating the Dairy Board,¹³ which had been the single seller of all New Zealand dairy products overseas, and combining the two remaining major milk processing companies, New Zealand Dairy Group (NZDG) and Kiwi Co-operative Dairies (Kiwi).

To pave the way for the special Act of Parliament to establish what would become Fonterra, New Zealand's biggest company, a \$15 billion export business, Government agreed to by-pass the normal requirement of Commerce Commission examination.¹⁴

Federated Farmers, always supporters of farmer choice, were vocal opponents of the virtual monopoly that would be created.¹⁵ As described by Barry Harris of EW, dairying had earned a reputation as a "take-no-prisoners sort of industry", very powerful politically. A knighthood was usually in store for retiring Dairy Board chairmen. Board and company directorships were hotly contested.

NZDG and Kiwi had been rivals with quite different cultures. These would now have to work together in what, from October 2001, would be known as Fonterra. John Roadley (ex-NZDG) would make the transition from chairing the Dairy Board to be founding chairman of the new company; Henry van der Heyden, chairman of NZDG and a director of the Dairy Board, would be a director of Fonterra. Craig Norgate (formerly with Kiwi) would become Fonterra's first chief executive.

National regulation or voluntary accord

As Dairy Board chairman, John Roadley had been a promoter of environmental initiatives and in 2000 had signed off on a nationwide policy for clean production and animal welfare.¹⁶ The dairy industry had contributed to a significant amount of water quality research, especially in the Waikato, and this too had raised awareness of environmental issues. But at this point, issues associated with the merger, and establishing the new company, had shifted the industry's focus off "Dirty Dairying". Environment Waikato's Barry Harris:

"Whatever strategic agenda they had at that moment, they certainly didn't have environment. Initially, they were reasonably successful in having Fish and Game pushed to one side. But it was niggling them. It was like a stone in the boot, it was just not really up there strategically, but every time they took a step it was giving them a little bit of angst."

¹³The Dairy Board included representatives of all major milk companies. In line with a general government move to disband producer boards, the new industry structure would make many of the Board's former regulatory activities subject to commercial imperative, and set up a compulsory levy system to fund industry-good research (research of generic value to the dairy industry.)

¹⁴ The Commerce Commission would normally be required to rule on any merger that would lead to a monopoly within New Zealand. The argument for Fonterra's exemption was based on the fact that almost all its business was conducted overseas.

¹⁵ Fonterra processed over 96 percent of all milk produced in New Zealand; only two other niche exporters remained: Westland Co-Operative Dairy Company and Tatua Dairy Company.

¹⁶ *Dairy Industry Environmental and Welfare Policies*, New Zealand Dairy Board, Wellington, 2000.

The campaign was however putting pressure on the Minister for the Environment, Marian Hobbs, and through her the Ministry. The industry's response, including more publicity for its policies in July 2001, was seen by the Minister as being too weak.

“New dairy industry environmental policies fall a long way short of improving the industry's environmental performance. ... Realistically, this will require some changes to traditional dairy farm practice. While the Dairy Board policies require farmers to control stock access to wetlands to avoid the destruction of native flora and fauna, unfortunately, this firm position on stock access is not applied to streams. I have to say I am disappointed.”¹⁷

Not long after this, MfE started work on a national standard and regulatory regime that could be imposed on farmers nationwide. But towards the end of the year, not long after Fonterra began its commercial life, a possible alternative approach emerged.

Seizing the opportunity

In November 2001, Barry Harris of EW had called in to Air New Zealand's Wellington Airport Koru (Business Class) Lounge on his way home to Hamilton, and discovered Fonterra director Henry van der Heyden waiting for the same plane. The two men had known each other for years and were occasional tennis partners. Over a beer, Harris raised the issue of the lack of progress on water quality, and the damage being done by the “Dirty Dairying” campaign.

Harris acknowledged this was an “opportunistic” move, in no way part of EW's structured and carefully planned water quality improvement initiatives.

“We started talking about these sorts of issues and how to fix them. We both agreed that this was stupid, and that we needed to find some way of operating in the sensible middle ground that wasn't going on at the moment. We agreed to promote the formation of a small high-level team to see where that common ground was. That was quite crucial, because without that we wouldn't have got Fonterra at the board and senior management level to engage properly with this.”

Fonterra chairman Roadley was then involved, and a high-level meeting was quickly arranged. At Roadley's instigation, Environment Minister Hobbs and Minister of Agriculture Jim Sutton met with Fonterra CE, Craig Norgate, and van der Heyden. Also present were Neil Clarke, the chair of LGNZ's Regional Affairs Committee (and chairman of EW). Barry Harris, as chair of the Regional Councils' Chief Executive Forum, gave a short presentation on the water quality issues. A mandate to find a solution was tabled.

Two small groups, informally describing themselves as “the generals” and “the lieutenants” were set up to progress the issue. The generals included the chief executives and Henry van der Heyden. The lieutenants were Bob Zuur, the Ministry for the Environment Sustainable Industries Manager; Shane Lodge, Fonterra's Manager, Technical Services; Dr Tony Petch, EW Resource Information Group

¹⁷ Media statement from the Hon Marian Hobbs, Minister for the Environment, 14 August 2001.

Manager; and Alan Walker, Ministry of Agriculture and Forestry (MAF) Policy Manager. According to Zuur:

“Two approaches were discussed: either the regional councils would individually regulate the dairy sector, because they had to, in terms of public policy, and also of politics, because the media was so hyped up. Or the dairy industry could take a lead. But from the start there was agreement that the only way to respond was across the whole industry, i.e. nationally.”

Lobby groups excluded

Group membership was restricted to the two key ministries, the regional authorities and Fonterra, on the grounds that they alone had the accountability to come up with solutions and get things done.

As lobby groups, Fish and Game and Federated Farmers both made public their displeasure at being deliberately excluded. The MfE’s Bob Zuur, used to inclusive consultation, was not entirely comfortable that they were not at the table.

“It was a risk we had to take. Once you get the Minister of Agriculture and the Minister for the Environment behind something, somebody like Barry Harris behind it, the head people at Fonterra behind it, this has just got to happen.”

Environment Waikato’s Barry Harris says it was a conscious decision “that this wasn’t going to turn into one of those big consultative exercises that didn’t go anywhere. We had a powerful, targeted group that could reach decisions quickly, and could make things happen.”

Simple, achievable targets

During the first months of 2002 the lieutenants drafted the Dairy and Clean Streams Accord. Finding themselves in agreement on its general direction, their main work was to strip it of all “bureaucrat-speak” and focus on simple, measurable targets.

A major source was Fonterra’s *Market Focussed*¹⁸ programme. This was an environmental management programme, a set of templates for farmers to assess themselves against best practice, developed by the Dairy Board to manage issues identified back in 1998-99. MfE had co-funded it.

By May 2002 there was a draft Accord, approved by MfE, MAF and Local Government New Zealand (LGNZ), to be discussed by Fonterra’s two “generals”.

¹⁸ Cotman, J and McBride, G, (1998) *Market Focussed, an Environmental Management System for New Zealand Dairy Farmers*, New Zealand Dairy Group, Wellington. This elevated environmental and animal welfare concerns to an equal position with milk quality and food safety in contributing to the industry’s “clean, green and kind marketing strategy.” *Market Focussed* was cited by both sides of the “Dirty Dairying” debate. Depending on the viewpoint, it was either a further demonstration of dairying’s commitment to move forward on environmental standards, beyond and regardless of any accord; or (because it had limited release), evidence of a “soft” approach to environmental issues.

The forthcoming meeting was described by Bryce Johnson, Director of Fish and Game, as “high noon for the dairy industry”.¹⁹ Critical of proposals to set voluntary targets for farmers, and pointing out that remedies were “scientifically sound, simple and in many cases cheap”, he went on to say:

“We want to see these senior dairy industry and government officials come up with measurable solutions down on the farm to clean up lowland river pollution...The environmental community is not going to be fobbed off. We have seen enough procrastination and delay.”

Industry self-regulation

The draft Accord’s goal was “to have water that is suitable ... for fish, drinking by stock, and swimming in defined areas.” Measures to be taken centred on: preventing cows from entering waterways, by fencing off streams and building bridges; treating effluent; managing nutrient (fertiliser); and protecting wetlands. Anticipating lengthy debate, Environment Waikato’s Barry Harris recalled, three hours were scheduled for discussion of the draft.

To Harris’s delight, the “Fonterra Generals” accepted the tabled document quickly and with only minor amendment. At the 4 May meeting, they also developed Fonterra’s leading part in ensuring compliance with the Accord.

Fonterra, as buyer of the milk produced on supplier farms, would “front” the implementation of the Accord requirements, much as it already did to maintain milk quality parameters. Farmers who consistently failed to meet quality requirements, or whose access roads were unsafe for tankers, might face financial sanctions²⁰ or the threat that their milk would not be collected. With its farm advisers regularly visiting each supplier property, Fonterra was best placed to work with individual farmers on the management changes that might be needed to improve water quality.

Within the ten-year timeframe for achieving targets, Fonterra would make the environmental programme mandatory for its suppliers. From the outset, the industry would have the primary role of regulating itself, with regional councils providing the regulatory backup if required. Fonterra’s Environmental Assessment Programme would run parallel to the Accord and identify what, if anything, farmers needed to do to meet quality criteria, helping them plan how to do it.

Some farmers might face costs of \$100,000 or more to build new bridges to keep cows out of waterways. Others might face little or no cost. Each farm situation would be different.²¹ To spread the financial burden, the Accord would stage its targets, for example seeking 50 percent compliance with the bridging target in five years, and 90 percent compliance in ten years (*Exhibit 3*). As Fonterra’s Technical Services Manager, Shane Lodge (one of the “lieutenants”) saw it: “The whole focus is ‘Let’s

¹⁹ Fish and Game NZ, press release 3 May 2002, downloaded from www.lgnz.govt.nz on 12.5.04.

²⁰ Most offending farmers would come into line after they had been charged a penalty out of the payment for milk collected. Only in a few cases would Fonterra proceed to refusing to collect milk.

²¹ Without hard data at this point, the estimate was that less than 20 percent of farmers would face significant costs.

get farmers to plan and implement the plan rather than asking them to fix it all tomorrow’.”

For regional authorities, the Accord offered the opportunity to work with the farming community and to narrow the matters on which they had to regulate. Fonterra would encourage a critical mass of farmers to move towards best practice, highlighting a group of hard-core offenders for the regional councils to deal with. As the Ministry for the Environment’s Bob Zuur said:

“If you have a catchment where 75 percent of the farmers are doing the right thing ...farmers are quite curious when it comes to peer pressure. If these guys are spending thousands keeping clean, and they’ve got this dirty bugger upstream, they don’t go to the pub with the guy, they don’t play rugby or golf with him.”

The Fonterra decision meant that the MfE (*Exhibit 3*) would play a partnership and support role rather than the directive one it had earlier intended. However, both ministers (Environment and Agriculture) took a pragmatic view of the proposal, which established a framework within which all parties could work together.

Undertaking to consult

To progress the Accord, Fonterra undertook to consult with Federated Farmers, as well as its own shareholders. Bob Zuur and MfE would have a similar role with Fish and Game and other interested environmental groups. With his background of chairing the Regional Councils’ CE Forum, Barry Harris would take the proposal to the regional councils. He told Fonterra’s Henry van der Heyden he would aim for unanimous backing:

“I was saying, I knew they wouldn’t get support from all their farmers. I couldn’t guarantee all my regional authorities, but I would bring along the vast majority of them.”

With less than twelve months to the target implementation of the Accord at the start of the 2003 dairy season on 1 June, decisive action would be needed.

Fonterra’s decision to take part in the Accord contrasted with the independent stance previously taken by the dairy industry. Fonterra’s Technical Services Manager Shane Lodge conceded it was good for the company’s image to be seen to get more bangs for the buck, working with agencies it had previously been at loggerheads with, or ignored.

Risk management

For Fonterra, demonstrating that it was a good corporate citizen was not only good public relations, at home and abroad, but also a good risk management strategy in a market jittery about food safety. The Accord would give the company the certainty that the same rules would apply across the country. It averted the possibility of costly, time-consuming battles likely to result in a mixed bag of rules around the country.²²

²² If MfE set and enforced national standards, Regional Councils could still “customise” them, for instance making them tougher, to suit their own circumstances; if each region developed its own rules, Fonterra would face multiple negotiations, again with variable outcomes.

Despite its near-monopoly on supply, Fonterra could be vulnerable. Barely a year old as a merged company, it had been riding the crest of farmer approval driven by record milk fat payouts and a stream of good news announcements about international joint ventures and alliances. It was well aware the honeymoon period could be abruptly ended by developments such as a lift in the exchange rate. While chairman Roadley, director van der Heyden and chief executive Norgate were enthusiastically committed, the full Board was still far from unanimous about the idea of an Accord.

Thanks to some persuasive argument from Bob Zuur of MfE, Fish and Game and other environmental groups at this point kept relatively quiet, accepting that their case had been well made.

Members of Federated Farmers, however, were turning their energies to discouraging Fonterra's farmer suppliers, and through them the Fonterra Board,²³ from endorsing the Accord. Despite the deliberate use of "targets" rather than "standards" in the Accord, Federated Farmers was philosophically opposed to any agreement that might be seen to set a national standard and by implication a precedent that could apply to other farm businesses, like sheep and beef farms. There was also concern that farmers would have to carry unnecessary increased cost.

A test of strength

The consultation with farmers became a test of strength between Fonterra and the "Feds", a tug of war for the loyalties of the 8500 dairy farmers who were both Fonterra supplier/shareholders and members of the Dairy Farmers New Zealand (DFNZ) representative group of Federated Farmers. It also became a test of the effectiveness of Fonterra's communications with external as well as internal groups, and a steep learning curve, as Environment Waikato's Barry Harris pointed out.

"Fonterra had a huge battle. It would be fair to say that the way in which they engaged with their suppliers and stakeholders on this issue was at first naïve. I live in an environment where you can't brush your teeth without consulting with three local iwi²⁴ and a whole lot of pressure groups, and you get to understand how much you need to give people time to understand. Fonterra didn't do this well so they ended up with quite a strong backlash to what they thought was just, 'hey, this is what we are going to do'."

The Manawatu-Rangitikei Regional Council (horizons.mw), although a significant dairying area, stood firmly behind the Federated Farmers' position. DFNZ leader and Feds' Vice-President Charlie Pedersen, a Manawatu farmer, had also been a vocal critic of the decision to by-pass the Commerce Commission in forming Fonterra.²⁵

In August 2002, Henry van der Heyden took over as chairman of Fonterra, after John Roadley stepped down. He and his directors embarked on a series of meetings with stakeholders. Their agenda went well beyond the Accord, including proposals to

²³ As Fonterra was a co-operative, each farmer member was a voting shareholder.

²⁴ Maori tribal group.

²⁵ Cabinet decided to exempt the dairy industry merger proposal from competition policy provisions of the Commerce Act ... "to facilitate the early and certain reform of the industry's regulatory environment" (Press Release, Hon Jim Sutton, Minister of Agriculture, Wellington, 9 April 2001).

improve rural internet access and, of “back-pocket” interest to farmers, a capital-raising proposal.

At the same time technical discussions were going on out in the field, where in many cases representatives of all parties to the Accord were involved in the practicalities of how it would be implemented. It was at one of these that a Northland farmer came up with what became the Accord’s official definition of a stream: “deeper than a red band (gumboot), wider than a stride, and continuously flowing.” The phrase took the place of 16 different regional council descriptions of streams, creeks and drains.

Barry Harris says the work, led by Dr Tony Petch at EW and Shane Lodge at Fonterra, was crucial.

“Their job was to bring the technical people from the regional authorities together, and the resource management people, and work through what [the Accord] was and what it was not. A lot of people were misrepresenting things, saying things like there will be one standard template for the whole country...it just needed some time to sit down with these people and answer their questions, so they could see the possibilities coming out of the Accord, not just the negatives.”

In the view of Bob Zuur from the Ministry for the Environment, the hardest job, both technically and politically, was trying to get the regional councils on board, “because of the incredible autonomy of each.”

Barry Harris, working with the Regional Affairs Committee of LGNZ, was able to draw on the bank of personal credibility he had built as chairman of the Regional Councils’ CE Forum.

“One of the big factors here, I had strong support from influential politicians and chief executives I had lined up all through this. The chief executive and chair of Taranaki Regional Council, a big dairying area, [were] just rock solid alongside me, and a range of others too. A number of the senior people there were comfortable to go along because I said that I believed it was the right thing to do.”

Harris found the response “overwhelmingly in support” with individual councils acknowledging they could work with the Accord. “Particularly if they had relationships with the dairy industry they could see major problems ahead [without some mechanism to manage water quality.]” There was some disquiet, but for the most part it was managed “within the tent”, Harris recalled:

“About two meetings before as regional authorities we had to endorse the Accord, it got quite tense. Quite angry comments were made. The interesting thing was that I was not required to respond or engage in either of those two meetings. Other members came in and argued, and gave the answers that I would have given. That to me was an indication that they understood, and that we as a team had sorted ourselves out rather than me having to pound the table and say, hey if you don’t do this, government is going to do it to you. So basically the dissenters got overwhelmed at the end of the day.”

The resolution that went back to the “generals” told them: “collectively and unanimously the Regional Affairs Committee supports this approach, and it is up to individual councils how they respond. That made it very hard to stand outside.”

Doing his technical work, Fonterra's Shane Lodge recalled being

“... subjected to a tirade against Environment Waikato, [to the effect that] they're not representing us... we are unique. Having said that, [those who had been complaining went on to say] we quite like the idea of the Accord and we could work with these things.”

Christmas of discord

In November and December 2002, Fonterra's supplier magazine *Farmlink* carried a summary of the proposed Accord and its aims, advising that the full draft could be found on its website. Counterbalancing this, the three nationally circulated rural newspapers, *Straight Furrow*, *Rural News* and *Country-Wide*²⁶ continually featured criticism of the Accord in principle, and of the consultation process in particular.

Despite having substantially shifted the Fonterra Board towards supporting the Accord, the company's new chairman Henry van der Heyden was not able to get a unanimous position by the original pre-Christmas 2002 deadline. He had to ask the other parties to give him more time. Christmas that year was a time of hectic activity both for Fonterra and for Federated Farmers, which maintained its public opposition.

Early in 2003, Fonterra increased efforts to spread the word about the Accord, and announced the opportunity to make submissions. The Federation took this opportunity to formally present their objection to the Accord process. Their submission pointed out that, despite Fonterra's undertaking to consult with Federated Farmers, no meetings of significance had actually happened. The Dairy Farmers of New Zealand group (DFNZ) put forward a submission in February 2003 criticising Fonterra's Environmental Assessment Programme, and a further submission in March 2003, criticising the Dairy and Clean Streams Accord. This submission suggested Fonterra had evaded opportunities to discuss the Accord, comparing the consultation unfavourably with the “extensive and specific survey” Fonterra had carried out about broadband internet initiatives.²⁷

“A full copy of the Accord has never been circulated to all suppliers, and they have never been officially informed of the submission date...suppliers have only been informed of the March 11 deadline for Accord submissions in a December 2002 letter from the Chief Executive Officer [that] directed suppliers to the www.fencepost.com for a full copy of the draft Accord. It is well known that rural internet connections are often inefficient, and that many farmers still do not use the internet widely for information transfer.”²⁸

Key issues highlighted in the submission included likely duplication of effort with regional authorities, and as earlier stated, additional cost for farmers, and the flow-on effect of similar mandatory requirements for sheep and beef farmers.

²⁶ *Country-Wide* and *Rural News* are independently owned; *Straight Furrow* was formerly a Federated Farmers publication until sold to the multinational Rural Press group. As part of the sale agreement the paper always includes a Federated Farmers section.

²⁷ DFNZ submission: Draft Accord, page 7

²⁸ DFNZ submission: Draft Accord, page 4; supported by tales like that of the horizons.mw district councillor living in the Tararua District who took an hour to download his emails, and to whom it was impossible to send any large documents. Fencepost.com was Fonterra's supplier website.

“Contrary to co-operative principles”

Of particular concern, given Fonterra’s monopoly status, was the possibility that environmental compliance might be used as a condition of supply. This, DFNZ said, was “contrary to co-operative principles”.²⁹

As Fonterra’s battle for Board support extended into 2003, chairman Henry van der Heyden was facing pressure on another front as the company seemed destined to fall short of its outstanding debut performance. Global marketing conditions were deteriorating, the dollar was rising, and the two niche competitors were making milk-fat payouts that Fonterra could not hope to match.

For Bob Zuur of the MfE, this was the cause of some sleepless nights:

“You could see the trends, they hadn’t signed yet, and the rhetoric was building, and the anti positions...the honeymoon was through, they had problems with milk tanker strikes...But the momentum had been built up.”

The tide began to turn when Fonterra’s watchdog Shareholder Council (comprising 46 farmers elected from around the country) gave majority support to signing the Accord. In April, van der Heyden finally achieved his goal of a unanimous Board, and preparations went ahead for the formal signing at Parliament. Angry headlines had all but ceased to appear in the rural media, but behind-the-scenes lobbying continued to the very last day.

Regional Action Plans

Parties to the debate differed in their view of how much the Accord as finally signed had evolved from the document put up for consultation, with Fonterra feeling it was substantially unchanged from the original version referring to *Market Focussed*. Federated Farmers claimed credit for one significant change: that the first year would be used for assessment and information, with compliance requirements not introduced until the 2004 dairy year.

For effluent management plans and nutrient budgeting systems, 100 percent compliance was the target for 2007. To exclude dairy cattle from streams, putting in bridges or culverts, the target was 50 percent compliance by 2007 and 90 percent by 2012.

Federated Farmers had also endorsed the requirement for each region to develop its own Regional Action Plan (RAP) for co-ordinated implementation of the Accord. The RAP was to be managed by the relevant regional authority on the understanding that RAP development would involve representatives of all stakeholders, the Feds, Fish and Game and other environmental groups included, for the implementation of water quality initiatives.

Bob Zuur of the MfE saw the RAPs as “one of the strengths of this document”.

²⁹ DFNZ submission: EAP, page 8.

“New Zealand’s a very diverse country. To set down the detail for individual regions in the Accord would be pointless. Regional Action Plans will provide different packages for different regions.”

To Fish and Game, however, the Accord was weak and “wimpy.” The environmental lobby group had managed to see a copy of the Accord just days before it was to be signed, prompting another statement³⁰ from its director, Bryce Johnson:

“New Zealand’s ‘clean and green image’ will remain a sham if the wimpy document we were shown turns out to be the real thing signed in Parliament tomorrow night.”

He described the process as “all back to front and far too slow” and was particularly critical of 90 percent compliance target, saying there was no plan for the remaining 10 percent “possibly the worst pollution offenders.”

For the signatories to the Accord, successful steps towards implementation would be the best way to answer these critics.

³⁰ Downloaded from www.taieri.net.nz/news.asp?n=13&, website of the Taieri Alliance for Information Exchange and River Improvement, 7.11.2003.

Glossary of names and organisations in this case

Key interviewees in bold

Accord, the	Dairying and Clean Streams Accord
Church, Denise	Former CE of MfE
Clarke, Neil	Chair of LGNZ Regional Affairs Committee
Commerce Commission	Regulatory agency that assesses competitive aspects of mergers and acquisitions within New Zealand..
Dairy Board	Producer Board representing all New Zealand Dairy farmers until October 2001.
DFNZ	Dairy Farmers of New Zealand; sub-group of Federated Farmers
Environmental Assessment Programme	Programme designed to assess farms against Fonterra's environmental requirements
EW, Environment Waikato	The Waikato Regional Council
Federated Farmers of New Zealand; "The Feds"	Lobby group representing the majority of farmers in New Zealand.
Fish and Game New Zealand; "Fish and Game"	Lobby group representing anglers and hunters wanting to conserve game resources.
Fonterra	Dairy production and marketing business formed following dairy industry restructure; "Fonterra" a name made up to be internationally acceptable.
Harris, Barry	Former CE of EW
Hobbs, Marian	Minister for the Environment
Johnson, Bryce	Director, Fish and Game
Kiwi	Kiwi Co-Operative Dairy Company, one of the parties to the amalgamation that formed Fonterra
Lake Taupo	Largest lake in New Zealand
LGNZ	Local Government New Zealand, representing all regional and territorial authorities.
Lodge, Shane	Technical Services Manager for Fonterra
MAF	Ministry of Agriculture and Forestry
Market Focussed	Set of templates for environmental management, developed by the Dairy Board
MfE	Ministry for the Environment

Norgate, Craig	First CE of Fonterra; former CE of Kiwi
NZDG	New Zealand Dairy Group, one of the parties to the amalgamation that formed Fonterra
Pedersen, Charlie	President, DFNZ
Petch, Dr Tony Petch	EW Resource Information Group Manager
Pinnell, Graham	Former President of Waikato Branch of Federated Farmers
RAP	Regional Action Plan – mechanism for community action to improve water quality under the Accord
Regional Councils’ Chief Executives Forum	LGNZ group
RMA	Resource Management Act 1991.
Roadley, John	First chairman of Fonterra; previously chairman of Dairy Board.
Shareholder Council	Farmer representative “watchdog” group set up to monitor Fonterra.
Sutton, Jim	Minister of Agriculture and Forestry
Tourism New Zealand	Umbrella agency for promoting tourism in New Zealand
Van der Heyden, Henry	Chairman of Fonterra from August 2002.
Walker, Alan	MAF Policy Manager
Zuur, Bob	Sustainable Industries Manager, MfE

Exhibit 1: The New Zealand Dairy Herd, 1982-2002

	Number of herds	Number of cows	Average herd size	Cows per hectare
1981-82	15,821	2,060,898	130	2.1
1991-92	14,452	2,438,641	169	2.4
2001-02	13,649	3,692,703	271	2.67

Source: National Dairy Statistics, 2003 (Note: one farmer may have more than one herd).

Exhibit 2A Regional Authority Boundaries, North Island

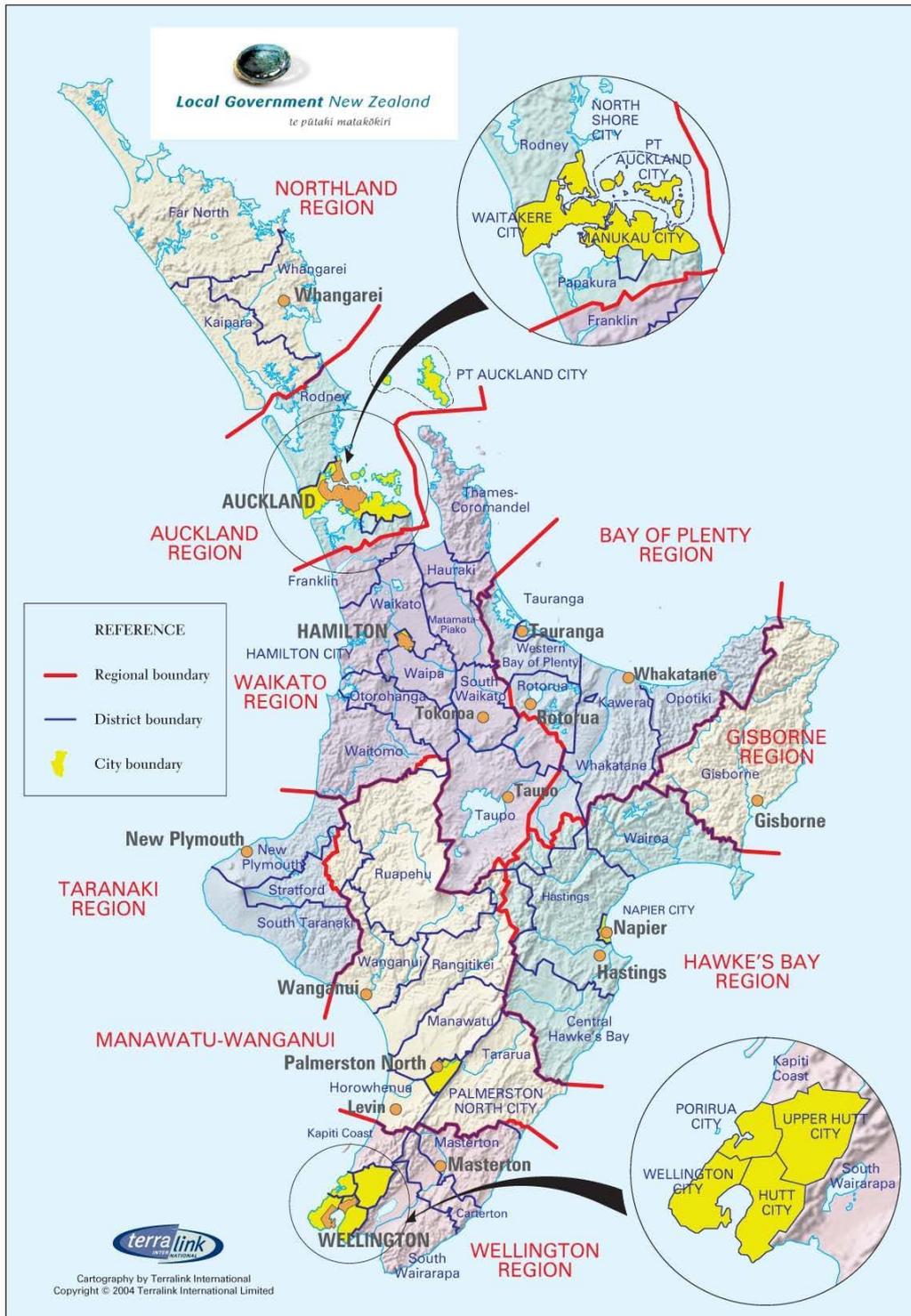


Exhibit 2B Regional authority boundaries, South Island

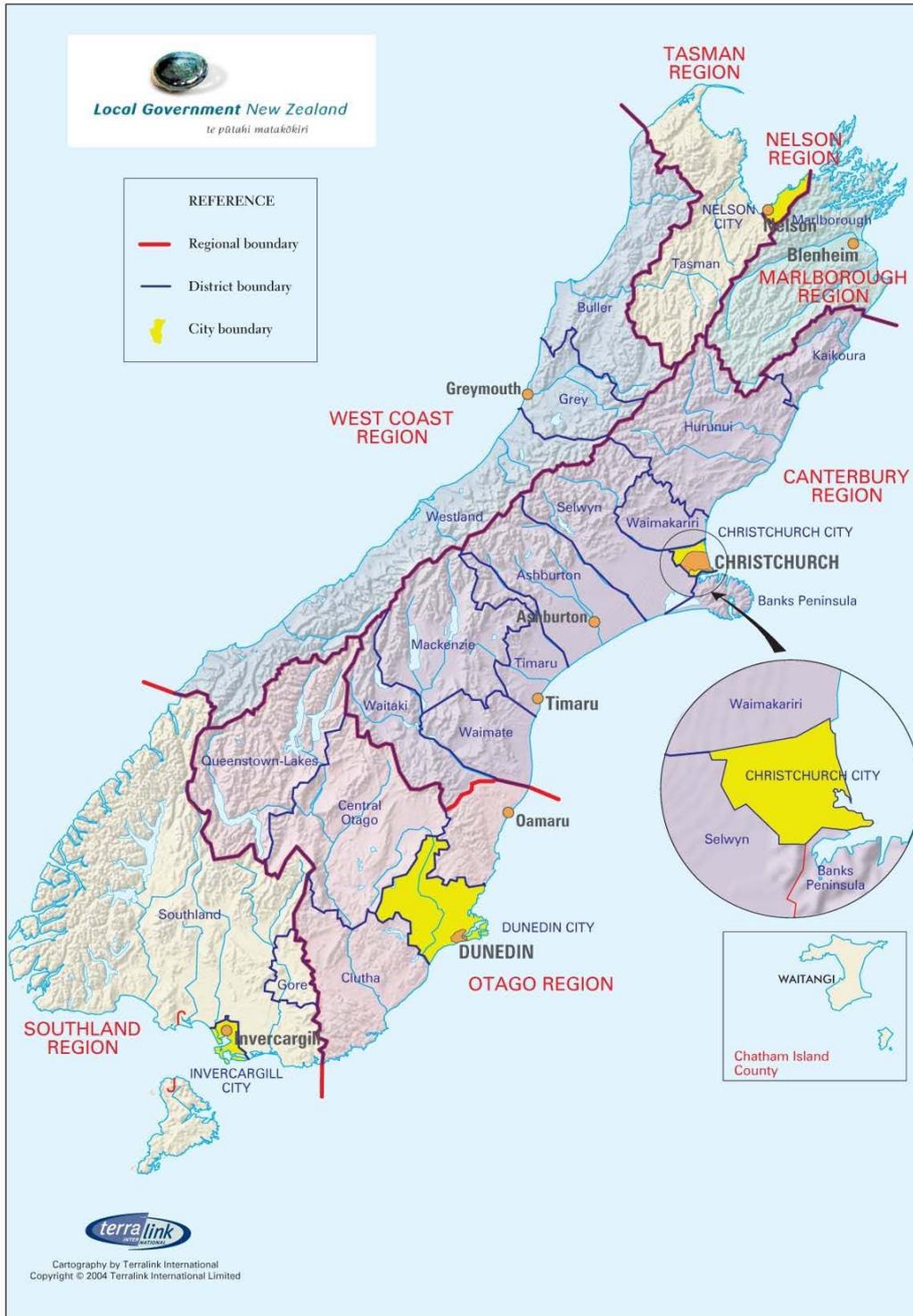


Exhibit 3 Excerpts from the Dairy Accord (Dairying and Clean Streams Accord, Ministry for the Environment, May 2003)

(Full document can be downloaded from www.mfe.govt.nz search for Dairy Accord)

Priority for action:

- Dairy cattle are excluded from streams, rivers and lakes and their banks
 - Streams are defined as deeper than a “Red Band” (ankle depth) and “wider than a stride” and permanently flowing.

Targets

Dairy Cattle excluded from 50% of streams, rivers and lakes by 2007 90% by 2012
50% regular race crossing points have bridges or culverts by 2007 90% by 2012
100% of farm dairy effluent to comply with resource consents and regional plans
100% of farms to have in place systems to manage nutrient inputs and outputs by 2007
50% of regionally significant wetlands to be fenced by 2005 90% by 2007

Roles and responsibilities

Role of regional action plans

Regional councils and Fonterra will develop regional action plans for dairying regions to assist implementing this Accord. These action plans will not take the place of any agency obligation under statute or commitment to shareholders of the community and will not be legally binding. These action plans will identify local commitments by regional councils and Fonterra and will describe, where necessary:

- Clear regional time-bound targets for the priority actions
- Programmes to provide necessary information...

- How the councils and Fonterra will work together and share resources, including providing information and advice to farmers, and links between field staff who work directly with dairy farmers;
- A statement of the compliance and monitoring roles of Fonterra and the Council

Regional action plans may also include:

- A summary of agreed actions to implement the Accord at a regional level.
- ...
- Commitments agreed by other potential partners, such as Federated Farmers and Fish and Game Councils.

Role of Fonterra Co-Operative Group

As part of its commitment to this Accord, Fonterra will:

- Provide information and advice to suppliers in relation to the priority actions
- Promote on-farm environmental best practice through extension and on-farm management programmes
- Make arrangements with its suppliers to ensure the priority targets are met
- Develop an assessment scheme for individual dairy farmers with independent third-party audit by June 2003 and implement by June 2004
- ...
- Report publicly on progress annually

Role of the Ministry of Agriculture and Forestry (MAF) and the Ministry for the Environment (MfE)

As part of their commitments to this Accord, MAF and MfE will:

- Publicly support this Accord, and keep Ministers, national representative bodies (including farmer organisations) and the public fully informed of progress;
- Monitor overall progress towards the Accord targets (MfE)
- Facilitate the development of tools to assist implementing the Accord. These tools may include
 - farmer nutrient budgeting training
 - standardised bridge and culvert design guidelines
 - model rules for regional plans, including permitting stock access to waterways (with conditions)
- Identify any legislative and institutional barriers to effective implementation of the Accord, promote ways to overcome such barriers, and report by June 2004;
- With Fonterra, and regional councils, assess science and research needs to implement the Accord.