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Media release



EDS and Fish & Game offer to go to court on dam project

The Environmental Defence Society and Fish & Game have jointly offered to co-operate with Hawke's Bay Regional Council in getting an Environment Court ruling on ambiguities in the consent conditions for the Ruataniwha Dam.

"The ambiguities concern the Nitrogen limits in the consent conditions that were set by the Board of Inquiry," said EDS CEO Gary Taylor.

"The dam company claims that the limits are not compliance limits. We disagree and claim that they are indeed compliance limits and the company has to achieve them progressively by 2030 and maintain them after that target date.

"The question of the status of the Nitrogen limits is fundamental to the commercial viability of the entire scheme. If the limits really bite and have to be met then the amount of Nitrogen runoff that can occur is less than if they simply constitute some vague notion that doesn't mean much in law.

"In some parts of the catchment those limits are already being exceeded," Mr Taylor concluded.

Fish & Game CEO Bryce Johnson says that his organisation is concerned to see that land use changes anywhere in New Zealand only occur if freshwater quality can be maintained or improved.

"EDS and Fish & Game went to Environment Court recently over an analogous question of interpretation in the Horizons One Plan and were successful in getting a clear ruling from the Court," said Mr Johnson.

"In this situation here, if there is existing over-allocation – otherwise known as pollution - then the Hawke's Bay Regional Council has a duty to fix that.

"If irrigation led to new and intensified land uses, as it inevitably would, then the Council's responsibility is to ensure water quality is maintained or improved. We can't go backwards. It's that simple.

"The Council in its regulatory role has to be clear what the conditions of consent for the dam require. There is uncertainty so we are offering to assist Council to get clarity,' he concluded.

The offer means that EDS, Fish & Game and the Council would jointly agree on the questions to ask the Environment Court and would argue their respective positions to ensure the Court heard the full range of argument. The proceedings could be commenced in short order.