

Report           03.647  
Date             23 October 2003  
File              WGN030283

Committee       Environment  
Author           Luci Ryan, Manager, Consents Management

## **Mighty River Power - objection to consent condition**

### **1. Purpose**

To inform the Committee of an objection to a consent condition and to request that the Committee accept alternative wording.

### **2. Background**

The Silverstream landfill gas generation facility collects gas produced by the Silverstream landfill, and combusts it to generate electricity. That electricity supplements the supply from the Haywards Substation. A consent to discharge contaminants to air from the operation of this plant was granted on 30 November 1993. This consent expires on 30 November 2003.

Mighty River Power (MRP), as current operators of the plant, applied to renew the resource consent on 4 June 2003. Greater Wellington (GW) Consents Management Department granted the consent with conditions on 20 August 2003. A copy of the consent WGN030283 [22817], and the original officer's report is attached to this report for your information.

On the 4 September 2003, GW received a letter from MRP stating that they wished to object to Condition 6 of the resource consent.

### **3. Basis for the objection**

MRP objected to condition 6 on four separate points. They are as follows:

- 1. The condition requires by regulation a breach of the legal privilege against self-incrimination.*
- 2. The condition is inconsistent with sections 340 and 341 of the Resource Management Act 1991, which enable a discharger who has breached the Act to demonstrate that all reasonable steps have been taken to avoid a discharge.*

3. *The inclusion within Condition 6 of a requirement to report any incident that “could result in an adverse effect on the environment” is particularly objectionable, as it relates to matters that, in themselves, do not in fact cause any adverse environmental effects.*
4. *The language of Condition 6 is absolute, without any qualification as to the nature or extent of any adverse effect on the environment.*

The remedy sought by MRP was the cancellation of Condition 6.

#### **4. Statutory framework**

Section 357 of the Resource Management Act 1991 (the Act) provides for an applicant to object to certain decisions of the Regional Council. Any objection lodged by an applicant must be done so within 15 working days of the decision being notified to the applicant. MRP lodged an objection with GW on 4 September 2003, 11 days after they were notified of the decision.

#### **5. Mediation**

GW met with MRP on 15 October 2003, at MRP's request. As a result of this meeting, alternative wording for condition 6 was agreed to between both parties.

#### **6. Proposed wording**

The amended condition 6 reads as follows:

*The permit holder shall keep a permanent record of any incident that results in a breach of condition 3 of this resource consent.*

*The permit holder shall notify the Manager, Consents Management, Wellington Regional Council, of any incident within 24 hours of the incident being brought to the attention of the permit holder or on the next working day.*

*The permit holder shall forward an incident report to the Manager, Consents Management, Wellington Regional Council within seven working days of the incident occurring, unless otherwise agreed with the Manager, Consents Management, Wellington Regional Council.*

#### **7. Communication**

No further public communication is necessary for this report.

## 8. Recommendation

*It is recommended that the Committee:*

- 1. agrees to the substitution of the existing condition 6 with the proposed amended wording discussed in this report.*

Report prepared by:

Report approved by:

**Luci Ryan**  
Manager, Consents  
Management

**Jane Bradbury**  
Divisional Manager,  
Environment

**Attachment 1:** Officer's Report

**Attachment 2:** Consent Certificate