

**9.2 2013-2014 FARM DAIRY EFFLUENT COMPLIANCE****Information Only - No Decision Required**

<b>Report To:</b>	Environment and Planning Committee
<b>Meeting Date:</b>	10 July 2014
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<b>Report Number:</b>	REP14-07-04
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**1 Summary**

1.1 This report presents the compliance results from the 2013/2014 farm dairy survey, in particular compliance with respect to Resource Consent conditions for the discharge of treated dairy effluent to water, and the discharge of dairy effluent to land as a Permitted Activity under the Tasman Resource Management Plan (TRMP).

A targeted monitoring program was completed during the 2012/2013 season where only those farms located in the Aorere River Catchment were inspected and audited with respect to the effluent disposal rules and stock exclusion to waterways. That discrete program took most of the 2012/2013 dairy season to complete meaning the remaining farms in the District were not visited. It was for this reason Compliance made a concerted effort to ensure all farms received at least one inspection during the 2013/2014.

In the 2013/2014 season a total of 146 dairy sheds had active discharges in the Tasman District. Of those 140 farm dairies operated as Permitted Activities and the remaining six held Resource Consents to discharge treated effluent to water.

At these inspections each farm was assessed against Resource Consent conditions for the discharge of treated dairy effluent to water, or against the Permitted Activity Rule 36.1.2.3 (the discharge of animal to land). The final compliance results for all 146 farms were:

- 87% - Fully Compliant
- 17% - Non- Compliant
- 1% - Significantly Non-Compliant

Similar to past seasons, ponding featured as the most common issue of non-compliance in the non-compliant category. In the past this issue has been most prevalent in the Murchison area, however this season it was encountered across the whole District, albeit more commonly found toward the end of the season.

**2 Draft Resolution**

**That the Environment and Planning Committee receives the 2013-2014 Farm Dairy Effluent Compliance.**

**2013-2014 FARM DAIRY EFFLUENT COMPLIANCE****3 Purpose of the Report**

- 3.1 The purpose of this report is to present the results of compliance for the 2013/2014 dairy season with respect those farm dairies that hold Resource Consent to discharge treated dairy effluent to water. Also compliance with respect to those farms that operate under the Permitted Activity Rule 36.1.2.3 of the Tasman Resource Management Plan (TRMP) - Discharge of Animal Effluent to Land.

The survey specifically looked at the collection, containment, and disposal of effluent from the farm dairy and general farm management practices associated with effluent. No sampling of waterways or soils was undertaken as part of this study. This report does not assess effects of water quality, amenity, or aquatic ecology.

**4 Background**

- 4.1 The survey process

The survey process was identical to that of previous surveys. It is not intended to detail that survey method in this report and the reader is referred to staff report EP06/05/18 for the methodology including the geographical location of the three “sub-regions” (Golden Bay, Central, and Murchison) specified in the reports.

As with all dairy farm inspections undertaken by Council, farms once assessed were placed into one of three categories that described their level of compliance. The criteria for assigning these categories are:

- **Compliant:** No non-compliance with any Resource Consent conditions or any sections of Rule 36.1.2.3 of the TRMP were found at the time of inspection.
- **Non-compliant:** All issues that did not fit into either “compliant” or “significantly non-compliant” e.g. technical non compliance with no adverse effect.
- **Significantly Non-compliant:** refer to Appendix 1 for a full list of criteria

These compliance classes are used by all Regional Councils (supported by the Regional Managers Group) to ensure national consistency when reporting on dairy compliance and will be referred to throughout the remainder of this report.

**5 Compliance - Present Situation**

- 5.1 2013/2014 Survey Results

**Survey Results**

Compliance with respect to an individual’s consent conditions, Rule 36.1.2.3 of the TRMP and Section 15(1)(b) of the RMA 1991 as assessed from the farm inspections are presented in Figure 1.

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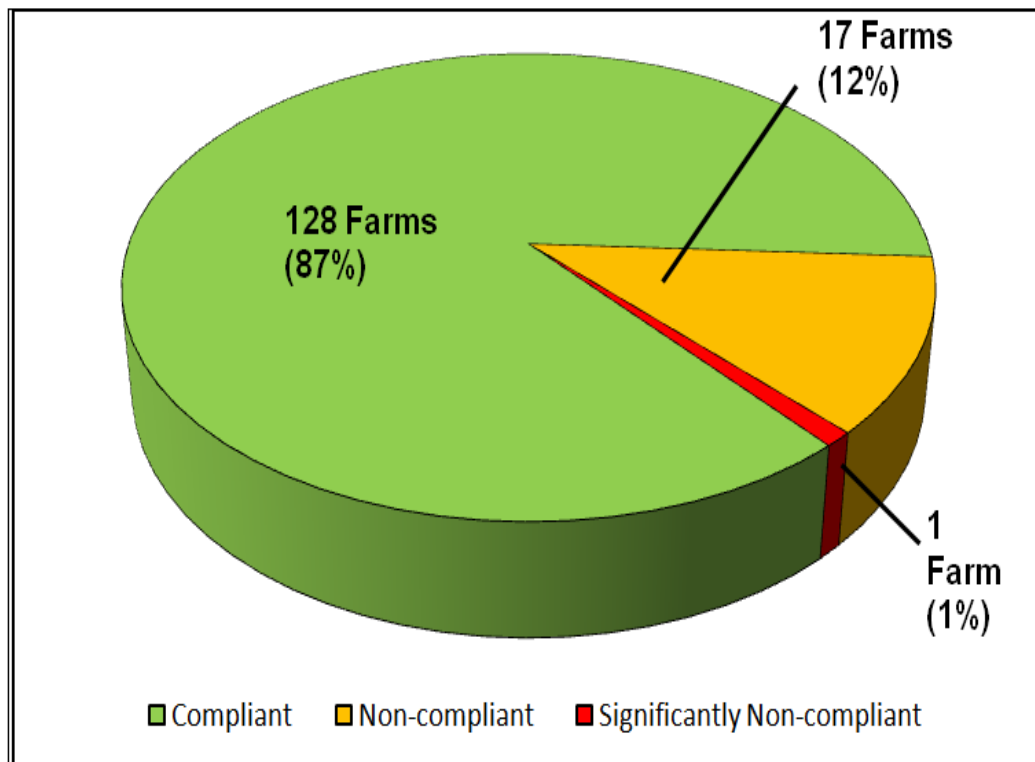
Of the 146 inspections made during 2013/2014 season, 128 (87%) of all inspections were graded "Compliant".

Seventeen (12%) inspections found issues that were graded as "Non-Compliant". Such non-compliance included:

- Minor ponding present after more than one hour had passed since effluent disposal (eight farms). In six cases this was less than 5m<sup>2</sup>, the remaining two farms had intermittent ponding over an area less than 10m<sup>2</sup>. In all cases the ponding was just deep enough to splash.
- Failing to adhere to setback rules for effluent application near property boundaries and dwellings (three farms).
- Failing to adhere to setback rules for effluent application near waterways (three farms). In all three cases no effluent directly or indirectly entered water.
- Failing to ensure effluent storage facilities are sealed (One farm). In this case a stormwater diversion system was left open presenting a situation where effluent could escape from the sump should the pump have failed.
- Exceeding the nitrogen loading rate by approximately 10% (ascertained from the farm's nutrient budget and also admission from the farmer) (one farm)).
- Failing to submit sampling results by the due date specified by a condition of consent (one farm).

One (1%) inspection found an issue that was graded as "Significantly Non-compliant" and related to the direct discharge of effluent to water.

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**Figure 1** Compliance with respect to Rule 36.1.2.3 of the TRMP, Resource Consent conditions, and Section 15(1) of the RMA 1991 following the inspection of all farms in Tasman District.

The one farm graded “Significantly Non-compliant” is a new venture involving re-establishment and expansion of a former dairy operation. The direct discharge of animal effluent into a significant and protected waterway from the effluent system has forced the Council to prosecute with the matter now before the courts.

One farm that has continually presented issues of “Significant Non-compliance” and has been the subject of numerous court orders, prosecutions and fines in past seasons has made vast improvements this season. Currently a local farm consultant has been engaged and has taken over the management of the entire farm which has included a complete redevelopment of the infrastructure including the effluent system. Council’s Compliance Department has built a solid open working relationship with this management team and will continue to work very closely with them heading into the 2014/2015 season.

All enforcement action undertaken during the 2014/2015 season is detailed below in section 5.2 of this report.

A considerable amount of work has done since 2012 by the dairy industry (Westland Milk, Fonterra, and Dairy NZ) by working one-on-one with farmers with respect to system and wet weather contingencies. This is particularly so in the Murchison area, where inspections made in past seasons identified that non-compliance associated with ponding was far more prevalent here than any other area of the District. Both supply companies have audited effluent systems that were of concern and recommendations made as to how to improve them. Many farmers have or are presently in the process of either designing improved systems or actively constructing improved containment facilities. In addition to this, Council and Industry are actively promoting to farmers the benefits of engaging professionals who have gained accreditation through the Farm Dairy Effluent Accreditation Scheme. Regardless of whether the farmer chooses to engage such a person, they are required to demonstrate that any new system or modification to any existing system meets Dairy NZ’s

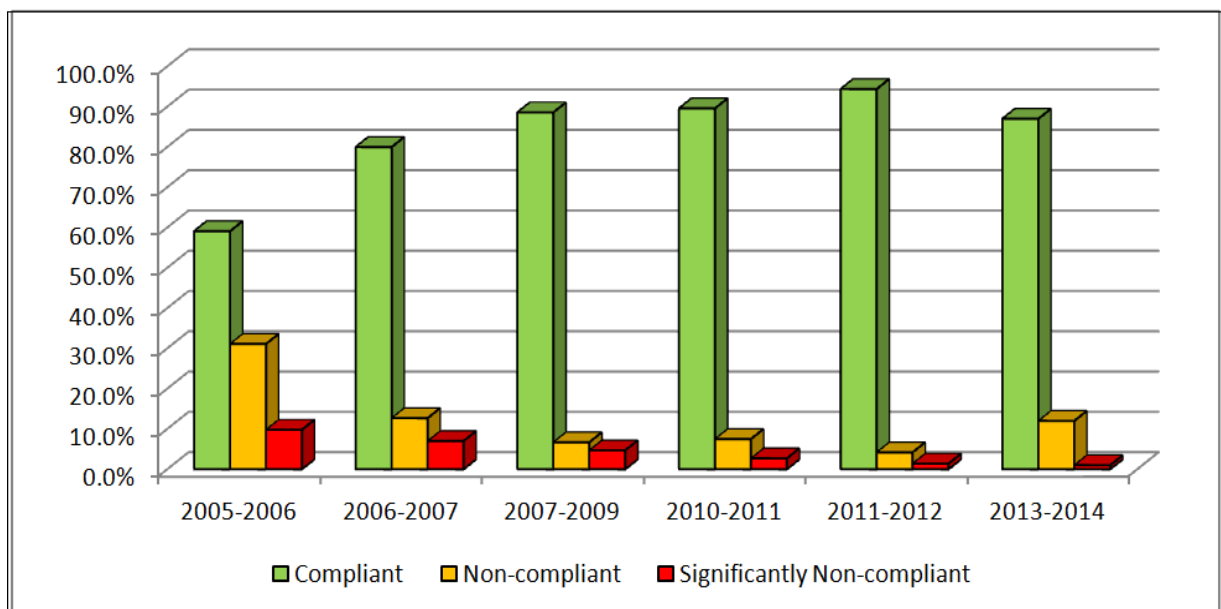
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Farm Dairy Effluent Design Code of Practice and Standards. These standards include among other things, adequate sizing and the sealing of effluent storage systems.

Despite this recent focus ponding again featured as the most common issue of non-compliance found during the survey. However, instead of being an issue mainly in the Murchison area, it was found throughout the District, and more commonly found toward the end of the season. Only a handful of cases involved farms with limited storage, it appeared to be more a case of the end user failing to operate the systems as designed. In particular not maintaining contingency storage throughout the season and finding themselves in the situation of having to apply effluent to saturated pasture due to the containment facilities being full.

Figure 2 shows a comparison of the compliance rates from the 2005/6, 2006/7, 2007/8-2008/9, 2010-2011 surveys with this survey. Due to the interrupted surveys of 2009/2010 survey (just 37 farms surveyed) and more recent 2012/2013 (34 farms) those statistics are not included in Figure 2.

From Figure 2 it can be seen that full compliance has continued to improve from season to season until this season where there has been a small decline. Correspondingly, those inspections graded as non-compliant increased. On face value this may appear to be a backwards step with respect to compliance in Tasman but when considering that the non-compliance recorded were either a technical breach or minor with no adverse effect, and that the level of significant non-compliance is the lowest on record, compliance in Tasman can be considered to be of a high level. This continual high standard of compliance can be directly attributed to the commitment of most farm owners and their staff to employ best farm practices with respect to the disposal of farm dairy effluent.



**Figure 2** Comparison of Compliance with respect to Rule 36.1.2.3 of the TRMP, Resource Consent conditions, and Section 15(1) of the RMA 1991 from previous dairy seasons.

**5.2 2013/2014 Enforcement Action**

As in previous years five modes of enforcement action were employed to address the non-compliance that arose from these farm inspections. These being: warning letters, Abatement Notices, Infringement Fines, Prosecutions, and Enforcement Orders. Fourteen

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inspections resulted in Council taking enforcement action during the 2013/2014 season. The type of enforcement action taken is largely determined on the resulting adverse environmental effect arising from that non-compliance.

**Formal Warning Letter**

A formal warning letter acts as a formalised staff direction and is retained on file. This is not a court process although further non-compliance that receives enforcement action will take into account that the operator had previously received formal direction. A total of 13 warning letters were issued this season. All inspections where that were graded non-compliant with respect to ponding, setback distances to water, exceeding the nitrogen loading rate, received a formal written warning. This line of enforcement action was taken as each circumstance of non-compliance did not result in any actual adverse environmental effect and each farm concerned had a previous good compliance history. In each case the farm owner/worker was made well aware that continued, un-announced inspections would be made for the remainder of the season. It was also made clear the further formal enforcement action could result if non-compliance was found again.

**Abatement Notices**

An abatement notice prescribed under Section 322 of the Resource Management Act is a formal and legal directive from Council to cease an activity and/or undertake an action(s) in order to avoid, remedy or mitigate an actual or potential adverse effect on the environment. An abatement notice is used by Council to immediately deal with an illegal activity and to instigate corrective action. Further enforcement action can follow the issuing of an abatement notice.

No Abatement Notices were issued during this reporting period.

**Infringement Fines**

An infringement fine prescribed under Section 343C of the Resource Management Act is an instant fine issued by Council to a person(s)/company who has committed an offence against the Act.

No infringement fines have been issued in response to farm inspections during the 2013/2014 season

**Prosecutions and Enforcement Orders**

An enforcement order prescribed under Section 319 of the Resource Management Act is a directive from the Court to a person(s)/company to cease an activity and/or undertake an action(s) in order to avoid, remedy or mitigate an actual or potential adverse effect on the environment from their activity.

No new orders were sought in this period

One Prosecution has been initiated for offences found during the 2013/2014 season. This case is presently before the Court.

It is encouraging to report that the three farms in the District that have current Enforcement Orders against them demonstrated full compliance with the requirements of these orders, and the permitted activity rules.

<b>6 Strategic Challenges / Risks</b>
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There are no relevant risks

**2013-2014 FARM DAIRY EFFLUENT COMPLIANCE****7 Consideration of Financial or Budgetary Implications**

Presently there is uncertainty as to the legal means open to Council in order for it to recover the costs incurred in the monitoring of farm dairies with respect to the Permitted Activity Rules. The majority of farms within the district operate as permitted activity. At present this Council does not charge for inspections where the farms are fully compliant however is utilising the re-inspection fee contained in the Schedule of Charges when non compliance is detected and requires revisits. This fee does not apply to the time associated with undertaking the enforcement process. As the majority of farms are achieving full compliance it is fair to say that program costs for permitted activity monitoring are presently borne by Council.

For the seven remaining consented activities the costs associated with monitoring are recovered by way of annual charges.

**8 Significance and Consultation**

This is not relevant to this monitoring programme

**9 Conclusion**

It will be recalled that the purpose of this report is to present the results of compliance of the 2013/2014 dairy season with respect those farm dairies that hold Resource Consent to discharge treated dairy effluent to water, and also compliance with respect to those farms that operate under the Permitted Activity Rule 36.1.2.3 of the TRMP - Discharge of Animal Effluent to Land.

Summarised below are the major findings of this report.

A total of 146 dairy sheds had active discharges in the Tasman District during the 2013/2014 season. Of these, 140 farm dairies operated as Permitted Activities and the remaining six held Resource Consents authorising discharge treated effluent to water.

All farms were inspected this season. The results of this survey were:

- 87% - Compliant.
- 12% - Non-Compliant
- 1% - Significantly Non-Compliant

Heading into the new dairy season Tasman District continues to present a good rate of compliance with respect to farm dairy effluent management. Of the 18 cases of non-compliance found this season, 17 were considered minor and presented no immediate adverse effect to the environment; however improvement can always be made.

**10 Next Steps / Timeline**

Outside of the enforcement processes currently under consideration for the two offending farms identified above, the 2014/2015 season commences in September 2014 and

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inspections will begin in earnest with a view to once again completing a full assessment of every farm in regards to both dairy effluent disposal and clean Streams Accord performance.

As always there is a risk that some non-compliance will surface however it is expected that the ongoing commitment for best farm practices will be reflected in a continuing high standard of compliance in Tasman.

Next season Council will continue to work closely with the industry in order to build upon the positive work achieved during the past year. Such work includes the on-going promotion of on-farm best practice, particularly with respect to wet weather contingencies and also the promotion of Dairy NZs Farm Dairy Effluent Design Code of Practice and Standards, and the new Farm Dairy Effluent Design Accreditation Scheme.

<b>11 Attachments</b>
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Nil