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MEMORANDUM

19 November 2001

File: .

To: Paula Bullock

Copy To:

From: Geoff Dick

Subject: Otaki Gravel Extraction - Charges and Royalties

For Your: Action

Comment

Information

You have asked me to provide you with some background on the “royalties” charged by Flood Protection to gravel extractors in the Otaki River. I have provided a brief summary of the situation below.

Royalties

The first point that I need to make clear is that Flood Protection DOES NOT collect royalties as such for gravel extraction. In order for us to collect a royalty we would need to be the owners of the resource. To my knowledge neither the Flood Protection Group nor the Wellington Regional Council as a whole have ever asserted that we are owners of the gravel in the Otaki River. My understanding is that the Crown is the nominal owner of the riverbed (and thus the minerals including gravel) but that ownership is the subject of a Treaty of Waitangi claim by Ngati Raukawa ki te Tonga.

WRC gravel management

Section 3.5.6 (page 40) of the Otaki Floodplain Management Plan sets out Flood Protection’s role in facilitating the extraction of gravel from the Otaki River. To summarise it states that the locations for extracting gravel need to be chosen to maximise benefits for river channel management.

In order to do this the Flood Protection Group sought and obtained notified resource consents to extract up to 50,000 m³ of gravel per year from the river. This is to allow us to direct gravel extractors to take from those areas where we gain the biggest flood protection benefits. The Floodplain Management Plan notes that private individuals and companies undertake the extraction itself under the direction of the Flood Protection Group.

The source of the confusion relating to royalties is the gravel use fee charged by the Flood Protection Group. The gravel use fee is often loosely referred to as a royalty (sometimes even by our own staff) but it is in fact a management fee.

The gravel use fee is intended to cover the costs of applying for and maintaining the resource consents as well as our monitoring activities on the Otaki River. So while other parties undertake the extraction, the Flood Protection Group:

- ensures compliance with all resource consent conditions;
- submits returns to the consent authority (in this case your Department);
- undertakes monitoring to determine where the gravel is best extracted from (and how much from that location);and
- if it proves necessary, determines that gravel extraction will cease for a period of time because it is no longer necessary for flood protection purposes.

Future Royalty fees

As an aside, I am unaware of anything (except possibly the Ngati Raukawa Treaty claim) which would prevent the Crown from imposing a royalty on top of the existing gravel use fee. Similarly I would imagine if Ngati Raukawa are successful in their Treaty claim then a royalty fee would be payable to Ngati Raukawa. The combined fee would need to be negotiated between Ngati Raukawa, this Council and the extractor.

I hope this clarifies matters. If you need any further information please feel free to contact me.

GEOFF DICK
Manager, Flood Protection Operations