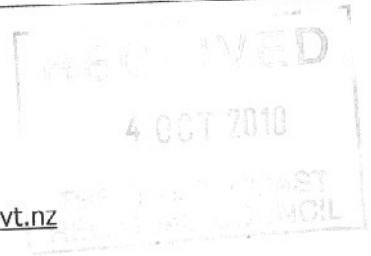


SUBMISSION ON THE PROPOSED REGIONAL LAND AND WATER PLAN

**UNDER CLAUSE 6 OF THE FIRST SCHEDULE TO THE
RESOURCE MANAGEMENT ACT 1991**

Please note that submissions are required to be received by the West Coast Regional Council no later than **5.00 pm, Friday 15 October 2010.**

To: Chief Executive Officer
West Coast Regional Council
PO Box 66
GREYMOUTH 8470
Ph (03) 768 0466
Fax (03) 768 7133 or scan and email to info@wrcr.govt.nz



Submission On: Proposed Regional Land and Water Plan

Name: [Full Name] DESMOND PATRICK McEMANEY

Address: [Full Postal Address] STATE HIGHWAY 6
AWATUNA RD 2
HOKITIKA

1. The specific provisions of the Proposed Plan that my submission relates to are as follows:

West Coast Regional Council Policy on Management
Of Whitebait Stands. Clause 3.

2. My submission is that: *[State in summary the nature of your submission. Clearly indicate whether you support or oppose the specific provisions or wish to have amendments made, giving reasons.]*

Propose to amend the wording of Clause 3 of Council policy on management
of whitebait stands.

The heading, and relevant sentence in Clause 3 reads: A Whitebait Stand (Whitebait
Jetty) Shall Be Defined As: Any structure built and used for standing on by persons
engaged in whitebait fishing in accordance with condition 1 of the resource consent.

The proposed amendment to this heading, and sentence to read:

A Whitebait Structure (Whitebait Stand) Shall be defined as: A structure authorized to be
used for the taking of whitebait pursuant to the Resource Management Act 1991-

- (i) By regional plan or regional coastal plan; or
- (ii) By a resource consent.

The proposed amendment would remove some problem areas relating to the application
of both the Councils policy, and the West Coast Whitebaiting Regulations, and would
reflect the definition wording in the Whitebait Regulations.(West Coast)

Two supporting examples of problem areas:

1. A whitebaiter who has kept a registered "stand" on the Teramakau River for many years, and has set up his "stand" in the same manner year on year, is in breach of the Whitebait Regulations because he cannot stand on his "stand". He does not fix a walking platform to his "stand" because he is unsteady on his feet, and a fall from a platform would damage him. He wades in the river to attend net, and screens.

His structure protrudes into the river the distance allowed under his consent, and he keeps it in place for the duration of the season. He installs screens to suit the structure. He expects the right to have 40m of spacing between himself and the next whitebaiter. He pays his annual fee to gain these rights. But because his structure doesn't meet the definition of whitebait stands in clause three of Councils policy, Section 8. 1(b.a) of the Whitebait Regulations apply, also Section 9 (4), and Section 12 (2) does not apply. (Copies attached).

The end result is: He cannot claim rights to fish the site. He must remove all his structure from the river each time he ceases fishing. He cannot use more than 3m of screen, and there is no restriction how close to him others can fish. He has paid his money for nothing.

2. On the Ohinetamatea River (Salt Water) there are a number of unregistered structures deliberately constructed in a way that prevents them being defined as whitebait stands because no one can stand on them. These structures are permanently fixed to the river bank, and lowered into the water by winch. They have net and screens attachments, screen lengths are adjustable.

This allows screens to be moved to compensate for tidal movement, or screen more than 3m from the water edge. Screens can be extended and retracted with ease.

Some of these fishermen set up in front the registered stand holder on the front mark. No legal remedy is available to him, because they are found to be fishing according the regulations, and do not have to register their structure because it does not meet the definition of a whitebait stand. "They cannot walk on it." Additionally because this is on an isolated river with difficult access, policing is difficult for DOC staff.

The amendment proposed would address the problems described in both examples. It would bring some fairness, remove conflict situations, ensure the rules were abided by, and remove loopholes.

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3. I seek the following decision from the West Coast Regional Council *[give precise details]*:

To include our proposed amendment in the West Coast Regional Councils policy on Management of Whitebait Stands (*Structures*).

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4. I ~~do~~ ~~not~~ wish to be heard in support of my submission *[delete one]*.

5. If others make a similar submission I ~~would~~ would not be prepared to consider presenting a joint case with them at any hearing *[delete one]*.

..... *D.P.Mc Energy*
[Signature of person making submission or person authorised to sign on behalf of person making submission]
..... 30-9-10
[Date]

Title and Address for Service of person making submission:

..... PRESIDENT OF WEST COAST WHITEBAITERS
..... ASSOCIATION
..... STATE HIGHWAY 6
..... AWATUNA RD2
..... HOKITIKA

Telephone No: 027 344 6926 Fax No: EMAIL JYPSIES@HOTMAIL.COM

8 Use of screens and diversions

- (1) No person shall—
- (a) place on the side of the net furthest from the water's edge any screen or other item that may divert whitebait into any net; or
 - (b) place any net in such a manner that it may divert whitebait into any other net; or
 - (ba) use a screen or screens whose total length exceeds 3 m in fishing for whitebait otherwise than from a licensed structure; or
 - (c) use a screen or screens in fishing for whitebait otherwise than from the water's edge at the site being fished.
- (2) No person shall—
- (a) fish for whitebait within 20 m of any tide gate, flood gate, confluence, or culvert; or
 - (b) use anywhere or have on or adjacent to any net or screen in place in the water any device, contrivance, wing, or deflector that may be used to prevent or divert the movement of whitebait up or down stream, other than a screen that complies with and used in accordance with these regulations; or
 - (c) fish for whitebait within 20 m of any unlawful diversion constructed by any person from the bank or in the bed of a river, stream, estuary, or channel whereby whitebait may be diverted into a net.

Regulation 8(1)(ba): substituted, on 24 August 2000, by regulation 4 of the Whitebait Fishing (West Coast) Amendment Regulations 2000 (SR 2000/132).

Regulation 8(2)(b): amended, on 15 August 1995, by regulation 6(2)(a) of the Whitebait Fishing (West Coast) Regulations 1994, Amendment No 2 (SR 1995/139).

Regulation 8(2)(b): amended, on 15 August 1995, by regulation 6(2)(b) of the Whitebait Fishing (West Coast) Regulations 1994, Amendment No 2 (SR 1995/139).

9 Fishing gear

- (1) Except as provided in subclause (2), no person shall set or use any fishing gear that exceeds more than one-third of the width of the river, stream, estuary, or channel at that place at that time.

- (2) Nothing in subclause (1) shall apply in respect of any licensed structure so long as the other fishing gear used on or from the structure complies with that subclause.
- (3) No person shall set or use any fishing gear that, in conjunction with any fishing gear set or used by any other person, will exceed more than one-third of the width of any river, stream, estuary, or channel at that place at that time.
- (4) Every person fishing for whitebait on 1 or more occasions on any day shall remove all his or her fishing gear (other than a licensed structure) from the water—
 - (a) at the cessation of fishing on each occasion; or
 - (b) not later than 8 pm (or not later than 9 pm during any period referred to in regulation 6(a)) on the same day,—whichever is the earlier.

(5) *[Revoked]*

Regulation 9(4): substituted, on 15 August 1995, by regulation 7 of the Whitebait Fishing (West Coast) Regulations 1994, Amendment No 2 (SR 1995/139).

Regulation 9(5): revoked, on 15 August 1995, by regulation 7 of the Whitebait Fishing (West Coast) Regulations 1994, Amendment No 2 (SR 1995/139).

10 Fishing from bridge prohibited

No person shall fish for whitebait from any bridge.

11 Persons to remain in vicinity of net or structure

- (1) Every person who sets or uses a whitebait net shall remain within 10 m of any such net.
- (2) Every person who sets or uses a whitebait net from a licensed structure shall remain within 10 m of that licensed structure.

12 Fishing for whitebait from or near structures

- (1) No person fishing for whitebait in any river shall—
 - (a) fish for whitebait from any unlicensed structure; or
 - (b) place or use any net on or from any licensed structure unless the net is placed or used in a straight line, either from the up stream or down stream edge of the licensed structure; or
 - (c) set any screen beyond the outer edges of any licensed structure.

- (2) No person fishing for whitebait in any river specified in Schedule 2 (other than the Mokihinui River) shall fish within 40 m of any licensed structure from which any other person is fishing, whether on the same or opposite bank as that licensed structure.
- (3) No person fishing for whitebait in the Mokihinui River may fish within 40 m of any licensed structure from which any other person is fishing, whether on the same or opposite bank as the licensed structure, unless the person is fishing from another licensed structure.

Regulation 12: substituted, on 15 August 1995, by regulation 8 of the Whitebait Fishing (West Coast) Regulations 1994, Amendment No 2 (SR 1995/139).

Regulation 12(2): amended, on 24 August 2000, by regulation 5(1) of the Whitebait Fishing (West Coast) Amendment Regulations 2000 (SR 2000/132).

Regulation 12(3): added, on 24 August 2000, by regulation 5(2) of the Whitebait Fishing (West Coast) Amendment Regulations 2000 (SR 2000/132).

13 Fishing up stream from back-pegs or in non-tidal waters prohibited

- (1) No person shall fish for whitebait at any place up stream from any back-peg by the side of any river specified in Schedule 3.
- (2) No person shall fish for whitebait outside the tidal portion of any river, stream, estuary, or channel not specified in Schedule 3.

14 Fishing for whitebait from vessels prohibited

No person shall use any vessel to fish for whitebait.

General provisions

15 Prohibition on possession of whitebait in conjunction with unlawful net

No person shall be in possession of any whitebait together with any whitebait net that the person is not permitted to set or use by these regulations, whether or not that net is being used in fishing.

16 Returning of unlawfully taken fish

Any person engaged in fishing for whitebait shall, taking all reasonable care to ensure their survival, immediately return