

Our reference: EAC-20201347
Enquiries to: Dewald Villoen
Email: dewald.villoen@es.govt.nz



26 January 2021

Gore District Council
PO Box 8
Gore 9740

Attention: Matt Bayliss and Aaron Green

To whom it may concern,

ABATEMENT NOTICE

1. Please find enclosed an amended abatement notice issued under section 322 of the Resource Management Act 1991 (the Act).
2. The original abatement notice dated 08 October 2020 had been issued to you because we have reasonable grounds to believe that you have discharged contaminants to land in circumstances where those contaminants may enter water, in breach of a regional rule and your resource consent AUTH-206303.
3. On 18 December 2020 Environment Southland received your application to vary the original abatement notice dated 8 October 2020.
4. Having regard to the purpose for which the original abatement notice was issued, and any effects of the proposed changes on that purpose, Environment Southland has agreed to vary the abatement notice in accordance with the proposed amendments.
5. Pursuant to section 325A(6) of 'the Act' please find enclosed the amended abatement notice issued to the Gore District Council.
6. The abatement notice requires you to take action to cease any unauthorized sediment discharges which may be occurring, other than in accordance with a regional rule or your discharge consent AUTH-206303 within 12 months of the date of this notice.

Please do not hesitate to contact the writer should you have any questions.

Yours sincerely,

Dewald Villoen
Senior Investigator

For **now**
& **our future**



**ABATEMENT NOTICE UNDER SECTION 322
OF THE RESOURCE MANAGEMENT ACT 1991**

EAC-20201347

To: Gore District Council

PO Box 8
Gore 9740

1 Action Required:

The Southland Regional Council gives notice that you must take action to cease any unauthorised sediment discharges which may be occurring other than in accordance with a regional rule or your consent AUTH-206303 within 12 months of the date of this Notice.

2 Location to Which the Abatement Notice Applies:

Site locality	Cronins Creek,
Map reference	F45:950-466

Receiving environment	Cronins Creek
Catchment	Mataura River

3 This notice imposes the following further conditions:

You must comply with the following conditions within the timeframes outlined below:

- (a) Implement a sampling programme within the Falconer Road catchment over a six month period commencing from the date of this Notice.
- (b) Where the sampling programme confirms sources of sediment contamination from within private properties connected to the Council's stormwater network, prepare an appropriate policy framework ready for consultation, such as a stormwater bylaw, that can provide Gore District Council with the necessary tools to manage stormwater discharges from private properties within the Falconer Road Industrial Zone (and may include a requirement for improvements to be completed by those landowners such as sealing driveways and yards). The appropriate policy framework must be ready for consultation within 12 months from the date of this Notice.
- (c) Undertake a trial installation of 'drain guards' in road side sumps as a temporary measure to reduce the risk of further sediment runoff for a period of six months from the date of this Notice.

4 Statutory basis

This notice is issued under section 322(1)(b)(i) of the Resource Management Act 1991, which states:

An abatement notice may be served on any person by an enforcement officer —

- (b) Requiring that person to do something that, in the opinion of the enforcement officer, is necessary to ensure compliance by or on behalf of that person with this Act, any regulations, a rule in a plan or a proposed plan, or a resource consent, and also necessary to avoid, remedy, or mitigate any actual or likely adverse effect on the environment (i) caused by or on behalf of the person; or

5 Reason for the Abatement Notice:

- (a) On 29 June 2020, 6 July 2020 & 13 August 2020, Environment Southland compliance officers received complaints of discharges to Cronins Creek which created conspicuous changes in the colour of Cronins Creek, Gore.
- (b) Attending compliance officers viewed Cronins Creek and saw a discoloration beyond the zone of reasonable mixing on two separate occasions.
- (c) Further information supplied from the Gore District Council showed that sediment is or could be entering the storm water network from business premises around the industrial area near Falconer Street.
- (d) Gore District Council holds a resource consent to discharge storm water into Cronins Creek. Condition 4(a) of that consent states that:
 - 4(a) Beyond a zone of reasonable mixing extending 100 metres downstream from any outfall to the Mataura River, or a zone of reasonable mixing extending 20 metres downstream from any outfall to Cronins Creek:
 - (i) The standards for Mataura 3 and Lowland Soft Bed waterbodies, as shown in Appendices 1 and 2, shall apply and be maintained in the Mataura River and/or Cronins Creek in respect of any discharge made pursuant to this consent.
 - (ii) There shall be no production of any conspicuous oil or grease films, scums, foams, or floatable or suspended materials in the Mataura River and/or Cronins Creek, nor shall there be any emission of objectionable odour from the Mataura River and/or Cronins Creek, as a result of any discharge made pursuant to this consent.
 - (iii) Other than as a result of a dye test in accordance with this resource consent, there shall be no conspicuous change in colour in the Mataura River or Cronins Creek as a result of any discharge made pursuant to this consent.
- (e) The change in colour stated in the consent relates to an area beyond a zone of reasonable mixing extending 100 metres downstream from any outfall to the Mataura River, or a zone of reasonable mixing extending 20 metres downstream from any outfall to Cronins Creek.
- (f) Following the Southland Regional Council's inspection, there was evidence that a discharge of contaminant other than in accordance with a rule in the Proposed Southland Water and Land Plan, or the Discharge Permit, was occurring at one point along Cronins Creek, Gore.
- (g) Any discharge of contaminants onto or into land constitutes a breach of sections 15 and/or 17 of the Resource Management Act 1991, unless the discharge is expressly allowed by a national environmental standard or other regulations, a rule in a regional plan and/or a rule in a proposed regional plan, or a resource consent.
- (h) Sections 15 and 17 of the Resource Management Act 1991 relevantly provide:

Section 15- Discharge of contaminants into environment

 - (1) No person may discharge any —
 - (a) contaminant or water into water; or
 - (b) contaminant onto or into land in circumstance which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or
 - (c) contaminant from any industrial or trade premises into air; or

- (d) contaminant from any industrial or trade premise onto or into land —

unless the discharge is expressly allowed by a national environmental standard or other regulations, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one), or a resource consent.

- (2) No person may discharge a contaminant into the air, or into or onto land, from a place or any other source, whether moveable or not, in a manner that contravenes a national environmental standard unless the discharge —

- (a) is expressly allowed by other regulations; or
- (b) is expressly allowed by a resource consent; or
- (c) is an activity allowed by section 20A.

Section 17— Duty to avoid, remedy, or mitigate adverse effects

- (1) Every person has a duty to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of the person, whether or not the activity is carried on in accordance with —

- (a) any of sections 10, IOA 10B, and 20A; or
- (b) a national environmental standard, a rule, a resource consent, or a designation.

6 Consequence of Non-Compliance:

If you do not comply with this Abatement Notice within the timeframe outlined in section 3 of this Notice you may be prosecuted under section 338 of the Resource Management Act 1991 both for any discharge and for breaching this Abatement Notice. These consequences apply unless you appeal this Abatement Notice and the Abatement Notice is stayed (as explained below).

Right of Appeal:

You have the right to appeal to the Environment Court against the whole or any part of this Abatement Notice. If you wish to appeal, you must lodge a notice of appeal in form 49 with the Environment Court within 15 working days of being served with this Abatement Notice.

Stay of the Abatement Notice:

An appeal does not automatically stay the Abatement Notice so you must continue to comply with it unless you also apply for a stay of the Abatement Notice from an Environment Judge under section 325(3A) of the Resource Management Act 1991 (see form 50). To obtain a stay, you must lodge both an appeal and an application for a stay with the Environment Court.

7 Application to Cancel:

You also have the right to apply in writing to the Southland Regional Council to change or cancel this notice in accordance with section 325A of the Resource Management Act 1991.

8 Local Body Authorising the Enforcement Officer:

The Southland Regional Council authorised the enforcement officer who issued this Abatement Notice. The address for the Southland Regional Council is 5 Price Street, Invercargill 9840.

9 Authorisation Under Which the Enforcement Officer is Acting:

The enforcement officer is acting under the following authorisation:

A warrant appointing **Dewald Villoen** as an enforcement officer of the Southland

Signed: 

Dated: 26 January 2021