



Choose Clean Water Petition 2014/0054

Presented 29th March 2016

Principal Petitioner: Miriama (Marnie) Rebecca Prickett

That the House of Representatives note that 13,224 people have signed a petition requesting the House of Representatives legislate to set "swimmable (primary contact)" as the minimum standard for freshwater in lakes, rivers, streams, groundwater, wetlands, and estuaries, and establish that the priority for New Zealand's freshwater legislation is the health of the people, wildlife, and the environment.

Supporting Information Requested by Local Government & Environment Committee

Introduction

1. The waterways, water quality and freshwater ecosystems of Aotearoa-New Zealand are witnessing severe and widespread degradation. This is currently causing suffering and sickness in people, animals and wildlife, as well as the death of animals and wildlife due to polluted freshwater. As the level and extent of polluted freshwater increases, so too does the fear in young New Zealanders of the mounting environmental debt and risks associated with unsafe water and degraded ecosystems. Young New Zealanders ask what our future will be if water is not adequately protected. We ask for care, caution and foresight on our behalf and recognition that we face unprecedented local and global environmental problems¹.
2. There is no shortage of evidence of the decline of waterways:
 - 62 per cent of the length of all New Zealand rivers fails to meet safe swimming standards (E. coli: 260/100ml).²
 - 96 per cent of the monitored lowland sites and all of the monitored urban sites failed this standard.³

¹ The Royal Society of New Zealand. (2016). *Climate Change Implications for New Zealand*. Retrieved from <http://www.royalsociety.org.nz/expert-advice/papers/yr2016/climate-change-implications-for-new-zealand/>

² Draft Regulatory Impact Statement: Proposed amendments to the National Policy Statement for Freshwater Management 2011 NIWA.

- 21 per cent of monitored groundwater is now unsafe to drink as it exceeds pathogen standards for human consumption.⁴
- The proportion of native fish species classified as threatened or at risk has increased by 270 per cent in just over a decade (from 20 to 74 per cent).⁵
- An increase in the distribution and extent of *Phormidium*-dominated proliferations (toxic algae) in New Zealand's rivers over the last decade, which has led most recently to the death of livestock, domestic animals and eels and fish in Canterbury at Lake Forsyth.⁶

Background

3. As young New Zealanders seeing the rapid degradation of rivers and lakes, our group was desperate to draw further attention to this issue and advocate for strong legislative protection to be put in place to reverse this trend. Touring the country in Jan and Feb 2016, we documented personal accounts of New Zealanders who are experiencing first hand the consequences of polluted freshwater, degraded waterways and/or fear worse is coming for the river, lake or stream they are deeply connected to. The [Choose Clean Water Tour](#) was supported by the Tourism Export Council of New Zealand, Freshwater Foundation and Freshwater for Life. We found all regions of the country were experiencing serious water pollution problems.
4. Regularly, we have found that the impact of freshwater degradation on ordinary people is overlooked by government. For this reason, listed below are the people we filmed on tour (a snap shot of the concerns of a huge number of New Zealanders with regards to freshwater). Included are their names, waterway and a link to the short film produced of them in order to humanise this issue so that we (including the members of the Local Government & Environment Committee) may talk about our country's freshwater degradation in terms of the personal toll as well as numbers and statistics. These are our people. They are calling on their government to protect them, their families, their health, and the places they care deeply about for cultural, social, environmental, and financial reasons. While viewing all of them may be time

³ Weeks, E.S., Death, R.G., Foote, K., Anderson-Lederer, R., Joy, M.K., & Boyce, P. (2016). Conservation Science Statement 1. The demise of New Zealand's freshwater flora and fauna: a forgotten treasure. *Pacific Conservation Biology*.

⁴ Weeks, E.S., Death, R.G., Foote, K., Anderson-Lederer, R., Joy, M.K., & Boyce, P. (2016). Conservation Science Statement 1. The demise of New Zealand's freshwater flora and fauna: a forgotten treasure. *Pacific Conservation Biology*.

⁵ Daughney, C. J., and Wall, M. (2007). Ground water quality in New Zealand. State and trends 1995–2006. Geological and Nuclear Sciences, Wellington, New Zealand.

⁶ McAllister, T. G., Wood, S. A., & Hawes, I. (2016). The rise of toxic benthic *Phormidium* proliferations: A review of their taxonomy, distribution, toxin content and factors regulating prevalence and increased severity. *Harmful Algae*, 55, 282-294.

prohibitive, we invite you to watch one or two (perhaps from an area you identify with) as they are only brief.

- a) [Huia Tapsell \(Ngāti Whakaue\), Kaituna River, Bay of Plenty](#)
- b) [Rākato Te Rangiita \(Ngā Runuku, hapu of Ngāti Tūrangitukua of Ngāti Tūwharetoa\), Tongariro River, Waikato](#)
- c) [Lance Talstra, Lake Rotorua](#)
- d) [Arthur Bowen, Whangawehi Stream, Mahia Peninsula](#)
- e) [Norman Brown, Mohaka River, Hawke's Bay](#)
- f) [Paula Fern, Waipawa River, Hawke's Bay](#)
- g) [Grant Muir, Pahaoa River, Wairarapa](#)
- h) [Te Rangitumātotoru \(Ngā Runuku, hapu of Ngāti Tūrangitukua of Ngāti Tūwharetoa\), Lake Taupō](#)
- i) [Tina Ngata \(Ngāti Porou\), Turanganui River, Gisborne](#)
- j) [Teresa & Stewart Homan, Pat van Berkel, Hutt River, Wellington](#)
- k) [Sam Mahon, Waitohi River, Canterbury](#)
- l) [Alison Erickson, Hurunui River, Canterbury](#)
- m) [Priscilla Cowie \(Ngāi Tahu, Ngāpuhi, Ngāti Kahu\), Waihao River, Canterbury](#)
- n) [Craig Pauling, \(Ngāi Te Ruahikihiki, Ngāi Tahu\), Te Waihora-Lake Ellesmere](#)
- o) [Jill Roberts, Waihi River, Canterbury](#)
- p) [Jamie & Lia Roberts, Waihi River, Canterbury](#)
- q) [Mike Neilson, Lake Ohau, Otago](#)
- r) [Brian Turner, Otago](#)
- s) [Mark Sutton, Waiau River, Southland](#)
- t) [Trevor Johns, Māwheraiti \(Little Grey\) River, West Coast](#)
- u) [Margi Little \(Ngāti Tama\), Te Waikoropupū Springs, Golden Bay](#)
- v) [Mike Holmes, Lake Karapiro, Waikatō](#)
- w) [Marama Muru-Lanning \(Waikatō\), Waikatō River](#)
- x) [Hannah Sperber, Wakarina Stream, Auckland](#)

Actions to date

5. Freshwater management has been the subject of multiple and ongoing actions and reviews by numerous statutory entities including:
 - Ministry for the Environment (MfE)
 - Ministry for Primary Industries (MPI)
 - National Institute of Water and Atmospheric Research (NIWA)
 - Fish and Game New Zealand
 - Parliamentary Commissioner for the Environment (PCE)

The most significant of these is the development of the National Policy Statement for Freshwater Management (NPS-FM), which is this year the subject of public consultation as well as an independent review; the details of this independent review have not been made public by MfE or the Minister for the Environment and have been denied release when requested under the Official Information Act (OIA). As explained below, given the past actions and reactions of the Minister and government, we believe the request of this petition is important to New Zealanders despite the current Ministry for the Environment's consultation.

6. We have had serious concerns about the NPS-FM for some time, which led to this petition. The NPS-FM does not adequately seek to protect and improve water quality for reasons this document will outline. Throughout the multiple and ongoing actions and reviews, the NPS-FM has lost focus on what is the highest priority to all New Zealanders: their and their family's health and well-being. The NPS-FM will, in its current form, put Aotearoa-New Zealand and New Zealanders at increased and increasing risk from issues arising from the pollution of freshwater and degradation of waterways. These issues include risks to human health (not only recreational risk but also declining drinking water quality), wildlife and ecosystem health, health of livestock, greater environmental degradation, amplified negative effects of climate change, financial risk through loss of earnings, financial loss through the erosion of New Zealand's international reputation, etc. This is recognised in the preamble of the NPS-FM but not in the legislation itself.

7. We have particular concerns about the proposed "wadeable" bottom line for pathogens in waterbodies. While the NPS-FM suggests one of its objectives is to "safeguard the health of people and communities," it continues, "at least as affected by secondary contact with fresh water."⁷ This is contradictory. The "wadeable" bottom line has a standard of an E.coli count of 1000/100ml. This is almost four times the safe standard for swimming (i.e. a person being able to safely immerse their head) which is 260/100ml. This current swimmable definition (260/100ml) has been weakened since an original report from MfE/MPI obtained under the OIA identified 260/100ml as a "good" swimming standard (primary contact), rather than "excellent" (which was given as 130/100ml).⁸ To truly to safeguard people and communities' health, the minimum standard should be set at the primary contact (swimmable) standard (260/100ml).

⁷ Ministry for the Environment. (2014). *National Policy Statement for Freshwater Management 2014*. Wellington, New Zealand.

⁸ Ministry for the Environment & Ministry for Primary Industries. (2012). *Water Reform Information Paper: Objectives and Limits – Interim Report from the National Objectives Reference Group*. Wellington, New Zealand.

Engagement with the Minister and official process

8. We have visited and corresponded with the Minister for the Environment, Hon Nick Smith. He has said to us, and publicly, that he is open to the idea of “strengthening the NPS to make it plainer the Government is wanting more water bodies to be swimmable”⁹ However, simultaneously, he has described having swimmable (260/100ml) as the national bottom line as “some washy aspirational goal”.¹⁰ However, official reports submitted to the previous Minister for the Environment, Hon Amy Adams, and the former Minister for Primary Industries, Hon David Carter advise that in relation to human health bottom lines (primary contact versus secondary contact) “the level of protection selected is a value judgment”.¹¹ In other words, the level of protection selected is based on value-based judgment, and willingness to risk human and environmental health, rather than scientific certainties.

9. In 2015 Principal Petitioner Eugenie Sage noted in a report presented to this committee that during the last round of consultation on freshwater legislation “about 90 percent of submissions on the draft NPS-FM called for a national freshwater standard based on contact recreation instead of secondary contact recreation.”¹² Despite the desire of the vast majority of New Zealanders engaged in the freshwater consultation to have strong protection for the health of people and waterways, the government chose to make their own value judgment and retain the proposed “wadeable” bottom line in the updated version. This is why this petition is important despite the more recent consultation.

10. Further to this, while the Minister continues to claim that setting a primary contact bottom line is “not practical”.¹³ This does not appear to be evidence-based. The Minister has claimed that the cost would be too great, presumably in terms of restoration costs. We dispute this on two counts. First, it has been shown that the cost of protecting waterways (particularly from the effects of diffuse pollution) is

⁹ Mitchell, C. (March 18, 2016). Govt open to rules making rivers more swimmable. *The Press*. Retrieved from <http://www.stuff.co.nz/environment/78025954/Govt-open-to-rules-making-rivers-more-swimmable>

¹⁰ Mitchell, C. (March 18, 2016). Govt open to rules making rivers more swimmable. *The Press*. Retrieved from <http://www.stuff.co.nz/environment/78025954/Govt-open-to-rules-making-rivers-more-swimmable>

¹¹ Ministry for the Environment & Ministry for Primary Industries. (2012). Water Reform Information Paper: Objectives and Limits – Interim Report from the National Objectives Reference Group. Wellington, New Zealand.

¹² *Petition 2011/116 of Eugenie Sage Report of the Local Government and Environment Committee*. (2015). Retrieved from http://www.parliament.nz/resource/en-nz/51DBSCH_SCR64571_1/5090e3f754e36723ee2cc1d1f489a8b3119c1037

¹³ McBride, N. (2016, March 11). Making every water body swimmable is 'not practical' - Nick Smith. *Manawatu Standard*. Retrieved from <http://www.stuff.co.nz/manawatu-standard/news/77770901/making-every-water-body-swimmable-is-not-practical--nick-smith>

vastly cheaper than cleaning up those effects once they occur.¹⁴ Secondly, the Minister has claimed in conversation that he and his advisors have examined the costs of not having a primary contact bottom line (i.e. issues outlined in paragraph 6 of this document, increased health costs, losses in earnings, loss of international reputation to wider economy), yet despite requests these reports have not been shared and in our research, we have not been able to find them. This leads us to believe that they do not exist. This is extremely concerning as it is difficult then not to come to the conclusion that the setting a bottom line of wadeable is an uninformed value judgment on behalf of the Minister and the government.

11. The Minister, and others, suggests that because the NPS-FM allows for “communities” to establish their own priorities for local waterways (i.e. their chosen bottom line for local rivers, lakes, streams), it will lead to the best outcomes for people and waterways, and a greater number of swimmable rivers. We dispute this and believe it is wishful thinking that is not evidence-based. The collaborative process of governance, modeled in the Land and Water Forum has seen some academic critique in the New Zealand context, however, it has been noted that this has been largely through a lens of social rather than environmental outcomes.¹⁵ Recently, where the outcomes have been assessed through the lens of environmental protection or gains, the theoretical model on which these processes are based is found to have not been intended for use in open-systems such as catchments and national-scale water management. Moreover, academic research suggests collaborative governance “may work socially, but not environmentally, producing a situation in which people agree while environmental quality continues to decline.”¹⁶
12. The petition is not the subject of current or pending court action.

Conclusion and remedies sought

13. From our research, we find that the decision to set the minimum standard at secondary contact (E.coli: 1000/100ml) appears to be a value judgment based on little evidence of the many and varied consequences for New Zealand and New Zealanders this decision would have. This value judgment does not prioritise the

¹⁴ Foote, K. J., Joy, M. K., & Death, R. G. (2015). New Zealand Dairy Farming: Milking Our Environment for All Its Worth. *Environmental Management*, (3), 709. doi:10.1007/s00267-015-0517-x

¹⁵ Brower, A.L. (2016). Is collaboration good for the environment? Or, what’s wrong with the Land and Water Forum? *New Zealand Journal of Ecology*. 40(3). 0-0 Retrieved from <http://newzealandecology.org/nzje/3272>

¹⁶ Brower, A.L. (2016). Is collaboration good for the environment? Or, what’s wrong with the Land and Water Forum? *New Zealand Journal of Ecology*. 40(3). 0-0 Retrieved from <http://newzealandecology.org/nzje/3272>

health of people, wildlife, and the environment. It appears also not to prioritise the financial stability of the majority of New Zealanders, now or in the future.

14. The NPS-FM in its current form places large financial and environmental debt on young New Zealanders, increasing the load they will bear in the face of worsening global environmental challenges on a scale not witnessed before.¹⁷ It seems to us that given the predicted severity of the implications of climate change on freshwater (as well as all parts of life) for young New Zealanders, we would create legislation that aimed to minimise the risk to them; especially when both to legislate and to enact that legislation is possible.
15. We, therefore, seek the following remedies: That the Local Government and Environment Committee:
 - Recommend to the government to revise the NPS-FM to set swimmable (primary contact – E.coli 260/100ml) as the minimum standard for waterways.
 - Recommend to the government that the priority for decisions made following the public consultation and independent review into the NPS-FM prioritise the health of our people, wildlife and environment due to the increasing environmental problems New Zealand and the world face.
 - Refer this petition and information to the Health Select Committee to be discussed due to the fact that, as explained, the setting of a “wadeable” standard has significant health consequences for New Zealanders. To date consequences of the “wadeable” standard appears to have been discussed solely through an environmental (Ministry for the Environment) lens and would do well to have further robust scrutiny within a human health context.
16. This is an outline of our findings but does not cover them in full. Although we are relatively young, there are younger New Zealanders whose voices should be heard given the seriousness of the situation for them. Therefore, we humbly request that the Local Government and Environment Committee agree to hear our submission on this matter so that we may include the thoughtful teenage voices of those involved in the Hīkoi Wai Tapu, which accompanied the presentation the petition to parliament.
17. Please accept this as our official response to the request of Kate Barnes, Clerk of the Committee, dated 21 April 2016.

¹⁷ The Royal Society of New Zealand. (2016). *Climate Change Implications for New Zealand*. Retrieved from <http://www.royalsociety.org.nz/expert-advice/papers/yr2016/climate-change-implications-for-new-zealand/>