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Committee Environment
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Australasian Environmental Law Enforcement and Regulation Network

1. Purpose

To report on the Australasian Environment Law and Enforcement Conference.

2. Background

The inaugural conference of the Australasian Environmental Law Enforcement and Regulation Network (AELERT) was held in Melbourne on November 4 and 5. The theme of the conference was "Making the Pointy End Work". The conference was attended by over 150 attendees from environmental, fisheries and wildlife agencies from throughout Australia and New Zealand.

The conference arose after several Australian authorities recognised that:

- The use of non-regulatory approaches alone was proving ineffective in ensuring compliance;
- Enforcement agencies were coming under increasing pressure from the community to enforce their legislation; and
- All environmental agencies in Australia were facing similar issues.

A major goal of AELERT is to encourage dialogue between environmental law enforcement agencies across Australasia so that capacity and capability to undertake enforcement and regulation is enhanced.

3. Highlights

The most interesting papers and sessions for me were:

1. Defining environmental crime

The moral dimension of environmental crimes and the enforcement response to those crimes were examined. A key point was that responses

to "real" crime was historically reactive, punitive and based on well established moral standards. In contrast responses to environmental crime often sought compliance or behavioural change, were based on more ambiguous moral standards (typically involved more interaction with the community) and, as a consequence, were continually being adjusted. From experiences here in the Wellington Region, I believe that these differences are the reasons why people seem less willing to accept enforcement action under the Resource Management Act than under other legislation.

This difference in attitude was expanded on by Paul Woodward from the Queensland Department of Natural Resources and Mines. He drew parallels between the communities' attitudes to drink driving and environmental crimes. He suggested that enforcement agencies needed to put more effort into highlighting the real costs of non-compliance with environmental law, and in publicising environment court decisions and, in particular, the key statements made in these decisions. He believed that doing this would lead to increased voluntary compliance and greater social acceptance of punishment for environmental crimes.

2. The importance of agency culture

The importance of developing a culture in an agency that is capable of delivering effective enforcement was highlighted in presentations by compliance staff from the NSW's Department of Infrastructure, Planning and Natural Resources, Department of Environment and Conservation and Queensland's Department of Natural Resources and Mines. These speakers highlighted the dangers of poor administrative procedures, the potential for enforcement to be compromised by an overwhelming desire to maintain personal relationships and, for compliance to be given a lower priority than the licensing process. These are all issues which we have faced at various times in the past few years. It was reassuring and encouraging for me to recognise that compared with some agencies in Australia we have a very robust enforcement process in place. Furthermore, the fact that our investigation and enforcement procedures are operated within the context of an ISO 9000 accredited quality system means that we are well placed to ensure that our system is effective and consistent. Much of the credit for this situation must go to Tamsin Mitchell, our quality system co-ordinator, who over the past few years has been responsible for the development of our quality systems.

3. Working together

The benefits of agencies working together were espoused by speakers from the US Environmental Protection Agency and the Australian Federal Police. A basic theme was that people committing environmental crime

were also more likely to be committing other crimes and that collaborative enforcement efforts could be complementary.

4. Training

Training of enforcement officers in investigating non-compliance issues was seen as fundamental to effective enforcement and regulation. Furthermore, collaboration in arranging training courses was seen as a way of ensuring consistency in approach across Australasia. Speakers from the US Environmental Protection Agency outlined the comprehensive training given to their investigative officers. There was some discussion about tailoring the USEPA training to meet the specific needs of investigation officers in Australia and New Zealand.

5. Strategic enforcement

Several papers were presented on the environmental legislation and approaches to enforcement undertaken by different agencies in different states of Australia. For me these highlighted the advantage we have in New Zealand with the Resource Management Act and its regulations, and the existence of the Environment Court to hear environmental matters. I believe that our jurisdictional system is much more efficient than those currently being used in Australia.

One issue which I think we should examine more closely is who we target our enforcement action at. Some agencies spend a significant amount of time identifying precisely where instructions to undertake actions which constitute environmental crimes came from. Enforcement action is then taken against the company, the individuals who undertook the action and the specific person who directed them to do so.

4. Conclusion

Overall the conference was a very good forum. It highlighted that our enforcement processes and systems were of a very high standard but identified a number of areas where improvements could be made. As is the case with any conference of this type, a tremendous benefit occurs from networking, getting to know people undertaking similar tasks in different authorities and learning from their experiences. I think it would be extremely beneficial for Greater Wellington to be actively involved in AELERT in the future.

5. Communication

No further public communication is needed for this report.

6. Recommendation

It is recommended that the Committee:

- 1. receive this report; and*
- 2. note the contents.*

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