

## **Easter Holidays**

ARM will be closed from Thursday 20 April and re-open on Wednesday 26 April.

## **Staff Changes**

Congratulations to Andy Cole who now has a permanent appointment with Winstone Aggregates.

Matthew Adair has joined the staff as a technician.

## **Millennium Movements**

The Millennium had hardly begun before a number of our colleagues were on the move:

Bruce Graham has a contract with the South Pacific Regional Environment Programme in Apia.

Deborah Ryan from Environment Waikato has gone to work in Ireland.

Michael Bird from the Auckland Regional Council has gone to Wellington.

Alistair Bingham has left ESR to go into private practice.

## **NZ Association of Consulting Laboratories**

ARM has been a member of the Association for seven years. We are delighted to be joined in the last two or three years by others who practise in the same field. We assist one another as well as competing for work and NZACL is an excellent forum for informal discussions. The annual conference of the Association will be held in Akaroa on 27 May 2000.

## **Case Law**

One of our clients was prosecuted and a judgement against them entered on 20 October 1998. We have been unable to comment until now since an appeal judgement was not decided until 19 October 1999. The appeal was rejected.

Our client was found guilty of emitting contaminants to air in breach of conditions 2 & 3 of their air discharge permit. These conditions contained limits. Several salient points emerge from this judicial process. The following comments reflect our own interest in the matter.

## **Air Resource Management**

**April 2000**

### **Where we are and how to contact us**

#### **Premises**

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- Although our report was subject to examination by expert witnesses we were not called to give evidence in support, or defence of criticisms directed at our report. Nevertheless our results were accepted by the judge. The judge did refer to the fact that ARM was not called as "significant".

- The judge noted that there was no suggestion from any quarter that ARM was

other than a competent firm in the field of contaminant to air discharge monitoring.

- The District Court judge, and the High Court judge, accepted that our report did not constitute hearsay evidence. Our client accepted our report and used it to fulfil a discharge permit condition that results of tests should be forwarded to the RMA Consent authority.

- The judge refers to the low efficiency quoted in the report of an air pollution control device. Since the efficiency was not required in the discharge permit to be reported this “evidence” should not have been available. However, it was useful information to the client as to the possible cause of a high result. When forwarding reports to the Consent Authority only such information as is required should be sent. Other information requested of ARM can be the subject of a second report, issued concurrently, for in-house use only.

- When high results are obtained the client does have the option to request ARM to repeat the tests, in the hope that the second set of tests will return a lower result. However, there is little point in this exercise unless a cause of a high result has been identified, and the fault rectified.

On reading a transcript of the case we were concerned to see an element of confusion amongst the expert witnesses who were called to assist the judicial process. One example is where the filters used during sampling were discussed.

We owe our loyalty to our clients but assist none of the various parties involved if we provide incorrect results. We must remain eternally vigilant in obtain-

ing and reporting correct results. We regret the fact that our client was found guilty and note that in this case the penalties imposed were at the lower end of the scale.

## Efficient Use of Resources

Money budgetted by our clients for environmental protection can be spent in various ways.

- Staff to oversee processes including pollution control equipment and operator education

- Air pollution control equipment
- Sampling of emissions
- Discharge permit fees
- Lawyers

On short consideration it is obvious that this list is in order of priority. However, Regional Councils as consent-granting authorities, have the power to rearrange these priorities.

Our experience around the regions which are charged with enforcing the RMA is of widely-differing methods used in what is presumably an endeavour to accomplish the same object, namely, to maintain and improve the quality of the environment.

There is obvious government unwillingness, stretching back 25 years, to tackle the problem of motor vehicle pollution.

Happily its not all bad news. Several of our clients have received new discharge permits (following the expiry of their old permits) which contain less onerous monitoring conditions.

**“It goes so heavily with my disposition that this goodly frame, the earth, seems to me a sterile promontory; this most excellent canopy, the air, look you, this brave o’erhanging firmament, this majestic roof fretted with golden fire, why, it appears no other thing to me but a foul and pestilent congregation of vapours.”**

*Hamlet*