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NEWSLETTER: 5/8/2014

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Surprise ETS law change - We continue to fight!



Since the surprise law change in May which banned post-1989 forest owners from using Kyoto units when deregistering from the NZ ETS, we have continued to regularly lobby MP's and senior government officials in an attempt to impress upon them the damaging consequences of their decision.

Many forest owners (including some of our clients) have been adversely affected by this unanticipated law change. Government chose not to consult before making the decision and did not pre-announce the amendment prior to the law change being enacted, despite advising in December 2013 that they would not make this change.

Some have been directly affected in that they had already committed to purchasing the Kyoto units to offset liabilities and to selling NZUs, but had not yet completed the ETS deregistration process. The budget announcement therefore means that private individuals operating within the law stand to lose out directly and significantly in financial terms.

Others took Simon Bridges at his word when he confirmed that Kyoto units would be legitimate tender until May 2015, and so thought they still had plenty of time to complete the deregistration process. Government has blatantly gone

back on this promise and in doing so demonstrated their complete lack of regard for the forestry industry.

There have been multiple interactions and lobbying that has resulted in a strong political awareness that a problem was created by the law change. NZ Farm Forest Assn and Forest Owners Assn met with Ministers who committed to work through the detail and practicalities of a suite of options for a revised approach including the additional one proposed by NZFFA/FOA to them. The officials are still working on that evaluation and have advised that it has not been an easy task – largely because of implementation challenges.

Up until the end of last week ... we were confident of securing a meeting with a senior politician to further lobby our case, only to be told that it had not come to fruition. Our concern now is that Government is unlikely to progress further on a potential solution with the election looming unless the pressure and discontent with their actions is further communicated.

For those of you directly affected, we are no longer optimistic that we will see a pragmatic solution forthcoming from Government without further interaction. **We encourage you to lobby your MP and political hopefuls now that they are back operating within your electorate and seeking out voter opinion.**

In his most recent communication to us, Minister Tim Groser states *"In making this decision, it was necessary to balance the impacts on some smaller forestry participants against the wider costs of ongoing re-registration arbitrage"* - this comment clearly portrays a different way of thinking towards protecting citizens' property rights and honouring Government promises to what NZ has been historically used to. Read his full letter of response [HERE](#).

That said, we are now seriously considering obtaining a legal opinion on the matter (in partnership with other affected parties). We genuinely believe the Government has a case to answer in respect of direct financial costs for a subset of law-abiding landowners operating entirely within Government guidelines until the rug was effectively pulled out from under them.

We still believe the ETS is a fantastic piece of legislation that has been called into disrepute by a Government that

places more importance on big business energy companies (see article below) than the long term sustainability of our forestry industry.

Tax payers pay the price - Energy companies pocket the profit!



While Nick Smith was Minister for Climate Change we believed that the Government was in touch and had a national view of the ETS and was working towards restraining overseas units which would have maintained a fair carbon price and encouraged a reduction in industrial emissions. With the introduction of Tim Groser as Minister for Climate Change, his office appears to see the ETS through a different lense. Despite pointing out that industry emitters had a fiscal advantage, the Government continued to refuse to acknowledge this even though several companies went public with the fact they were charging consumers as much as \$25 per tonne.

For Government to apparantly suggest that it is OK for some Kiwis to take a financial hiding because they decided to back track on promises given is not what we expect or deserve.

This week Iwi Leaders released detailed and independent economic analysis that reveals that the emitters (energy companies) have price gouged to the tune of \$NZ1.4 billion over the last three years - **paid for by tax payers**. And, all the while ***Government have stood by and knowingly allowed this to happen.***

This analysis has identified evidence of overcharging by energy and liquid fuel companies for the carbon credits they must purchase to offset their pollution, as part of the ETS.

Spokesperson for the Climate Change Iwi Leaders Group, Dr Apirana Mahuika, says *"These companies have been charging consumers at an average rate of \$14 per tonne of*

carbon since the inception of the ETS, when the market price is less than \$3.00."

Further to this many of these emitters are allocated free NZ units under a "trade exposed agreement" that they can sell to buy and surrender cheap Kyoto units.

The current Government has deliberately and knowingly allowed the carbon price to collapse leaving Iwi (and others) disproportionately impacted.

Read the full press release [HERE](#).

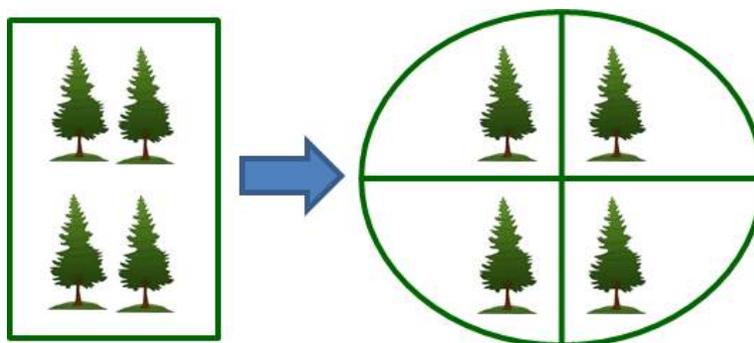
Winston Peters formally tabled the analysis in the House on Wednesday 30th July. Read [HERE](#) the transcript of questions posed in Parliament by Winston Peters to Prime Minister John Key, together with comments from a respected commentator.

As mentioned earlier, Ministers are:

- 1. aware their actions have caused undue hardship for some and,**
- 2. considering advice on providing a solution.**

We strongly encourage you to lobby via any contacts you think you might have.

Has the ownership of your post-1989 ETS registered forest changed?



MPI are currently "reviewing the status" of ETS registrations, in particular looking at whether there has been any change of ownership registered on the Certificate of Title (CT).

Several of our clients have already been approached by MPI advising that they have had a change of ownership on their CT.

If you have post-1989 forest registered into the ETS, please take a moment now to think about if there have been any changes to the ownership of your forest since you registered into the ETS - this could include (but not be limited to):

- Changes in Trustees if the forest is owned by a Trust (including change in professional trustee).
- Addition of or expiry of forestry right.
- Sale of all or part of the forest.
- Re-arrangement of financial/succession affairs to form a Trust, Company or Partnership.

Where a transfer of interest has occurred, this transfer should be notified to MPI within 20 working days by completion of the relevant forms. **If this is done in a timely fashion it can remove the need for potentially costly corrections at a later date.**

If you think there may have been changes to the ownership of your post-1989 ETS registered forest, please call us to discuss what is required and how we can help.

Log Prices



After four months of plummeting log prices, August has seen the fiscal cascade come to a halt (helped by a lower dollar and reduced shipping costs).

Stocks in China are still above the four million cubic metres however with NZ wood being directed to the other (better paying) markets, it is hoped this foreign inventory will decline and prices start to climb back to more attractive levels.

Forest Sales/Purchases



In an earlier newsletter we commented on forest sale opportunities. There continues to be strong interest from various parties in securing forest/cutting rights with several having changed hands in the last four months. Despite the significant drop in log prices, serious buyers understand this is part of a long term cycle and do not appear to be phased by it.

Email to friend:

Know someone who might be interested in this email.
[Forward it to them.](#)

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