ENQ-36934-Z5T9J3

Environmental Protection Authority
Te Mana Rauhī Taiao

Date: 26 September 2019

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T. Benseman

Via: fyi-request-10931-9d6da7d8@requests.fyi.org.nz

Official Information Act Request

Dear Mr Benseman

I refer to your request of 8 August 2019 to the Parliamentary Commissioner for the Environment, which was transferred to the Environmental Protection Authority (EPA) on 20 August 2019. You have asked:

- *What money has been paid for the approval of 1080 poison and who paid this money? Is there some explanation to justify this payment, as it seems the approval has been purchased by the users of the substance being assessed?*

Your request has been treated as a request for information under the Official Information Act 1982 (OIA). My response is provided below.

1080 (sodium fluoroacetate) was first assessed and registered in New Zealand in 1964. The approvals for the substance were previously provided under the Toxic Substances Act 1979 and the Pesticides Act 1979.

Scheduling under the Toxic Substances Act, by the Ministry of Health, would not have incurred a fee. Registration under the Pesticides Act may have incurred a small or nominal fee, charged by the group serving the functions that are now delivered by the Ministry for Primary Industries (MPI).

In 2001, all existing approvals previously provided under the Toxic Substances Act 1979 and the Pesticides Act 1979 were transferred into the Hazardous Substances and New Organisms Act (the HSNO Act). The pre-existing approvals from these two Acts were transferred legislatively and no-one was charged for this.

In 2005 the Environmental Risk Management Authority (ERMA, the EPA's predecessor) issued the *Hazardous Substances (Sodium Fluoroacetate) Transfer Notice 2005.* This Notice contained the approvals for 1080 concentrate and nine formulated baits, and it took these approvals out of the transitional parts of the HSNO Act and gave them full approval status with new HSNO classifications and controls. This process was undertaken as part of the Crown-funded establishment of the HSNO regime, and no charge was incurred by any external party.

Under section 62 of the HSNO Act, anyone can apply to the EPA (formerly ERMA) for a decision on whether there are 'grounds' for reassessing an approved substance. Once the EPA decides that there are 'grounds' for reassessment, an application can be made for the substance to be reassessed.

In February 2002, the Animal Health Board applied to ERMA for a decision on whether there were grounds for reassessing 1080, and in March 2002 ERMA decided that there were grounds for reassessment. In October 2006, an application for the reassessment of 1080 was made by the Department of Conservation (DoC), Animal Control Products (manufacturers) and the Animal Health

Board (AHB, which became TBfree New Zealand and then OSPRI). This application brought together 40 years of extensive field and laboratory research on the use and effects of 1080.

ERMA agreed that a reassessment was needed. As this was an external application for reassessment (that is, an application that was not instigated by the Chief Executive of the EPA), and following normal practice for such applications, a charge (made under section 21 of the HSNO Act) was negotiated with the applicants. The agreed charge was a fixed estimated payment of $167,850, split equally between the applicants.

Following the reassessment, the decision on 1080 was made in August 2007.

There were higher than anticipated costs for consultations, hearings, and staff input during the reassessment process. The difference ($398,000) between these costs and the amount charged to the applicants was paid by ERMA.

For a product containing 1080 to be made available to users, it must have both HSNO approval and be registered under the Agricultural Compounds and Veterinary Medicines Act 1997 (ACVM). The Ministry for Primary Industries (MPI) registers products under the ACVM and charges a fee for this.

As there may be multiple ACVM registered products for each approval under the HSNO Act, the user of a product containing an approved substance may pay a fee to MPI for registering the product, but not pay any fee to the EPA (if the approval under the HSNO Act is already in place).

You have the right to seek an investigation and review of this decision by the Ombudsman. You can contact the Ombudsman on 0800 802 602, or by email at info@ombudsman.parliament.nz.

If you have any further queries, please do not hesitate to contact the EPA via ministerials@epa.govt.nz.

Yours sincerely

Dr Clark Ehlers
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Environmental Protection Authority