

3. CHRISTCHURCH PET FOODS LIMITED

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Corporate Plan Output: Accounts Receivable 5.1.text.14	

The purpose of this report is to advise the Committee of a bad debt owed to the Council by a company owned by a Councillor and the steps taken by the Council to recover this debt. The recommendation seeks to confirm the next steps in the recovery process.

CURRENT DEBT

Christchurch Pet Foods Ltd (which is owned by Councillor Robin Booth) has, at the time of writing this report, an outstanding debt to the Council of \$4,192 for trade wastes discharges to the sewer system. The breakdown of this debt is:

	\$
Amount owing for second quarter of 1999 (discounted down from \$2,737)	1,369
Amount owing for third quarter of 1999	651
Amount owing for fourth quarter of 1999	619
Amount owing for first quarter 2000	1,553
Outstanding debt	4,192

There is also a current amount of \$1,240.04 owing for the second quarter of 2000 to be billed at end of July 2000.

(Note: Trade wastes charges are based on volume, suspended solids and BOD. For these two quarters charges are down because volume of discharge was down.)

BACKGROUND

In 1996, the current owner of Christchurch Pet Foods Limited took over a pet food manufacturing business from Mr W P Van Beek (dog rolls etc) which, it is understood, was run as Top Pet Foods Limited, trading under the company name of Christchurch Pet Foods (1996). Subsequently the name was changed to Christchurch Pet Foods Limited. Around 1997 the business premises was transferred from Halswell Junction Road to Broad Street. In 1998, the company was granted two Trade Wastes Discharge Consents (each for less than 5m³/day). Later that year it was noticed that the consumption of water for the business was considerable and that the discharge to sewer was considerably greater than 5m³/day. The business was therefore advised that it would be moved to an appropriate charging regime based on volume discharged, BOD and Suspended Solids (all in accordance with the Council's published charging policy). Since then charges for the company's trade wastes have increased considerably as a result of the new (appropriate) charging regime being applied to accurate water consumption and discharge measurements. The increase in charges for the company has led to considerable verbal and written dialogue between the company and Council officers. Matters discussed have concerned the following:

- The company's two discharge consents for utensil/floorwash and boiler blowdown discharge are out of date. They are dated 1998 and are for less than 5m³/day whereas the discharges are more than this. As well as updating these consents, a new third consent is required for cooling water discharge. The company has not responded to the Council's written request in October 1999 for an update of these consents.
- The company has the ability to reduce its charges from thousands of dollars per year to several hundred dollars per year by better on-site management, such as regular grease trap cleaning and the recycling of cooling water. This has been suggested by Council staff and discussed with the company in detail many times over the past 18 months.
- In spite of the fact that the trade wastes charging regime has been explained carefully to the Company Manager several times he still continues to insist he cannot understand why his charges have (correctly) increased since they were changed from less than 5m³/day to a measured regime.
- The company has refused to pay its debt for trade wastes charges unless, quote "... it is proven that we legally have to".
- The company now owes the Council \$4,192 for the period 1 April 1999 to 31 March 2000 (see above). We have suggested that to help with cash flow the company makes an automatic weekly payment of \$150 to clear this debt and help cover likely future commitments. There was no response to this offer.

SUMMARY OF HELP GIVEN

Waste Management officers have spent a considerable amount of time trying to assist Christchurch Pet Foods Ltd with its on-site management, to reduce its trade wastes charges and to pay off its debt. The Council has:

- discounted second quarter 1999 account from \$2,737 down to \$1,369;
- explained carefully several times why the company's charges have increased;
- explained how the company can improve site operations to reduce charges (from several thousand to several hundred dollars/year);
- met with and written to the owner of the company on many occasions to explain and try to help; and
- suggested how the company can improve its financial situation by making regular automatic payments to smooth cash flow, and engage a business mentor (through CDC) to help to produce a forward business plan.

Council staff have done their very best to help the company with its difficulties. The company now has an outstanding debt of \$4,192 for the last three quarters of 1999 and the first quarter of 2000 (i.e. for the 12 months period 1 April 1999 to 31 March 2000).

PROPOSED LEGAL ACTION

Christchurch Pet Foods Limited has now advised that it will not pay the outstanding trade waste charges as it does not consider these charges to be legal.

To get a resolution to this matter it is intended to refer the file to the Council's debt collectors. If their procedures do not result in a satisfactory solution then it is proposed to file a Notice of Proceedings and a Statement of Claim with the District Court. The company will then have 30 days in which to file a Statement of Defence. If at the end of the 30 day period the company has failed to file such a statement the Court will enter judgement by default. If, on the other hand, the company files a Statement of Defence there will be a formal hearing before a District Court Judge.

Remedies available to the Court include:

An examination of the financial affairs of the company followed by any of the following:

- an order to pay;
- the bailiffs recovering goods owned by the company to the value of the judgement; or
- the winding up of the company.

This matter has been discussed with the Legal Services Manager, Peter Mitchell, who has advised that debt collection procedures should be applied to this and all future bad debts of Christchurch Pet Foods Ltd. In addition, it is considered that Christchurch Pet Foods Limited should again be asked to update its trade wastes consents required under the Trade Wastes Bylaw, and if it fails to do so within 30 days of this request then the Council should take legal action under the Bylaw.

- Recommendation:**
1. That the Council confirm the legal action, as set out above, against Christchurch Pet Foods Ltd.
 2. That the Waste Manager ask Christchurch Pet Foods Limited to update its trade wastes consents and if it does not do so within 30 days then legal action be taken under the Trade Wastes Bylaw.
 3. That it be noted that the above action does not preclude discussions with Christchurch Pet Foods Ltd's legal adviser.