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Environmental Law Initiative commences legal action against Environment Southland for lack of monitoring and action on wetland loss

The Environmental Law Initiative (ELI) has initiated legal action against Environment Southland (ES) in relation to inadequate monitoring and action on wetland loss in the region.

Wetlands are important ecosystems, providing biodiversity and natural infrastructure for floods, carbon storage, and coastal inundation. However, New Zealand has lost 90% of its original wetlands, mostly through drainage and conversion to agricultural use.

Under the Resource Management Act 1991 (RMA), regional councils and unitary authorities are responsible for protecting wetlands from inappropriate use and development. However, illegal drainage of wetlands has continued to be a major issue.

Studies have shown ongoing wetland loss in Southland. A 2020 report¹ revealed that over 5,400 hectares of wetlands in New Zealand have been lost to non-natural causes since 1996. Of 61 wetland losses investigated in Southland, none were associated with a resource consent, highlighting systematic shortcomings in ES's monitoring and response program.

Despite these findings, ES has not acted on identified wetland losses, reported on the effectiveness of its rules, or conducted further wetland monitoring. ELI contends that ES has failed to carry out its mandatory monitoring and action requirements under the RMA, enabling the continued loss of wetlands.

ELI's judicial review proceedings seek to determine if ES has breached its duties under the RMA and address systemic failures in ES's monitoring program and implementation processes.

ELI's Senior Researcher/Advisor, Anna Sintenie, emphasised the importance of councils being accountable for using their rules, gathering information, and taking necessary action to protect wetlands:

“Information gathered through monitoring should inform actions to protect wetlands. Southland has long had rules to safeguard natural wetlands from land drainage, while many wetlands have been lost. The RMA requires councils to monitor the environment as well as the effectiveness of the rules, and to take action. Without gathering and acting on this information, councils risk ongoing wetland loss.

This litigation is the first step in ensuring that strong wetland rules are not only written down, but are enforced and well-implemented.”

ELI hopes that the litigation will hold ES accountable for its duty to monitor and respond to wetland loss in Southland.

¹ [“The Root Causes of Wetland Loss in New Zealand: an Analysis of Public Policies and Processes”](#) National Wetland Trust, 2020.