

BEFORE THE CANTERBURY REGIONAL COUNCIL

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of a hearing by the
Canterbury Regional
Council Hearing Panel
on the proposed
Canterbury Land and
Water Regional Plan

**PROVISION OF ADDITIONAL INFORMATION / CLARIFICATION OF RELIEF
SOUGHT ON BEHALF OF Z ENERGY LIMITED, BP OIL NEW ZEALAND LIMITED
AND MOBIL OIL NEW ZEALAND LIMITED (The Oil Companies)**

2 April 2013



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PROVISION OF ADDITIONAL INFORMATION / CLARIFICATION OF RELIEF

1. The Oil Companies presented legal submissions and evidence in support of its submission and further submission to the Hearing Panel on Wednesday 13 March 2013. The Panel asked for further material/clarification on the following two matters:
 - (a) clarifications/re-drafting of the Oil Companies' suggested advice note which protected/preserved existing permissions or permitted activities under the NRRP (see paragraph 19 of Appendix 3 to David le Marquand's evidence); and
 - (b) suggested revisions to the proposed permitted activity discharge rule set out in James Court's evidence.
2. Suggested additions are shown in underlined text, and deletions in ~~strike-through~~ text.

Protection/preservation of existing permissions or permitted activities under the NRRP

3. Paragraph 19 of Appendix 3 to David le Marquand's evidence states the following:

Add a note to the pLWRP that will ensure those existing discharges from HAIL sites relying on NRRP provisions as a permitted activity (i.e. lawfully established before July 2004) can remain permitted/lawful subject to appropriate performance standards (i.e. suggested condition 7 to 5.164) and those issued with consents under the NRRP are confirmed as remaining valid.
4. Having considered the Hearing Panel's comments, the Oil Companies consider that it would be preferable for the note to take the form of a rule, and that the following two rules would be the most appropriate method of providing for this relief:

Previously permitted discharge activities under the NRRP

Discharges from HAIL sites that were lawfully established before 4 July 2004 and/or permitted by the NRRP and where there has been no change to the nature and extent of the relevant discharge, unless that change has been otherwise permitted by the NRRP or consented, the discharge will remain permitted.

Existing Resource Consents

For the avoidance of doubt, any resource consents issued pursuant to the NRRP for discharges remain valid until the term of expiry for the resource consent. Until expiry of the consent, no further consent will be required under the LWRP

Suggested revisions to the Contaminated Land Discharge rules

5. The suggested revisions to the Contaminated Land Discharge rules are as follows:

Rule 1X Contaminated Land Discharges

The discharge of contaminants, to groundwater, or from land that has a hazardous substance(s) in it that is onto or into land in circumstances which may result in those contaminants entering water, is a permitted activity provided ~~one of the~~ discharge complies with conditions 1 and 2 below, or otherwise complies with condition 3:

1. There has been a detailed site investigation¹ provided to Council in accordance with Rule 5.168.

2. The detailed site investigation prepared in 1.1 above:

(a) finds that the discharge of contaminants is highly unlikely to be a risk to human health or the environment at present or in the future; or

(b) determines that ~~the~~ the concentration of contaminants in groundwater is:

(i) Either 50 metres from the source (i.e. the notional boundary) or at the property

¹ Detailed Site Investigation as defined in the Contaminants NES.

boundary (whichever is the lesser distance); and

- (ii) ~~Anywhere it is intersected by a~~ surface water or bore used for the abstraction of water (excluding monitoring water bores) intersects or lies within (i).

does not breach the following standard (whichever applies):

~~Where there has been a detailed site investigation provided to Council in accordance with Rule 6.167 and does not breach:~~

- where the discharge is to groundwater identified on the planning maps as Semi-confined or Unconfined Aquifer, or is into Aquifer 1 within a Coastal Confined Gravel Aquifer System: either the Drinking Water Standards for New Zealand (2005) or, where ambient water quality is naturally less than these standards, it is not being degraded; or

2. ~~where the discharge is to surface water or to groundwater that is not used or has no potential use:~~

- where the discharge is to groundwater in an area not identified on the planning maps as a Semi-confined or Unconfined Aquifer, or is not into Aquifer 1 in a Coastal Confined Gravel Aquifer System: The Australia and New Zealand Guidelines for Fresh and Marine Water Quality (ANZECC) Guidelines (2000) at the level of protection for 80% of species², and otherwise complies with condition 2(a).

(ii) ~~The best practicable option for controlling adverse effects is successfully adopted in accordance with a resource consent issued under **Rule XX**~~

3. Land that has previously held resource consent for contaminated land discharges under **Rule 2** and that has

² Except for benzene where the level of protection is 90% of species.

been approved by council as meeting all the consent condition requirements including for remediation and monitoring, will be a permitted activity with no further management or monitoring conditions.

Rule 2XX

Any **discharge** of contaminants from land that has a hazardous substance in or on it, onto or into land in circumstances which may result in those contaminants entering water that does not comply with the conditions ~~X(i)~~ of Rule 1 is a **discretionary activity**.

Notes: These rules are intended to apply to historical spills and leaks from containers used for the storage and use of hazardous substances.

The rules are not intended to apply to the discharge of nutrients to groundwater from farming activities or other diffuse applications. These activities are controlled by the Nutrient Rules (for example, Rules 5.39 to 5.51).

Explanation of specific points

Discharge (including to groundwater)

6. Proposed Rule 1, Contaminated Land Discharges, proposes the words "discharge of contaminants, **to groundwater, or from land ...**". These words have been proposed following discussions with CRC officers since the presentation of the Oil Companies' case at the pLWRP hearing. There were suggestions from the CRC officers that the rule needs to be broader than dealing with hydrocarbon contamination issues only, in that it should also address section 15(1)(a) of the RMA, as well as section 15(1)(b).
7. These words have therefore been proposed, to ensure the rule covers all appropriate activities.

Discharge of contaminants – highly unlikely

8. Proposed Rule 1(2)(a), which refers back to the detailed site investigation completed through Rule 1(1), uses the words "finds that the discharge of contaminants **is highly unlikely** to be a risk to human health or the

environment at present or in the future". These words are proposed as they replicate the language used in the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011. Regulation 8(4) in particular, states:

Subdividing land or changing the use of the piece of land is a permitted activity while the following requirements are met:

- (a) a preliminary site investigation of the land or piece of land must exist:*
- (b) the report on the preliminary site investigation must state that it is highly unlikely that there will be a risk to human health if the activity is done to the piece of land*

9. It is considered appropriate that there is some consistency between the language used, notwithstanding the NES deals with land use matters. The subject matter and nature of the investigation are however largely the same, and therefore a similar standard is proposed.

DATED this 2nd day of April 2013



J G A Winchester/S J Scott
Counsel for the Oil Companies

TO: Hearings Officer, Christchurch Regional Council

AND TO: Hearings Commissioners