IN THE MATTER	of the Resource Management Act 1991 (RMA)
AND	
IN THE MATTER	of the Proposed Canterbury Air Regional Plan
TO BE HEARD BY	Environment Canterbury

Statement of Rebuttal Evidence of Christopher Adrian Hansen on Behalf of Ravensdown Fertiliser Co-operative Ltd

09 October 2015

Introduction

1 My name is Christopher Adrian Hansen. My experience and qualifications are set out in my evidence in chief dated 18 September 2015. Since that time I have reviewed the statements of evidence filed on behalf of other submitters. I have provided rebuttal to new matters raised, or where I consider additional comment is warranted.

2 I have continued to comply with the code of conduct for expert witnesses as contained in the Environment Court's practice note when preparing this rebuttal evidence.

3 I make reference to the following expert Evidence in Chief (EIC) in my evidence in reply:

- Mr Tim Ensor for Synlait Milk Limited
- Mr David Le Marquand for The Oil Companies

Mr Tim Ensor (for Synlait Milk Limited)

4 I acknowledge a degree of synergy between the evidence of Mr Tim Ensor and evidence I have prepared on behalf of Ravensdown Fertiliser Cooperative Limited, and I share many of the concerns raised by Mr Ensor relating to the reliance on the AAQG for the defining of consenting requirements for discharges of contaminants. However I will focus specifically on matters raised by Mr Ensor in relation to Policy 6.3; Policy 6.20 and Policy 6.21.

5 I note in paragraph 22 Mr Ensor expresses his view that Policy 6.3 should be amended to apply only to clean air zones. Mr Ensor makes this request in order to help acknowledge the variation in the receiving environments within the region. Policy 6.3 as notified reads: *"Where concentrations of contaminants exceed 100% of guideline values set out in the Ambient Air Quality Guidelines 2002 Update, action is taken to improve air quality."* Mr Ensor seeks the amendments to Policy 6.3 so that it would read: *"Where <u>ambient</u> concentrations of contaminants <u>within a clean air zone</u> exceed…, action is taken to improve air quality <u>within the air shed</u>"*

6 I have two concerns regarding the amendments requested. Firstly, I do not agree that there is a need to limit the intent of this policy only to the clean air zone. In my opinion this policy is appropriately applicable across the region as it intends to address the concentration of contaminants as they relate to the AAQG. I see no justification for limiting the policy just to the clear air zone, and do not believe the need to acknowledge the variation in the existing receiving environments justifies the proposed amendment. In contrast, I note that Policy 6.4 does apply only to the clean air zones as it specifically addresses $PM_{2.5}$ concentrations and this is appropriate in the clean air zones.

7 Secondly, I do not agree that adding the reference to improving air quality *"within the air shed"* is appropriate. As I understand it, the gazetted air shed has different boundaries to the clean air zones and in my opinion referencing both areas in the one policy is confusing.

8 In my opinion, the intent of Policy 6.3 should be retained as notified, apart from adding reference to regional ambient monitoring results to determine the concentration levels as outlined in my evidence in chief.

9 I note Mr Ensor also recommends Policies 6.20 and 6.21 be amended to apply BPO depending on whether an activity is outside a clean air zone (amendments requested to Policy 6.20) or within a clean air zone (amendments requested to Policy 6.21). Mr Ensor has requested these amendments as way of addressing the s.42A Report recommendation that these policies be deleted and replaced. While I agree with Mr Ensor's intentions to apply BPO in the context of the receiving environment, I do not consider it is appropriate or necessary to distinguish between being outside or inside the clean air zone. This is because the BPO principles are applicable to the activities regardless of whether they sit outside or within a clean air zone. I have recommended amendments to Policies 6.20 and 6.21 in my evidence in chief which, in my opinion, achieve the outcomes sought by Mr Ensor that apply BPO practices to the activities and their discharges rather than where they are located in terms of the proposed clean air zones.

David le Marquand (for The Oil Companies)

10 I will focus specifically on matters raised in Mr le Marquand's evidence regarding Objective 5.9; Policy 6.7; Policy 6.21 and new permitted activity rule.

11 In relation to Objective 5.9, I note Mr le Marquand provides his views on what the intent of the Objective and concludes: *"… this objective may be better focused on the juxtaposition of industrial discharges versus sensitive areas and activities and the separation by spatial location may be a preferred means of addressing such discharges but where that is not practicable then they need to be appropriately managed".* Objective 5.9 as notified reads: "*Activities are spatially located so that they result in appropriate air quality outcomes being achieved both at present and in the future.*"

12 In order to address the matters raised by Mr le Marquand, he requests the following amendments to Objective 5.9: *"Industrial discharging activities near or in sensitive activities and/or areas should preferably be ~~are~~ spatially located or otherwise managed so that ~~they result in~~ appropriate air quality outcomes are ~~being~~ achieved both at present and in the future."*

13 While I understand the matters Mr le Marquand is raising in his evidence and agree with a number of the comments he makes, I am of the view that the key reverse sensitivity issue that needs to be addressed is to ensure that lawfully established existing activities are not unduly restricted or their activities compromised to the extent that they are required to relocate by new (sensitive) activities that are allowed to locate in an area. In my opinion, the amendments to Objective 5.9 requested by Mr le Marquand do not address this key reverse sensitivity issue and the wording he proposes continues to put the focus on the industrial discharge controlling and managing its activities rather than working with district councils to control the spatial location of sensitive activities in the first place. Therefore I consider the wording Mr le Marquand has requested is no better than the notified Objective 5.9 which also fails to address this key issue. I have recommended an amendment to Objective 5.9 that does address the key reverse sensitivity issue in my evidence in chief.

14 Similar to above, in relation to Policy 6.7 Mr le Marquand makes a number of observations and comments regard reverse sensitivity issues and the need to

ensure reverse sensitivity issues in the future does not force otherwise appropriately located industry to relocate. I concur with Mr le Marquand's comments and views on this matter. I note Policy 6.7 as notified reads: *"Where, as a result of authorised land use change, land use activities within the neighbourhood of a discharge into air are significantly adversely affected by that discharge, it is anticipated that within a defined time frame the activity giving rise to the discharge will reduce effects or relocate."*

15 Mr le Marquand seeks for Policy 6.7 to be deleted, or if retained, amended to read: *"Where, as a result of historic rezoning of land ~~authorised land use change, land use~~ sensitive activities within the neighbourhood of a discharge into air are significantly adversely affected by that discharge, it is anticipated that within a defined time frame the activity giving rise to the discharge will reduce effects or relocate."*

16 In my opinion, the above amendments requested by Mr le Marquand do not address the issue I have discussed above, and his concerns included in his evidence. In particular referring to historic zoning is not helpful as some sensitivity activities will have been authorised by consent regardless of the historic zoning, and the focus is still on the activity giving rise to the discharge relocating rather that the control of the sensitive activity that has been allowed to locate in the receiving environment of the lawful discharge. I remain of the view that Policy 6.7 as notified should be deleted, and I have recommended a replacement Policy 6.7 in my evidence in chief that address the concern expressed by Mr le Marquand.

17 In relation to Policy 6.21, Mr le Marquand reiterates the Oil Companies concerns that the policy requires avoidance for exceedance of ambient guideline levels and the risk that the Guideline is to be used inappropriately as a de facto point source discharge standard. Policy 6.21 as notified reads: *"Avoid the discharge of contaminants into air from any large scale burning device or industry or trade premise, where the discharge will result in the exceedance, or exacerbation of an existing exceedance, of the guideline values set out in the Ambient Air Quality Guidelines 2002 Update."*

18 While the s.42A Report recommends the notified Policy 6.21 be deleted and replaced, in the absence of any wording offered Mr le Marquand requests amendments to Policy 6.21 to read: *"Ensure ~~Avoid,~~ the discharge of*

contaminants into air from any large scale burning device or industry or trade premise, ~~where the discharge~~ will not result in the exceedance, or exacerbation of an existing exceedance in the ambient air of the guideline values set out in the Ambient Air Quality Guidelines 2002 Update or NESAQ targets."

19 I am concerned that the amendments requested by Mr le Marquand may not achieve the outcomes he is seeking, and in particular the use of the word *'ensure'* and inclusion of the word *'not'* seems to mean the AAQG becomes a de facto point source discharge standard, the very situation Mr le Marquand was trying to address. I remain of the view that Policy 6.21 as notified should be deleted (as recommended by the s.42A Report), and I propose to provide wording for Policy 6.21 at the hearings that would address Mr le Marquand's concerns.

20 Mr le Marquand requests the activity status of Rule 7.3 be amended to discretionary, and I support this request but prefer the wording of Rule 7.3 to be in line with Ravensdown's request. Furthermore, in paragraph 8.15 (page 27) of his evidence Mr le Marquand also requests a new permitted activity condition (presumably he means rule) that reads: *"XXX The following controls apply to all activities that discharge contaminants to air.*

1. The discharge must not contain contaminants that cause, or are likely to cause, adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place.

2. The discharge must not cause noxious, dangerous, offensive or objectionable odour (dust or smoke), beyond the boundary of the premises where the activity takes place; or

3. Where an odour (or dust or smoke) management plan has been prepared and approved in accordance with Schedule 2 odour (or dust or smoke) discharges beyond the boundary of the property are managed in accordance with that approved management plan for that property.

Permitted activity controls do not apply to the following activities:

a. mobile sources

b. fire fighting and other emergency response activities."

21 I note Mr le Marquand proposes this new 'rule' in the context of his discussion on Rule 7.28 and the framework in the PCLWRP that addresses odour. While

overall I understand the issues Mr le Marquand raise and the do not oppose the relief he seeks, I am uncomfortable with the generic nature of his proposed new Permitted Activity controls that apply to all activities that discharge contaminants to air. In my opinion, if the rule is specifically to address odour issues, the controls should relate to all activities that discharge contaminants to air that may emit odour.

Chris Hansen
09 October 2015