BEFORE THE CANTERBURY REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Plan Change 4 to the Canterbury Land and Water Regional Plan

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LEGAL SUBMISSIONS ON BEHALF OF Z ENERGY LIMITED, MOBIL OIL NZ LIMITED, BP OIL NZ LIMITED (THE OIL COMPANIES)

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MAY IT PLEASE THE COMMISSIONERS

1. INTRODUCTION

1.1 These legal submissions are made on behalf of Z Energy Limited, Mobil Oil NZ Limited and BP Oil NZ Limited (the **Oil Companies**). The Oil Companies share a common goal of receiving, storing and distributing refined petroleum products while sustainably managing any adverse effects of the infrastructure required to carry out their business.

1.2 The Oil Companies have regionally significant infrastructure (being commercial, shore and marine based, and aviation and bulk storage facilities). In particular in the Canterbury Region this includes the bulk storage tanks (and associated wharf lines and pipelines) at the Port of Lyttelton, Christchurch Airport and Woolston. The Oil Companies also own a number of retail outlets and supply petroleum products to individual owned retail outlets in the region.

1.3 While the Oil Companies are in support of a number of the provisions in proposed Plan Change 4 to the Canterbury Land and Water Regional Plan (**PC4**), there are some specific matters that the Oil Companies consider need further attention, being:

(a) Rule 5.187 - passive discharges from Contaminated land, in particular the trigger levels for non-sensitive aquifers and reference to site investigation reports as a means of showing compliance with the conditions in the rule;
(b) stormwater discharges, in particular Policy 4.16;
(c) the package of provisions for Community Water Protection Zones, in particular Policies 4.23A and 4.23B; and
(d) clarification of Rule 5.142 - Floodwater.

2. OUTLINE OF LEGAL SUBMISSIONS

2.1 These legal submissions are structured as follows:

(a) evidence for the Oil Companies;
(b) scope matters;
(c) Issue 1: passive discharges from contaminated land (Rule 5.187);
(d) Issue 2: Stormwater;

(e) Issue 3: the provisions for community water protection zones; and

(f) Issue 4: clarification of floodwater rule 5.142.

3. EVIDENCE FOR THE OIL COMPANIES

3.1 Evidence on behalf of the Oil Companies has been prepared by:

(a) **Mr David le Marquand** – expert planning witness, sets out the key areas of concern of the Oil Companies from a planning perspective, in particular from a usability perspective.

(b) **Mr Kevin Tearney** – expert on contamination of land, specifically addresses Rule 5.187 and the Maximum Allowable Value (**MAV**) limits set out in Schedule 8 (in particular Mr Tearney recommends that there be different trigger levels for non-sensitive aquifers).

4. SCOPE MATTERS

4.1 The submission of the Oil Companies sought amendments to Rule 5.187. Following further consideration of the issue, the evidence of the Oil Companies recommended as a solution a change in wording to the Rule but also amendments to Schedule 8 (to include MAVs for non-sensitive aquifers – the issue is explained in more detail below under section 5 of these submissions). So, while the Oil Companies submitted on Rule 5.187,[1] they did not specifically submit on Schedule 8. Schedule 8 is however referred to within Rule 5.187. It is accepted that this may be an issue as to scope, in particular relating to the foreseeability of the relief that is now being advanced.

4.2 The High Court decision of *Palmerston North City Council v Motor Machinists Ltd*[2] sets out the two limbed test for whether a submission is "on" a plan change. In summary for a submission to be considered "on" a plan change (ie within scope) the submission must:

(a) fall within the ambit of the plan change; and

(b) not deny persons directly or potentially directly affected by the additional changes an effective opportunity to respond.

1 See page 22 of the Oil Companies' submission dated 12 October 2015.
2 *Palmerston North CC v Motor Machinists Ltd* [2013] NZHC 1290 at [91].

4.3 Rule 5.187 was addressed in PC4 and the *status quo* was proposed to be changed. It is therefore submitted that the Oil Companies' submission on Rule 5.187 falls within the plan change (ie. meets the first limb) in that the relief outlined in the submission is "on" the plan change. The potential scope issue in relation to Schedule 8 is whether the amendment to Schedule 8 recommended through the Oil Companies' evidence was reasonably and fairly raised in the submission. In considering this issue, it is submitted that Schedule 8 forms an integral part of the operation of Rule 5.187.

4.4 In the case of *Countdown Properties (Northlands) Ltd v Dunedin City Council*[3] the Court stated that:

> *The local authority or Tribunal must consider whether any amendment made to the plan change as notified goes beyond what is reasonably and fairly raised in submissions on the plan change … It will usually be a question of degree to be judged by the terms of the proposed change and of the content of the submissions.*

4.5 In the High Court case of *Royal Forest and Bird Protection Society v Southland District Council*[4] it was stated that whether an amendment is reasonably and fairly raised in the course of submissions *"should be approached in a realistic workable fashion rather than from the perspective of legal nicety"*.

4.6 In considering what the "realistic workable approach" entails, the High Court in *General Distributors Ltd v Waipa District Council* stated that it "*requires that the whole relief package detailed in submissions be considered when determining whether or not the relief sought is reasonably and fairly raised in the submissions*".[5]

4.7 We note that the question of foreseeability of changes sought, and hence potential prejudice to third parties, was considered at length by the Environment Court in *Oyster Bay Developments Ltd v Marlborough District Council*.[6] In this case the Court was careful to identify the issues and concerns that were identified in submissions in order to provide a basis for the proposed amendments. In that respect, the Court held that a decision maker should also consider the element of fairness – whether the amendment would

3 *Countdown Properties (Northlands) Ltd v Dunedin City Council* (1993) 1B ELRNZ 150; [1994] NZRMA 145 (HC).
4 *Royal Forest and Bird Protection Society v Southland District Council* [1997] NZRMA 408 (HC) at page 10.
5 *General Distributors Ltd v Waipa District Council* (2008) 15 ELRNZ 59 (HC) at [60].
6 *Oyster Bay Developments Ltd v Marlborough District Council* EnvC Christchurch C081/09, 22 September 2009.

prejudice anyone who failed to lodge a submission on the plan change as notified.

4.8 Considering these case law principles in the round, it is submitted that the Oil Companies' submission clearly indicates that it seeks amendments to the provisions to recognise the difference between passive discharges to sensitive and non-sensitive aquifers.[7] As such, the issues and concerns were clearly identified in the submission, consistent with the *Oyster Bay* rationale. The question is whether the Oil Companies, having raised concerns as to the operation and application of the rule, are then bound by the specific relief outlined in the submission or whether there is room for a reasonable evolution or variation in the precise nature of relief to address the underlying issues of concern.

4.9 The Oil Companies took expert advice from Mr Tearney following the filing of their submission, and determined that their concerns could be addressed through a refinement of their relief, which would essentially have the same effect as what was outlined in their original submission. While it is accepted that the submission does not specifically request amendments to Schedule 8, it is submitted that the amendments sought to Schedule 8 are both reasonable and foreseeable in light of the Oil Companies' wider submission on Rule 5.187.

4.10 Adopting a realistic and workable approach, it is submitted that no parties could reasonably be said to be prejudiced by the specific relief which is now sought, as the Oil Companies submission clearly put the issue "in play". It is simply another way of achieving the same overall outcome identified in the original submission, and one which still remains "on" PC4 given that Schedule 8 is expressly part of Rule 5.187. It is respectfully submitted that the Commissioners are entitled to consider the relief sought on its merits.

5. ISSUE 1: PASSIVE DISCHARGES FROM CONTAMINATED LAND (RULE 5.187)

5.1 On the whole the Oil Companies support PC4 insofar as it recognises that passive discharges from contaminated land differ from other types of discharges, and hence require different management. In particular, management of passive discharges largely involves future management of an

7 As discussed on pages 23 and 24 of the Oil Companies' submission under rule 5.187.

existing factual situation, rather than planning for an activity which has not yet occurred. Rules and regulations which seek to address the effects of this situation therefore need to recognise that there are many instances where effects currently exist, and respond accordingly.

5.2 Passive discharges from contaminated land are managed by Rule 5.187. Some of the changes proposed by Environment Canterbury to Rule 5.187 are supported by the Oil Companies. The remaining areas of disagreement are:

(a) reference to the site investigation report process – the Oil Companies' position is that the reference should be retained in the rule at clause 2 (Environment Canterbury proposed that it be deleted); and

(b) the trigger screening level – the Oil Companies' position is that the trigger levels in Schedule 8 should also include trigger levels for non-sensitive aquifers.

Site investigation reports

5.3 For the first outstanding matter, the Oil Companies' concern (as further outlined in Mr le Marquand's evidence[8]) is that it is unclear how Environment Canterbury will determine whether activities on Hazardous Activities and Industries List (**HAIL**) sites demonstrate compliance with the rule. There is no clear indication of what Environment Canterbury will accept as proof of compliance.

5.4 It is submitted that, without that guidance, there is a risk that proof may be required without taking into account the land itself (for example to prove that the conditions are met, Environment Canterbury could require that in *all* instances a drilling investigation is necessary). If however the underlined words "*The site investigation report identifies reasons for concluding that the discharge does not result in the concentration of contaminants*:…" are retained then it is submitted that this would allow for a suitably qualified experienced professional (**SQEP**) to carry out the assessment to the degree considered necessary in the situation (as per Mr le Marquand's examples, this could include the likes of soil analysis and modelling).

8 Mr le Marquand, evidence in chief, paragraphs 4.9 and 4.10.

5.5 It is submitted that this approach would reflect and be consistent with the current framework and approach for the management of contaminated land under the National Environmental Standards (**NES**) for Contaminants in Soil. PC4 already recognises and encourages investigations by a SQEP through permitting them under Rule 5.185. A trigger provision for investigation would appropriately address risk, bearing in mind the nature of the receiving environment, and provide for an investigation being undertaken by a SQEP. This would also give an appropriate level of assurance for Environment Canterbury.

5.6 As outlined in the evidence of Mr le Marquand,[9] such an approach would effectively complement the NES approach in terms of managing risks of passive discharges managed by Environment Canterbury, would be relatively simple to efficiently and effectively administer, and would likely involve significantly lower costs for resource users. In terms of section 32, there would appear to be little downside in what is proposed by the Oil Companies.

5.7 In terms of the relevant higher order policy directions of the Canterbury Regional Policy Statement (**CRPS**) and the LWRP for contaminated land, Mr le Marquand has considered these and the extent to which the Oil Companies' proposed amendments to PC4 align with those higher order directions.[10] In particular, Policy 17.3.2 of the CRPS seeks that in relation to actually or potentially contaminated land, use of that land (including where there is discharge of the contaminant from the land) should be subject to a site investigation and, if contamination is found, the adverse effects be avoided, remedied or mitigated as appropriate. For the reasons set out above, it is submitted that the Oil Companies' relief represents the most appropriate approach to giving effect to these higher order directions.

Trigger levels

5.8 It is this aspect of the Oil Companies' relief that raises the scope issue identified earlier in these submissions. Discharge of contaminants from contaminated land under Rule 5.187 is proposed to be subject to the conditions listed in clauses 1 to 3 of the rule. Any discharges that do not comply with the rule would become a discretionary activity. Of particular

9 Mr le Marquand, evidence in chief, paragraphs 4.7 – 4.10.
10 Mr le Marquand, evidence in chief, paragraphs 4.13 and 4.14, and Attachment F.

interest to the Oil Companies is the trigger screening level in clause 2(1). The Oil Companies are concerned that the trigger levels do not appropriately take into account the fact that some receiving environments may already be compromised through historical activities, including potentially the circumstances which led to the passive discharges in question. It is submitted that the rules need to respond to this reality.

5.9 Through Schedule 8, the trigger levels are 50% of MAV of the Drinking Water Standard for New Zealand 2005 (revised 2008) (**DWSNZ**). The Oil Companies' submission is that this level of protection does not take into account the 'end use' of the receiving environment – in other words whether aquifers can be sensitive (ie. potable water) or non-sensitive (for example where they are not able to produce groundwater for human consumption due to legacy passive discharges of contaminants, or because the underlying soils are of a lesser quality – as may be the case with reclaimed land).[11] It is the Oil Companies' submission that there should be a different trigger level for non-sensitive aquifers and, based on the technical evidence of Mr Tearney,[12] it is submitted that the appropriate level for non-sensitive aquifers is the MAV set out in the DWSNZ.

5.10 As explained in the evidence of Mr Tearney, the 50% MAV for sensitive aquifers is a conservative trigger level. The Oil Companies do not take issue with that approach, given the importance of protecting aquifers for potable water supply. It is however submitted a less conservative trigger level can be provided for non-sensitive aquifers. Based on the evidence of Mr Tearney and Mr le Marquand, having a less conservative trigger value is in fact still conservative. It would continue to provide an appropriate level of control, and appropriately address relevant risks. In addition, having two trigger levels conforms with the effects based management approach under the RMA (in other words, rather than having a trigger level that applies to all discharges, under the Oil Companies' approach there is acknowledgement of the receiving environment).

11 Mr Tearney, evidence in chief, paragraph 5.14.
12 Mr Tearney, evidence in chief, paragraph 5.18.

5.11 Mr le Marquand has assessed the approach of two trigger levels in light of the higher order directions of the CRPS and LWRP, and in particular Policy 4.26 of the LWRP which he recognises to be the key policy for passive discharges from contaminated land.[13] It is submitted that the trigger levels for non-sensitive aquifers are sufficiently conservative to ensure that adverse effects beyond the site boundary are avoided (as required by the Policy).

5.12 It is further submitted that the Oil Companies' approach is a more refined approach that would appropriately reflect the differing levels of risk. It would also enable greater certainty for resource users such as the Oil Companies, and result in reduced compliance costs (which, under the proposed approach, would in many instances be unnecessary given the nature of the receiving environment and level of risk involved). These factors are submitted to be highly relevant to a section 32 assessment of the merits of the Oil Companies' relief.

6. ISSUE 2: STORMWATER

6.1 The Oil Companies acknowledge that, at present, stormwater is managed through a combination of both regional and territorial authorities' actions and regulation. As identified in both the submission for the Oil Companies and in Mr le Marquand's evidence,[14] in practice there are difficulties with the current planning mechanisms and the co-ordination between Environment Canterbury and the territorial authorities when issuing consents. The Oil Companies' position is that Policy 4.16A, and associated rules,[15] should be deleted. This is supported by Mr le Marquand's evidence.[16]

Policy 4.16A

6.2 It is significant that the submissions and evidence of the Christchurch City Council, Waimakariri District Council and Selwyn District Council, who are owners and administrators of stormwater infrastructure and regulators in their own right, have also raised concerns with the application of the stormwater

13 Mr le Marquand, evidence in chief, paragraphs 4.13 and 4.14 and Attachment F.
14 Mr le Marquand, evidence in chief, section 5.
15 Rules 5.94A and 5.95A.
16 At paragraph 5.10.

provisions. The section 42A report recognises that discussions between Environment Canterbury and the territorial authorities are on-going.[17]

6.3 It is clear that substantial further discussion needs to occur and resolution achieved regarding the division of roles and responsibilities, before the regional plan imposes a regulatory framework approach. It is submitted that, in the absence of agreement of a co-ordinated approach between the territorial authorities and Environment Canterbury, there is a risk that the stormwater provisions will result in protracted and circular process issues and uncertainties. In particular, the concern lies with Policy 4.16A which reads:

> *Operators of reticulated stormwater systems implement methods to manage the quantity and quality of all stormwater directed to and conveyed by the reticulated stormwater system, and from 1 January 2025 network operators account for and are responsible for the quality and quantity of all stormwater discharged from that system, and the Canterbury Regional Council shall not issue any permit to discharge stormwater into a reticulated stormwater system.*

6.4 While it is accepted by the Oil Companies that it is entirely appropriate for operators of stormwater systems to manage the quantity and quality of stormwater directed to and conveyed by those systems, the Oil Companies are concerned that the policy approach reflected in proposed Policy 4.16A is sweeping.

6.5 The Oil Companies are also concerned that the policy appears to be imposed by Environment Canterbury without the agreement of territorial authorities, and carries with it substantial risks and uncertainties. That Policy proposes to transfer the obligation of quality and quantity of all stormwater discharged from reticulated systems to be managed by the network operator. While the network operator responsibility is not unique,[18] there is no clear pathway in PC4 as to how this Policy will be achieved within the life of the plan.

6.6 Under section 15 of the Resource Management Act 1991 (**RMA**) there is a requirement that no person may discharge any contaminant or water onto or into land, unless the discharge is expressly allowed by a NES, regulation, regional plan (or proposed regional plan) or a resource consent. Given that the extent of Policy 4.16A is unclear, for example with respect to how or

17 Section 42A report, B.36, page 60.
18 Oil Companies submission page 10.

whether it applies to the likes of de-watering discharges, it remains unclear how or whether some discharge activities will be able to obtain resource consent post 2025 if this policy is retained.

6.7 The proposed policy appears to suggest that Environment Canterbury will either not carry out its statutory functions or responsibilities under the RMA after 2025, or that any discharges into a system that are not "accepted" by the operator (irrespective of the effects or risks of such discharges) would need to be a prohibited activity. It is submitted that this proposed policy cannot remain in place without some certainty between the key players (Environment Canterbury and the territorial authorities), given the potentially significant adverse impacts and uncertainties that it could have on third parties such as the Oil Companies who may have no pathway to resolve matters.

Construction phase stormwater discharges – Rule 5.94A

6.8 With regard to rules 5.94A (construction phase stormwater discharges) the position of the Oil Companies is that the provision should be deleted.[19] Mr le Marquand's evidence identifies that there is a risk that, as the rule does not allow for discharges from contaminated or potentially contaminated land (or discharges containing any hazardous substance), construction work on site could trigger a disproportionate consenting requirement.

6.9 Mr le Marquand gives the example of works on a service station for the installation of a new sign, investigating a potential leak or repairing a pothole.[20] Without provision for these smaller works within the rule, the works will trigger restricted discretionary resource consent requirements under Rule 5.95C. As identified by Mr le Marquand's evidence, in some instances this could have a perverse effect and do more harm than good (for example where a resource consent is required to be obtained before investigating a potential leak).

6.10 It is noted in this regard that Mr Norton's rebuttal evidence (for the Christchurch City Council) identifies that lack of allowance for smaller works is an issue, and agrees that a solution may be to have an earthworks volume trigger. Should Rule 5.94A be retained, it is submitted that to avoid

19 For completeness, the Oil Companies have also submitted that the heading "post construction-phase stormwater" be deleted, in order to clarify that the rule does not require an ongoing obligation for a new post construction-phase stormwater discharge consent. For further detail see paragraphs 5.19 and 5.20 of Mr le Marquand's evidence in chief.

20 Mr le Marquand, evidence in chief, paragraph 5.17.

unnecessary resource consent applications, an earthworks volume trigger should be inserted.

6.11 In Mr le Marquand's evidence he has referred to the earthworks volumes under the Proposed Auckland Unitary Plan (**PAUP**) and the 200m^3 earthworks site threshold.[21] To clarify, Mr le Marquand is not specifically recommending 200m^3 as the appropriate threshold, but has given this as an example of a threshold that has been recommended to be appropriate based on evidence provided through the PAUP. Mr Norton's evidence considers that a threshold of 200m^3 would be too high, and recommends a lower threshold of 10m^3. Under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011, the permitted threshold for disturbing soil on contaminated land is 25m^3 per 500m^2 and 30m^3 per tank if it is for removing or replacing a fuel storage system. It is submitted that more analysis would be required before a suitable threshold is recommended, but it is highly likely that an appropriate threshold would fall between 25m^3 and 200m^3.[22]

6.12 Given all of the foregoing, it is submitted that there is far too much uncertainty at this point in time, coupled with a lack of justification, in order for the PC4 stormwater approach to be retained. Accordingly, it is submitted that Policy 4.16A and associated provisions 5.94A and 5.95B should be deleted at present, until greater certainty is provided on how this approach will work. If however Rule 5.94A is to remain, then further investigation as to an appropriate permitted activity threshold for minor earthworks on contaminated land is recommended. This may need to be the subject of a variation in due course, and it is probably more appropriate that this rule is also deleted in the meantime and reconsidered as part of the wider package of provisions.

7. ISSUE 3: THE PROVISIONS FOR COMMUNITY WATER PROTECTION ZONES

7.1 As outlined in both the submission for the Oil Companies and the evidence of Mr le Marquand,[23] there is concern that proposed Polices 4.23A and 4.23B will result in a mechanism that allows for new community water protection zones (and amendments to existing community water protection zones) potentially

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21 Mr le Marquand, evidence in chief, paragraph 5.16.

22 For completeness we note that under the LWRP the threshold for earthworks over aquifers in Rule 5.175 is 100m^3.

23 Oil Companies' submission at pages 11 and 12. Mr le Marquand, evidence in chief, section 6; rebuttal evidence section 3.

without notice to affected persons and through a process that would effectively change the plan through the grant of a resource consent.

7.2 The Oil Companies' concern is that, due to the package of rules for community water protection zones, this ability to introduce or amend zones is likely to result in potentially adverse implications for activities carried out by third parties. It is submitted that the current rule package is *ultra vires* as, in effect, it would act as a 'plan change via resource consent' – the key concern being that affected parties may have no opportunity to comment on the change taking place. The Oil Companies have also raised a general concern on the mapping of community water protection zones.

7.3 Under Rule 5.115, the taking and use of water for a community water supply from groundwater or surface water is able to be consented through restricted discretionary activity status. This is not proposed to be changed through PC4, however the additional proposed matters of discretion require consideration of the actual and potential effects on any land user for land located within the proposed community drinking water protection zone. The crux of the issue lies with Policy 4.23A as clause (a) provides for the application of a provisional protection zone "*around the source of any existing community drinking-water supply*". It also allows in clause (c) the replacement of provisional protection zones within specific protection zones through the grant of a resource consent.

7.4 Effectively, where a community water take is consented under rule 5.115, Policy 4.23A would trigger the provisional protection zone being implemented. This is submitted to be highly questionable from both a legal and process perspective and, as identified by Mr le Marquand, this has substantial flow on effects. For example, it would result in permitted activities requiring resource consents or being subject to constraints, due to the introduction of the provisional community water protection zone other than through a Schedule 1 RMA process.[24] It is submitted that the package of rules as drafted (in particular the two policies) are *ultra vires*. [25]

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24 See Mr le Marquand's evidence in chief at paragraph 6.2 for a (non-exhaustive) list of activities affected by the introduction of a community water protection zone.

25 The Environment Court case of *Queenstown Airport Corp Ltd v Queenstown Lakes DC* [2014] NZEnvC 93 found that activity status must be clear from the plan and cannot be linked to compliance with another resource consent. While the case is not directly on point (the case was on a change in activity status based on the presence (or otherwise) of a structure plan which resulted from a resource consent), it is considered that the reasoning can be applied in this instance. The activity status of activities in the plan (for example those activities identified by Mr le Marquand) should not be subject to change as a result of the granting of a resource consent for a community water protection zone.

7.5 Finally, under PC4 if a provisional protection zone is created it can then be recorded at Schedule 1A. As stated in Mr le Marquand's evidence[26] this may result in confusion to plan users as currently there is no supporting text to explain the Schedule. There is a risk that, as currently drafted, it could be interpreted that Schedule 1A lists *all* community drinking water zones. Mr le Marquand has also identified the need to update the Council's online GIS mapping to accurately reflect the location of the community drinking water zones.[27] These suggested changes are submitted to be both necessary and reasonable.

8. ISSUE 4: CLARIFICATION OF FLOODWATER RULE 5.142

8.1 As outlined in Mr le Marquand's evidence, Rule 5.142 is considered unworkable.[28] This lack of workability has been recognised in the section 42A report, however the author then goes on to justify the rule based on Environment Canterbury being at risk of not meeting section 70 RMA requirements for permitted activities.[29] It is submitted that the minor changes made to the rule in the section 42A report do not result in further clarification, and as a consequence the proposed rule remains unworkable.

8.2 Mr le Marquand acknowledges that he is not clear about what Environment Canterbury is attempting to achieve with the rule, and for that reason has not been in a position to provide a re-written version of the rule. Instead he has endeavoured to assist by identifying the shortcomings of the rule if it were to be applied in practice. These shortcoming can be summarised as:

(a) there is no 'take' involved for floodwaters, ~~so to refer to a 'take' in the Rule is inaccurate and not legally correct~~;

(b) the Rule is not clear on who is required to obtain the consent (ie. is it the person responsible for the over-topping of the banks, or the person whose land receives the floodwaters?); and

(c) the Rule appears to require that if there is flooding on a HAIL site that lasts for more than 48 hours, a retrospective consent would be required.[30]

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26 Mr le Marquand, evidence in chief, paragraph 6.9.
27 Mr le Marquand, evidence in chief, paragraph 6.10.
28 Mr le Marquand, evidence in chief, section 7.
29 Section 42A Report, paragraph H.98.4
30 Mr le Marquand, evidence in chief, paragraphs 7.3 to 7.6.

8.3 These issues are submitted to be both fundamental to the effective operation and administration of the Rule, and highly problematic. It is apparent that further clarification of these rules is both necessary and appropriate. We confirm that Mr le Marquand would be available to participate in discussions with the Council to clarify the rule, should the Commissioners or the Council so wish.

DATED this 16th day of March 2016

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BP Oil NZ Limited