

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of appeals under Clause 14 of the First
Schedule to the Act

BETWEEN TRUSTPOWER LIMITED

(ENV-2007-CHC-284)

AND RANGITATA DIVERSION RACE
MANAGEMENT LIMITED

(ENV-2007-CHC-283)

AND MERIDIAN ENERGY LIMITED

(ENV-2007-CHC-276)

AND NEW ZEALAND TRANSPORT
AGENCY

(ENV-2007-CHC-265)

Appellants

Topics: ENV-2008-308-010

ENV-2009-308-050

ENV-2009-308-051

AND CANTERBURY REGIONAL
COUNCIL

Respondent



BEFORE THE ENVIRONMENT COURT

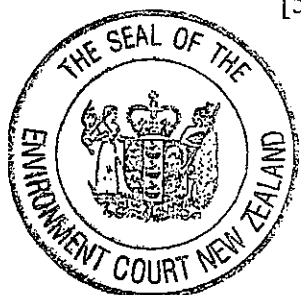
Environment Judge J E Borthwick sitting alone under section 279 of the Act

In Chambers at Christchurch

CONSENT ORDER

Introduction

- [1] The Court has read and considered the appeals and the memorandum of the parties received on 29 June 2009.
- [2] Meridian Energy Limited has given notice of an intention to become a party under s274 to the parts of TrustPower Limited and Rangitata Diversion Race Management Limited's appeals that relate to the topic of Abrasive Blasting and Spraying - New Rule - Outside Enclosed Booth (ENV-2008-308-010) and has signed the memorandum setting out the relief sought.
- [3] There are no section 274 parties to the part of Meridian Energy Limited's appeal that relates to the topic of Abrasive Blasting and Spraying - New Rule - Hydroelectric (ENV-2009-308-051).
- [4] Meridian Energy Limited and Lyttelton Port Company have given notice of an intention to become parties under s274 to the part of New Zealand Transport Agency's appeal that relates to the topic of Abrasive Blasting and Spraying - Rule AQL51, Condition 1 and Rule AQL53, Condition 2 (ENV-2009-308-050) and have signed the memorandum setting out the relief sought.
- [5] The Court is making this order under s279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on



the merits pursuant to section 297. The Court understands for present purposes that:

- (a) All parties to the proceedings have executed the memorandum requesting this order;
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Resource Management Act, including in particular Part 2.

Order

[6] Therefore the Court orders, by consent, that the appeals are allowed to the extent that the Canterbury Regional Council is directed to modify Chapter 3 of the Proposed Canterbury Natural Resources Regional Plan as specified in **Appendix One** attached to and forming part of this consent order.

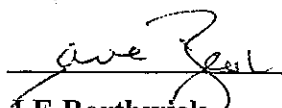
[7] The appeals, as they relate to topics ENV-2008-308-010, ENV-2009-308-050 and env-2009-308-051, are otherwise dismissed.

[8] There is no order for costs.

DATED at CHRISTCHURCH

9th

July 2009.


J E Borthwick
Environment Judge



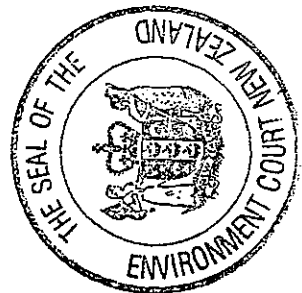
Issued: 10 JUL 2009

Appendix One: Changes to Chapter 3 of the Proposed Canterbury Natural Resources Regional Plan

1. Table 3.1 Summary of Rules

Amend Table 3.1 Summary of Rules as follows:

<i>Discharges to air from industrial or trade premises and industrial or trade processes</i>		
<i>Rule N°</i>	<i>Description</i>	<i>Activity Status</i>
AQL51	Water blasting	Permitted
AQL52	Dry or wet abrasive blasting within an enclosed booth	Permitted
AQL52A	Temporary dry or wet abrasive blasting outside an enclosed booth of network utility or electricity generation infrastructure	Permitted
AQL53	Small scale spray coating not within a spray booth	Permitted

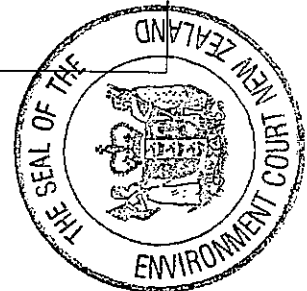


2. **New Rule AQL52A Temporary dry or wet abrasive blasting outside an enclosed booth of network utility or electricity generation infrastructure – permitted activity**

Add Rule AQL52A Temporary dry or wet abrasive blasting outside an enclosed booth of network utility or electricity generation infrastructure – permitted activity as follows:

Rule AQL52A Temporary dry or wet abrasive blasting outside an enclosed booth of network utility or electricity generation infrastructure – permitted activity

Activity	Conditions	Cross Ref.
<p>Except where permitted by Rules AQL51 or AQL52, the discharge of contaminants into air from temporary dry or wet abrasive blasting of network utility infrastructure or electricity generation infrastructure outside of an enclosed booth on industrial or trade premises or from industrial or trade processes is a permitted activity.</p> <p>For the purposes of this rule 'network utility infrastructure' means infrastructure operated by a network utility operator as defined in Section 2 of the Resource Management Act 1991.</p>	<ol style="list-style-type: none"> 1. <u>The discharges to air shall only be from the operation of a mobile abrasive blasting unit used at any one site for no more than 10 days in any 12-month period.</u> 2. <u>Abrasive blasting shall only be undertaken when it is impracticable or unreasonable to remove or dismantle or transport a fixed object or structure to be cleaned to an abrasive blasting booth.</u> 3. <u>The maximum quantity of dry abrasive blast media used shall not exceed 60 kilograms per hour.</u> 4. <u>The abrasive blasting unit discharge shall be only from:</u> <ol style="list-style-type: none"> a. <u>Dry abrasive blasting using: garnet; sodium bicarbonate; crushed glass; or agricultural sourced media such as crushed corn cobs, walnuts; or</u> b. <u>Wet abrasive blasting using only water.</u> 5. <u>The free silica content of a representative sample of the blast material shall be less than 5% by weight.</u> 6. <u>There shall be no blasting of lead-based paints.</u> 7. <u>The discharge of particulate matter shall be contained within the immediate area of the abrasive blasting so that particulate does not escape into the environment.</u> 8. <u>The dispersal or deposition of particles shall not cause an objectionable or offensive effect beyond the boundary of the property where the discharge originates.</u> 9. <u>The person discharging contaminants shall inform the Canterbury Regional Council of the location, duration, date, type of abrasive blast material, nature of any chemicals to be used, blasting methods and measures for minimising dust emissions; at least two days prior to the proposed commencement of any activities involving any abrasive blasting.</u> 	

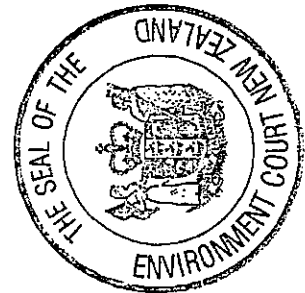


3. Rule AQL53 Small scale spray coating not within a spray booth – permitted activity

Amend Rule AQL53 Small scale spray coating not within a spray booth – permitted activity as follows:

Rule AQL53 Small scale spray coating not within a spray booth – permitted activity

Activity	Conditions	Cross Ref.
<p>On industrial or trade premises or from industrial or trade processes, the discharge of contaminants into air from spray application of paint or adhesive coating materials:</p> <p>(a) using not more than 0.5 litre of coating material per hour and not more than 5 litres of coating material per month; or</p> <p>(b) using not more than 5 litres of coating material per hour and not more than 20 litres of coating material per month, at a location at least 100 metres from any sensitive activity beyond the boundary of the property where the spray coating is undertaken; or</p> <p>(c) on roadways and surfaces of fixed structures that cannot practically be dismantled and transported to a spray booth; is a permitted activity.</p>	<p>1. The coating material shall not contain di-isocyanates or organic plasticisers.</p> <p>2. The discharge shall occur at least 10 metres from any sensitive activity beyond the boundary of the property where spray coating is undertaken.</p> <p>3. The discharge of odour beyond the boundary of the site shall not be noxious, dangerous, offensive or objectionable to such an extent that it has an adverse effect on the environment.</p> <p>4. The dispersal or deposition of particles shall not cause an objectionable or offensive effect beyond the boundary of the property where the discharge originates.</p>	



4. Rule AQL57 Industrial or trade premises and processes not complying with Rules AQL38 to AQL56 or not otherwise identified – discretionary activity

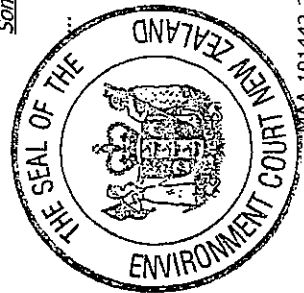
Amend Rule AQL57 Industrial or trade premises and processes not complying with Rules AQL38 to AQL56 or not otherwise identified – discretionary activity as follows:

Rule AQL57 Industrial or trade premises and processes not complying with Rules AQL38 to AQL56 or not otherwise identified – discretionary activity

Activity	Standards / Terms	Discretion	Cross Ref.
<p>The discharge of contaminants into air from:</p> <p>(a) any industrial or trade premises or any industrial or trade process explicitly excluded from Rules AQL38 to AQL56;</p> <p>(b) any industrial or trade premises or industrial or trade process that does not comply in all respects with the conditions specified in Rules AQL38 to AQL56 as applicable for a permitted activity; or</p> <p>(c) any industrial or trade premises that is not otherwise expressly provided for by the rules of the NRRP;</p> <p>is a discretionary activity, provided that nothing in this rule applies to any discharge to air that is a prohibited activity under the NRRP.</p>		Unlimited	

Note: Those discharges to air likely to require resource consent under this rule include, but are not restricted to, discharges to air from the following activities:

Some Abrasive blasting outside



5. 3.5.9.4 Regional rules for discharges of contaminants into air from industrial or trade premises and industrial or trade processes

Amend 3.5.9.4 Regional rules for discharges of contaminants into air from industrial or trade premises and industrial or trade processes as follows:

...

Rule AQL52 Dry or wet abrasive blasting undertaken within an enclosed booth – permitted activity

Abrasive blasting for the purpose of cleaning or preparing surfaces can be either dry (sand or other materials) or wet (addition of water to sand or other materials).

Abrasive blasting within an enclosed booth can cause effects, because of the regular use of the process on the one site. Filters attached to air extraction systems from blasting booths are capable of removing contaminants to the extent that there is no obvious visible discharge and no significant adverse effects on neighbouring properties. Filter failure can result in emissions causing local nuisance and possible health effects, depending on the size of the particles discharged and the contaminants present.

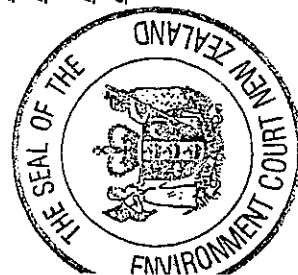
The Occupational Safety and Health Service (OSH) of the Department of Labour has issued a policy prohibiting the use of sand with a free silica content of greater than 5% by weight. The aim of the policy is to eliminate the potential risk to workers of contracting silicosis. Silicosis is a potentially fatal respiratory disease that has been proven to cause death in abrasive blasting operators overseas. OSH has stressed that only long-term exposure to respirable silica causes silicosis and that adverse health effects are unlikely to occur due to short-term exposure, such as temporary exposure to dust caused by abrasive blasting on a neighbouring property.

Abrasive blasting not undertaken within an enclosed booth is not a permitted activity. Control measures necessary to reduce the effects of outdoor abrasive blasting will vary according to the sensitivity of the receiving environment. These activities should be assessed individually via resource consent applications to ensure that adverse effects can be adequately mitigated. Where mobile operators can show that such mitigation measures will be effectively implemented, a resource consent to operate throughout Canterbury may be considered.

Rule AQL52A Temporary dry or wet abrasive blasting outside an enclosed booth of network utility or electricity generation infrastructure – permitted activity

Except as provided for in Rule AQL51, discharges of contaminants into air from outside abrasive blasting will adversely affect the environment unless appropriately controlled. Rule AQL52A recognises that:

- a. *the network utility or electricity generation infrastructure within the Canterbury region largely already exists;*



- b. the maintenance of this infrastructure is essential for the well-being of the national and Canterbury communities; and
- c. outside abrasive blasting is sometimes necessary to maintain fixed structures associated with this infrastructure when these structures cannot be dismantled or moved into an enclosed abrasive blasting booth.

By restricting the permitted discharge into air from outside abrasive blasting of network utility or electricity generation infrastructure, the location, frequency and adverse effects on the environment can reasonably be anticipated. The permitted discharge to air is limited to temporary and mobile blasting (Condition 1) where there is no enclosed booth abrasive blasting alternative (Condition 2). Controlling the amount of dry abrasive blast media (Condition 3), type of abrasive blast media used (Conditions 4 and 5), and avoiding blasting lead-based paints (Condition 6), excludes the discharge of contaminants which may result in significant adverse effects on the environment.

Further, the adverse effects on the environment can be avoided or mitigated by the implementation of measures which restricts the discharge of particulate matter to the immediate area of the abrasive blasting (Condition 7). This means ensuring that contaminants are not discharged in a manner that they cannot be collected and removed from the environment. Such measures may include:

- a. using screens, enclosed platforms, filters, covers, tarpaulins, cladding or other means to act as windbreaks and enclosures to contain dust emissions;
- b. using covers or filters to prevent blast debris from landing on exposed water, ground, vegetation, soil or entering the sea;
- c. using covers or filters over surface drains or waterways in the vicinity of the blasting operation;
- d. carrying out abrasive blasting with regard to wind direction and wind speed, to minimise the discharge of any particulate matter and other contaminants into the air;
- e. at the completion of the blast each day, collecting or covering blast material and debris so that there is no discharge of wind-blown debris into air; and
- f. at the completion of the blasting, collecting and removing blast material and debris.

Condition 8 provides further assurance that an abrasive blasting activity which complies with Conditions in 1 to 7 will not have an objectionable or offensive effect on the environment.

Condition 9 ensures that Environment Canterbury is made aware of an abrasive blasting activity in advance of it occurring. Good abrasive blasting practice is for the person undertaking the abrasive blasting activity to keep records of that activity, including: the location of the activity; the start and end times, and the duration of blasting; and wind speed and wind direction during blasting.

