

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

RAVENSDOWN FERTILIZER CO-
OPERATIVE LIMITED

(ENV-2007-CHC-273)

HORTICULTURE NEW ZEALAND

(ENV-2007-CHC-291)

Topic: ENV-2008-308-011

CANTERBURY MEAT PACKERS
LIMITED

(ENV-2007-CHC-281)

LYTTELTON PORT COMPANY

(ENV-2007-CHC-282)

Topic: ENV-2009-308-029

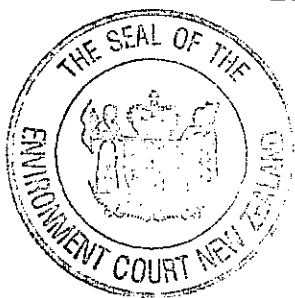
Appellants

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 6 May 2009.
- [2] Horticulture New Zealand, Lyttelton Port Company and Federated Farmers of New Zealand Incorporated are section 274 parties to the part of Ravensdown Fertiliser Co-operative Limited's appeal that relates to the topic of Hazardous Air Pollutants (ENV-2008-308-000011).
- [3] Federated Farmers of New Zealand Incorporated is a section 274 party to the part of Horticulture New Zealand's appeal that relates to the topic of Hazardous Air Pollutants (ENV-2008-308-000011).
- [4] Rangitata Diversion Race Management Limited, Lyttelton Port Company, Federated Farmers of New Zealand Incorporated, Tegel Foods Limited and Horticulture New Zealand are section 274 parties to the part of Canterbury Meat Packer's appeal that relates to the topic of Industrial and Trade General - Policy AQL8 (ENV-2009-308-029).
- [5] Transform Minerals Limited, Canterbury Meat Packers, Rangitata Diversion Race Management Limited and Tegel Foods Limited are section 274 parties to the part of Lyttelton Port Company's appeal that relates to the topic of Industrial and Trade General - Policy AQL8 (ENV-2009-308-029).
- [6] 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

[7] 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 set out in **Appendix One** attached to and forming part of this consent order.

[8] The appeals, in respect of the topics listed in the intitialing on the subjects of Hazardous Air Pollutants and Industrial and Trade General - Policy AQL8, are otherwise dismissed.

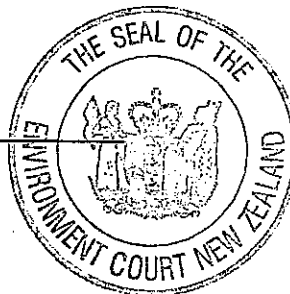
[9] There is no order for costs.

DATED at CHRISTCHURCH

8th May 2009.


J E Borthwick
Environment Judge

Issued: 12 MAY 2009



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

1. Policy AQL8 Control all other discharges to air

Amend Policy AQL8 Control all other discharges to air as follows:

Policy AQL8: Control all other discharges to air

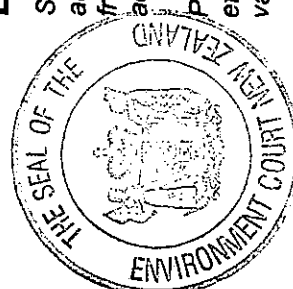
Control discharges of contaminants to air not specifically provided for in Policies AQL1 to AQL7 by:

- (a) allowing as permitted activities discharges of contaminants into air from industrial or trade premises or industrial or trade processes that have no more than minor adverse effects on the environment; and
- (b) avoiding, remedying or mitigating adverse effects of localised ground level concentrations of contaminants, including cumulative effects, on:
 - (i) human health; and
 - (ii) the health and functioning of ecosystems, plants and animals; and
 - (iii) values of significance to Tangata Whenua; and
 - (iv) cultural and amenity values; and
- (c) applying the precautionary approach to the discharge of hazardous air pollutants identified in Schedules AQL1 and AQL2 where this is a potential significant adverse effect on the environment which is not predictable because of uncertainty or absence of information.

Explanation and principal reasons

Section 15(1) of the RMA allows discharges of contaminants into air from industrial or trade premises only when the discharge is expressly authorised by a permitted activity rule, a resource consent or by regulation. Policy AQL8(a) establishes a framework which allows discharges into air from industrial or trade premises and industrial or trade processes, without the need for a discharge permit when the discharge has minor or no adverse effects on the environment.

Policy AQL8(b) identifies that where there are adverse effects from discharges an appropriate response to avoid, remedy or mitigate those adverse effects needs to be formulated. When considering applications for resource consents to discharge contaminants into air, the adverse effects on the values listed in (i) to (iv) are to be avoided, remedied or mitigated.



Schedule AQL1 lists the priority hazardous air pollutants for which national ambient air quality guidelines are proposed. Schedule AQL2 lists other hazardous air pollutants identified by the Ministry for the Environment, which are either known or suspected to cause acute human health effects or other significant adverse effects on the environment. In assessing acceptable levels of hazardous air pollutants in discharges, a precautionary approach will be applied having particular regard to available information, including any guidelines.

Schedule AQL1 lists the hazardous air pollutants for which there are ambient air quality guidelines. Schedule AQL2 lists other identified hazardous air pollutants. The presence of pollutants listed in Schedules AQL1 and AQL2 in a discharge will not necessarily cause an adverse effect on the environment when discharged in particular locations or particular concentrations. Each discharge will be considered in a manner appropriate to the scale and significance of discharge so that localised adverse effects from these pollutants on the environment are avoided, remedied or mitigated.

2. **Policy AQL10** Precautionary approach to hazardous air pollutants

Amend Policy AQL10 Precautionary approach to hazardous air pollutants as follows:

Policy AQL10: Precautionary approach to hazardous air pollutants

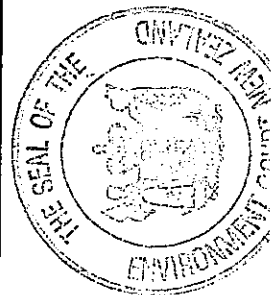
When considering applications for resource consents and in adopting any standards apply the precautionary approach in assessing any adverse effects on the environment from the discharge of hazardous air pollutants, including those identified in Schedules AQL1 and AQL2 where there is uncertainty about the nature or scope of the effects or if they are unknown but could significantly adversely affect the environment, as is the case with some hazardous air pollutants where there is a potential significant adverse effect on the environment which is not predictable because of uncertainty or absence of information.

Explanation and principal reasons

Hazardous air pollutants are gaseous, aerosol or particulate pollutants which are present in air and which are hazardous to human, plant or animal life, and which are listed in Schedules AQL1, and AQL2 and AQL3. Schedule AQL1 lists priority hazardous air pollutants and Schedule AQL2 lists hazardous air pollutants for which no NAAQG or RAAQT have been established.

The Ministry for the Environment recommends that a precautionary approach be adopted for managing hazardous air pollutants, and their release into the environment be avoided. This is an appropriate response in circumstances where there is scientific uncertainty or ignorance about the nature or scope of environmental harm, as in the case with hazardous air pollutants.

Schedule AQL1 lists the hazardous air pollutants for which there are ambient air quality guidelines. Schedule AQL2 lists other identified hazardous air pollutants. The presence of pollutants listed in Schedules AQL1 and AQL2 in a discharge will not necessarily cause an adverse effect on the environment when discharged in particular locations or particular concentrations. Each discharge will be considered in a manner appropriate to the scale and significance of discharge so that ambient air quality effects from these pollutants on the environment are avoided, remedied or mitigated.



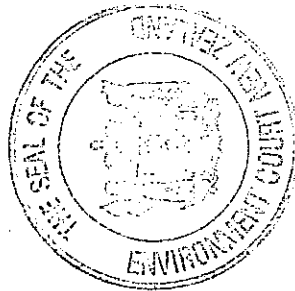
3. **Method AQL10**

Amend **Method AQL10(c)** as follows:

Method AQL10(c) Resource consents

~~Resource consents may be granted for discharges identified as controlled or discretionary activities. In the processing of applications for resource consents regard shall be given to the hazardous air pollutants identified in Schedules AQL1 and AQL2.~~

~~Regional Rules AQL17, AQL18, AQL19, AQL27, AQL34, AQL57 and AQL69 shall affect, under section 130 of the RMA, the exercise of existing resource consents for discharges of contaminants. When these rules become operative, Environment Canterbury may serve notice, under Section 128 of the RMA, on the holders of all such resource consents of its intention to review the conditions of their resource consent, where in Environment Canterbury's opinion, it is appropriate to do so in order to enable the standards and terms set by the rule to be met. The holders of resource consents shall comply with the standards and terms of Regional Rules AQL17, AQL18, AQL19, AQL27, AQL34, AQL57 and AQL69 from the date at which the new conditions on their resource consent commences under section 116 of the RMA.~~

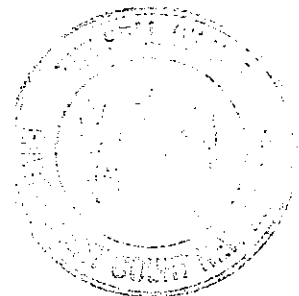


4. Schedule AQL2: Other hazardous air pollutants

Amend Schedule AQL2: Other hazardous air pollutants as follows:

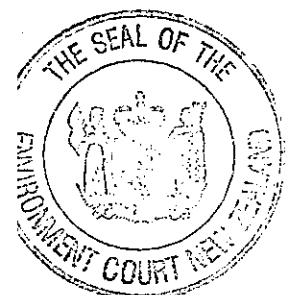
Chemical Abstracts Service Number	Pollutant	Carcinogenic Category
60-35-5	Acetamide	
75-05-8	Acetonitrile	
98-86-2	Acetophenone	D
53-96-3	2-Acetylaminofluorene	
107-02-8	Acrolein	G
79-06-1	Acrylamide	B2
79-10-7	Acrylic acid	
107-13-1	Acrylonitrile	B1
107-05-1	Allyl chloride	
92-67-1	4-Aminobiphenyl	
62-53-3	Aniline	B2
90-04-0	o-Anisidine	
1332-21-4	Asbestos	A
92-87-5	Benzidine	A
98-07-7	Benzotrichloride	B2
100-44-7	Benzyl chloride	B2
92-52-4	Biphenyl	D
117-81-7	Bis(2-ethylhexyl)phthalate (DEHP)	B2
542-88-1	Bis(chloromethyl)ether	A
75-25-2	Bromoform	B2
156-62-7	Calcium cyanamide	
105-60-2	Caprolactam	
133-06-2	Captan	

Chemical Abstracts Service Number	Pollutant	Carcinogenic Category
63-25-2	Carbaryl	
75-15-0	Carbon disulfide	
56-23-5	Carbon tetrachloride	B2
463-58-1	Carbonyl sulfide	
120-80-9	Catechol	
133-90-4	Chloramben	
57-74-9	Chlordane	B2
7782-50-5	Chlorine	
79-11-8	Chloroacetic acid	
532-27-4	2-Chloroacetophenone	
108-90-7	Chlorobenzene	D
510-15-6	Chlorobenzilate	
67-66-3	Chloroform	B2
107-30-2	Chloromethyl methyl ether	A
126-99-8	Chloroprene	
1319-77-3	Cresol/cresylic acid (mixed isomers)	G
95-48-7	o-Cresol	G
108-39-4	m-Cresol	G
106-44-5	p-Cresol	G
98-82-8	Cumene	
	2,4-D (2,4-Dichlorophenoxyacetic acid) (including salts and esters)	
72-55-9	DDE (1,1-dichloro-2,2-bis(p-chlorophenyl))	B2



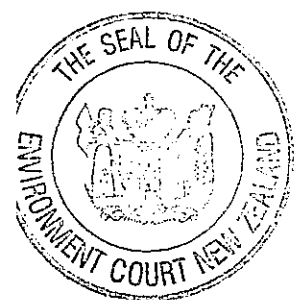
Chemical Abstracts Service Number	Chemical Name	Chemical Category
	ethylene)	
334-88-3	Diazomethane	
132-64-9	Dibenzofuran	D
96-12-8	1,2-Dibromo-3-chloropropane	
84-74-2	Dibutyl phthalate	D
106-46-7	1,4-Dichlorobenzene	
91-94-1	3,3'-Dichlorobenzidine	B2
111-44-4	Dichloroethyl ether (bis[2-chloroethyl]ether	B2
542-75-6	1,3-Dichloropropene	
62-73-7	Dichlorvos	B2
111-42-4	Diethanolamine	
64-67-5	Diethyl sulfate	
119-90-4	3,3'-Dimethoxybenzidine	
60-11-7	4-Dimethylaminoazobenzene	
121-69-7	N,N-Dimethylaniline	
119-93-7	3,3'-Dimethylbenzidine	
79-44-7	Dimethylcarbamoyl chloride	
68-12-2	N,N-Dimethylformamide	
57-14-7	1,1-Dimethylhydrazine	
131-11-3	Dimethyl phthalate	D
77-78-1	Dimethyl sulfate 4,6-Dinitro-o-cresol (including salts)	B2
51-28-5	2,4-Dinitrophenol	
121-14-2	2,4-Dinitrotoluene	B2
123-91-1	1,4-Dioxane (1,4-Diethyleneoxide)	B2
122-66-7	1,2-Diphenylhydrazine	B2
106-89-8	Epichlorohydrin (1-Chloro-2,3-epoxypropane)	B2

Chemical Abstracts Service Number	Chemical Name	Chemical Category
106-88-7	1,2-Epoxybutane	
140-88-5	Ethyl acrylate	
100-41-4	Ethylbenzene	D
51-79-6	Ethyl carbamate (urethane)	
75-00-3	Ethyl chloride (Chloroethane)	
106-93-4	Ethylene dibromide (Dibromoethane)	B2
107-06-2	Ethylene dichloride (1,2-Dichloroethane)	B2
107-21-1	Ethylene glycol	
151-56-4	Ethyleneimine (Aziridine)	
75-21-8	Ethylene oxide	
96-45-7	Ethylene thiourea	
75-34-3	Ethylidene dichloride (1,1-Dichloroethane)	C
76-44-8	Heptachlor	B2
118-74-1	Hexachlorobenzene	B2
87-68-3	Hexachlorobutadiene 1,2,3,4,5,6-Hexachlorocyclohexane (all stereo isomers, including lindane)	C
77-47-4	Hexachlorocyclopentadiene	D
67-72-1	Hexachloroethane	
822-06-0	Hexamethylene diisocyanate	
680-31-9	Hexamethylphosphoramide	
110-54-3	Hexane	
302-01-2	Hydrazine	B2
7647-01-0	Hydrochloric acid (Hydrogen chloride [gas only])	
7664-39-3	Hydrogen fluoride (Hydrofluoric acid)	
123-31-9	Hydroquinone	
78-59-1	Isophorone	C
108-31-6	Maleic anhydride	



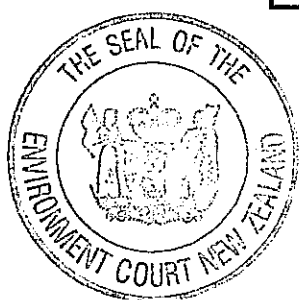
Chemical Abstracts Service Number	Chemical Name	Chemical Category
67-56-1	Methanol	
72-43-5	Methoxychlor	D
74-83-9	Methyl bromide (Bromomethane)	D
74-87-3	Methyl chloride (Chloromethane)	
71-55-6	Methyl chloroform (1,1,1-Trichloroethane)	D
78-93-3	Methyl ethyl ketone (2-Butanone)	D
60-34-4	Methylhydrazine	
74-88-4	Methyl iodide (Iodomethane)	
108-10-1	Methyl isobutyl ketone (Hexone)	
624-83-9	Methyl isocyanate	
80-62-6	Methyl methacrylate	
1634-04-4	Methyl tert-butyl ether	
101-14-4	4,4'-Methylenebis (2-chloroaniline)	
75-09-2	Methylene chloride (Dichloromethane)	
101-68-8	4,4'-Methylenediphenyl di-isocyanate (MDI)	
101-77-9	4,4'-Methylenedianiline	
91-20-3	Naphthalene	D
98-95-3	Nitrobenzene	D
92-93-3	4-Nitrobiphenyl	
100-02-7	4-Nitrophenol	
79-46-9	2-Nitropropane	
684-93-5	N-Nitroso-N-methylurea	
62-75-9	N-Nitrosodimethylamine	B2
59-89-2	N-Nitrosomorpholine	
56-38-2	Parathion	C
82-68-8	Pentachloronitrobenzene (Quintobenzene)	
87-86-5	Pentachlorophenol	B2

Chemical Abstracts Service Number	Chemical Name	Chemical Category
108-95-2	Phenol	D
106-50-3	p-Phenylenediamine	
75-44-5	Phosgene	
7803-51-2	Phosphine	D
7723-14-0	Phosphorus	D
85-44-9	Phthalic anhydride	
1336-36-3	Polychlorinated biphenyls (Aroclors)	B2
1120-71-4	1,3-Propane sultone	
57-57-8	beta-Propiolactone	
123-38-6	Propionaldehyde	
114-26-1	Propoxur (Baygon)	
78-87-5	Propylene dichloride (1,2-Dichloropropane)	
75-56-9	Propylene oxide	B2
75-55-8	1,2-Propylenimine (2-Methylaziridine)	
91-22-5	Quinoline	
106-51-4	Quinone (p-Benzoquinone)	
100-42-5	Styrene	
96-09-3	Styrene oxide	
1746-01-6	2,3,7,8-Tetrachlorodibenzo-p-dioxin	
79-34-5	1,1,2,2-Tetrachloroethane	
127-18-4	Tetrachloroethylene (Perchloroethylene)	
7550-45-0	Titanium tetrachloride	
1008-88-3	Toluene	D
95-80-7	Toluene-2,4-diamine	
584-84-9	2,4-Toluene diisocyanate	
95-53-4	o-Toluidine	
8001-35-2	Toxophene (Chlorinated camphene)	B2



Chemical Abstracts Service Number	Chemical Name	Generic Category
120-82-1	1,2,4-Trichlorobenzene	D
70-00-5	1,1,2-Trichloroethane	C
79-01-6	Trichloroethylene	
95-95-4	2,4,5-Trichlorophenol	
88-06-2	2,4,6-Trichlorophenol	B2
121-44-8	Triethylamine	
1582-09-8	Trifluralin	C
540-84-1	2,2,4-Trimethylpentane	
108-05-4	Vinyl acetate	
593-60-2	Vinyl bromide	
75-01-4	Vinyl chloride	
75-35-4	Vinylidene chloride (1,1-Dichloroethylene)	C
1330-20-7	Xylene (mixed isomers)	D
95-47-6	o-Xylene	
108-38-3	m-Xylene	
106-42-3	p-Xylene	
	Antimony Compounds	

Chemical Abstracts Service Number	Chemical Name	Generic Category
	Arsenic Compounds (inorganic including arsine)	A
	Beryllium Compounds	B2
	Cadmium Compounds	B1
	Chromium Compounds	A
	Cobalt Compounds	
	Coke Oven Compounds	A
	Cyanide Compounds ¹	
	Glycol ethers ²	
	Lead Compounds	B2
	Manganese Compounds	D
	Mercury Compounds	D
	Fine mineral fibres ³	
	Nickel Compounds	A
	Polycyclic Organic Matter ⁴	
	Radionuclides (including radon) ⁵	A
	Selenium Compounds	B2



(Source: after Ministry for the Environment, 1994, "Ambient Air Quality Guidelines", pages 43-47)

General Note:

The Chemical Abstracts Service Number provides a unique identifier for each chemical and is a source of additional information on the substance. It does not specify emission recommendations. The classification system used by the United States Environmental Protection Agency in terms of confirmed or suspected carcinogens is as follows:

Carcinogenic Category	Explanation
A	Human carcinogen. Sufficient evidence to support causal association between contaminant and cancer.
B	Probably human carcinogen.
B1	Limited evidence for carcinogenicity in humans.
B2	Sufficient evidence in animals but lacking adequate data on humans.
C	Possible human carcinogen. Limited evidence of carcinogenicity in animals and an absence of data on humans.
D	Not classified. Evidence for carcinogenicity in animals is inadequate.

