

**NOTICE OF SUBMISSION
TO WEST COAST REGIONAL COUNCIL ON PROPOSED LAND AND WATER PLAN
UNDER CLAUSE 6 OF THE FIRST SCHEDULE OF
THE RESOURCE MANAGEMENT ACT 1991**

To: The Chief Executive
West Coast Regional Council
PO Box 66
GREYMOUTH

Name:	Greenstone Energy Ltd PO Box 2091 WELLINGTON	BP Oil NZ Ltd PO Box 892 WELLINGTON
	Mobil NZ Ltd PO Box 2497 WELLINGTON	Chevron NZ PO Box 2297 WELLINGTON

("The Companies")

Introduction

The Companies receive, store and distribute refined petroleum products.

The Companies have commercial, shore based and aviation storage facilities and are also owners of retail outlets and suppliers of petroleum products to individually owned retail outlets.

The submissions are focused on those issues the Companies perceive may unduly restrict or limit their existing and future operations.

1. The Companies' submission is that:

The Companies support the main thrust and intent of the Proposed Land and Water Plan, however some further clarification, explanation or amendment is considered necessary to its provisions.

The specific concerns of the Companies, relating to the Proposed Land and Water Plan, are detailed in the attached schedules. The two schedules set out the reason for the submission and the decision sought in respect of each matter.

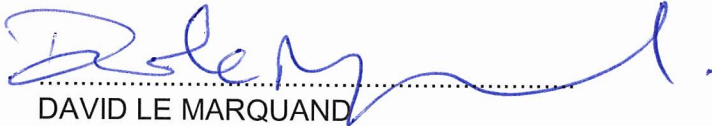
2. The Companies seek the following decision:

- A. The specific amendments sought in the attached schedules, and any additions, deletions or consequential amendments made necessary as a result of the matters raised in these submissions.
- B. Any other such relief as to give effect to the submissions.

3. The Companies wish to be heard in support of this submission.
4. If others make a similar submission, the Companies would be prepared to consider presenting a joint case with them at any hearing.

Dated at TAKAPUNA this 15th day of October 2010

Signature on behalf of Greenstone Energy Ltd,
BP Oil NZ Ltd, Mobil Oil NZ Ltd and Chevron NZ.


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SCHEDULE ONE

HAZARDOUS SUBSTANCES AND CONTAMINATED LAND

1. The specific provisions of the Plan to which this schedule relates are:

Hazardous Substances - Chapter 15
Contaminated Land Provisions - Chapter 16 and Policy 8.3.10
Surface Water Quality – Chapter 8.0

2. The submission is that:

1.0 Chapter 15 Hazardous Substances

1.1 The relevant objective and policy in Chapter 15 are as follows:

Objective 15.2.1: To ensure that the adverse effects from the discharge of hazardous substances into or onto land, on water and soil quality, social, cultural, and amenity values, indigenous flora and fauna, and human health are avoided, remedied, or mitigated.

Policy 15.3.1: To avoid inappropriate disposal or discharge of hazardous substances to land.

1.2 The Companies support the provisions in Chapter 15 and wish to see the objective and policy retained without further modification.

1.3 The Companies store and dispense fuels through service stations and other commercial facilities. The key potential issues that could arise from their activities relate to:

- storage containers (i.e. underground tanks and pipework) and the potential risk of contamination from leaks;
- the discharge of stormwater from these facilities and the potential for hazardous substances to be entrained into stormwater discharges from areas where the substances are stored, used and handled. While some service stations will discharge into existing Council infrastructure there are a number, due to their location, that will be unable to do so, and where discharges may be to land or surface water.

1.4 The issues around underground storage containers have been set out in the OSH/Department of Labour Code of Practice for the Design, Installation and Operation of Underground Petroleum Storage Systems and are now well managed via the compliance requirements under HSNO. It should not be necessary to duplicate those requirements. Furthermore, the MfE Guideline *Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand (1998)* sets out an industry best practice regime for managing water discharges from petroleum sites. The key focus of the guideline is on “at-risk” areas for treatment. The Companies consider it would be reasonable to introduce a further policy in Chapter 15 that recognises, where appropriate, relevant industry codes and/or guidelines that represent best practice in the management of hazardous substances and associated discharges.

2.0 Chapter 16 - Sites Associated with Hazardous Substances and Contaminated Land and Policy 8.3.10

2.1 The relevant objectives and policies in Chapter 16 are as follows:

Objective 16.2.1

To avoid, remedy, or mitigate risks to the environment presented by discharges from contaminated land, including risks to human health, social, cultural, and amenity values, and soil and water quality.

Policy 16.3.1

To locate and maintain information on sites fitting the HAIL criteria in the West Coast region.

Policy 16.3.2.

To contain and remediate, or require containment and remediation of, contaminated land that is causing adverse effects on the environment

2.2 The introduction to Chapter 16 briefly sets out the Council's approach to contaminated land as outlined in the Management Strategy for Site Associated with Hazardous Substances and Contaminated Land (2009). The Companies are supportive of the Council's approach.

2.3 Objective 16.2.1 addresses risks relating to land contamination. The policies then seek to maintain information on sites via HAIL and to contain and remediate land where there are adverse effects. There is no definition of "contaminated land" in the Plan. There is a definition of "Contaminated Site" as follows:

Contaminated site is a site at which hazardous substances occur at concentrations above background levels and where assessment indicates it poses or is likely to pose an immediate or long term hazard to human health or the environment. Background levels refer to ambient levels of a contaminant in the local area of the site under consideration.

2.4 The above Plan definition is based on the ANZECC definition and is now dated. The Council Strategy document refers to the RMA 2005 definition, however this has been superseded (RMA reform October 2009) to read as follows:

- **contaminated land** means land that has a hazardous substance in or on it that—
 - (a) has significant adverse effects on the environment; or
 - (b) is reasonably likely to have significant adverse effects on the environment

2.5 The Plan should be updated to include reference to the most recent RMA definition to avoid potential interpretative issues. The RMA definition also refers to contaminated "land" as opposed to "site". Sites vary in size. It is important to recognise that an area of contamination may only occur on a very small part of a site (e.g. sheep dip on a farm) and provisions should not result in the blighting of whole site in such circumstances. The RMA definition deliberately focused on the area of contamination.

- 2.6 Overall the framework is complementary to and consistent with the approach taken via the various MFE Guidelines - which are supported by the Companies. The Guideline approach includes three broad key elements:
- Contaminated Land is identified and tracked (e.g. through a register, PIM and LIM)
 - Contaminated Land is investigated and extent and nature of contaminants known (e.g. provision of investigation information)
 - Land is and remains “fit for purpose” through an appropriate level of remediation or management (e.g. site management plan, contaminant classification on a register).
- 2.7 The Companies are therefore supportive of Objective 16.2.1 and Policy 16.3.1.
- 2.8 The Companies retain a concern, however, over Policy 16.3.2. The policy sets a “*contain and remediate*” approach when there are “adverse effects”. As identified above the definition of Contaminated Land in the RMA is linked to “significant” adverse effects, and the Companies consider that the threshold policy test should be the same. Furthermore the policy appears to overlook an array of management responses, focusing as it does solely on containment and remediation.
- 2.9 Management of contaminated land can involve a wide range of engineering and other controls and procedures. In many ways remediation is only a subset of all the available management responses for dealing with the issue. Remediation is but one means of achieving “fit for purpose” land.
- 2.10 Not all land needs to be remediated; it could be managed in a variety of alternate ways. For example there are a range of management solutions that may be environmentally and economically more beneficial than remediation, such as capping an area of contamination, ensuring appropriate ventilation within a basement carpark etc. This is one of the reasons why site management plans are developed; so appropriate responses can be put into place for ongoing pathway management. The policy as presently drafted appears to limit or constrain these options.

3.0 Chapter 8 - Surface Water Quality

- 3.1 The Companies support Policies 8.3.4 and 8.3.5, which state:

8.3.4 When considering applications for new resource consents for existing discharges of contaminants to water, to have regard to opportunities to enhance the existing water quality of the receiving water body at any location for which the existing water quality can be considered degraded in terms of its capacity to support its natural and human use values.

8.3.5 When considering applications for resource consents to discharge contaminants to water to have regard to:

- (a) The nature of the discharge and the sensitivity of the receiving environment to adverse effects;*
- (b) The financial implications, and the effects on the environment of the proposed method of discharge when compared with other options;*

(c) The current environmental mitigation technology and the likelihood that the proposed method can be successfully applied; and
(d) The cumulative effects of discharges of contaminants and the assimilative capacity of the water body and actual or potential effects in the coastal marine area.

- 3.2 It is important that the various factors outlined in Policy 8.3.5 are considered together when assessing resource consents. It is also appropriate that some cognisance be given to any relevant industry codes of practice or guidelines.
- 3.3 Policy 8.3.10 states:
8.3.10 To avoid the damming or diversion of water over contaminated land where it would result in contamination of water or, where avoidance is not practicable, to require the removal or treatment of the contaminated land.
- 3.4 Policy 8.3.10 is potentially confusing. While on the face of it the policy appears to focus on dam construction and the potential liberation of contaminants from inundated land, it includes diversion of water over contaminated land. Such diversion can include ordinary stormwater runoff. While this may not be the intent, it could well be the interpretation. Consequently the policy requires, where avoidance of damming or diversion is not practicable (e.g. when it rains), that the land needs to be treated and/or removed. There may be some situations where there is some contaminated land that is leaching to groundwater and the best way to manage the in-situ contamination is to prevent further flushing from stormwater by placing an impervious cap over the contaminated area, rather than removing the contaminants (e.g. via excavation). The policy, in its present form, could be interpreted to require the treatment or removal of any contaminated land where stormwater is diverted rather than its management to prevent any increase in the entrainment of contaminants. The policy should be more appropriately worded to ensure options for addressing the matter are not unduly limited.

4. The Companies seek the following decisions:

- A. Retain Objective 15.2.1 and Policy 15.3.1 without further amendment but introduce an additional Policy that recognises appropriate industry guidelines and codes. This could be drafted along the following lines:

15.3.2 To recognise, where appropriate, relevant industry codes of practice or guidelines relating to the management of hazardous substances and potential associated discharges.

- B. Retain 16.1 Introduction and Objective 16.2.1 and Policy 16.3.1 without further modification.
- C. Delete the definition of “Contaminated Site” from the Plan and replace it with the RMA definition of “Contaminated Land” as follows:

contaminated land means land that has a hazardous substance in or on it that—
(a) has significant adverse effects on the environment; or
(b) is reasonably likely to have significant adverse effects on the environment

- D. Amend Policy 16.3.2 as follows:
To contain and remediate, or appropriately manage require ~~containment and remediation of~~, contaminated land that is causing significant adverse effects on the environment
- E. Retain Policies 8.3.4 and 8.3.5 without further modification except add an additional matter to 8.3.5 as follows:
- e). Any relevant industry codes of practice or guidelines relating to the management of potential discharges.
- F. Amend Policy 8.3.10 to read as follows:
To avoid the damming and subsequent inundation or diversion of water over contaminated land where it would result in an increased risk of contamination of water or, where avoidance is not practicable, to either require the removal or treatment of the contaminated land or appropriate pathway management.

SCHEDULE TWO

DISCHARGES TO LAND AND WATER

1. The specific provisions of the Plan to which this schedule relates are:

Rules 60, 63, 64, 79 and 86

2. The submission is that:

1.1 As identified in Schedule 1 the Companies store and distribute fuels. The “at-risk” areas within a service station are most commonly around the fill points (from servicing tankers) and underneath the canopy where refuelling from the pumps takes place. For truckstop facilities, refuelling from the pumps does not occur underneath a forecourt canopy. The MfE Guideline requires stormwater runoff from these refuelling areas to be captured and directed through an interceptor. Stormwater discharges from a service station may, depending upon location, discharge directly to Council infrastructure, surface water through a service stations own reticulated system or as a discharge to land. The Companies have been undertaking a prioritised nationwide service station upgrades to get their service stations compliant with MfE Guidelines.

1.2 The Companies support Rule 60, which permits discharges from reticulated systems from an industrial and trade premise where there is an interceptor in place. The Companies are, however, concerned that condition (b) could be interpreted as a zero threshold tolerance for hazardous substances. Condition (b) states that:

(b) The discharge does not originate from industrial or trade premises where hazardous substances are stored or used unless:

(i) Hazardous substances cannot enter the stormwater system; or

(ii) There is an interceptor in place to collect all stormwater that contains hazardous substances and these hazardous substances must be contained on-site until removed to an approved disposal facility for the type of hazardous substance concerned;

1.3 For example, an interceptor system for oil will usually have a design standard (MfE Guideline is 15ppm). It is unrealistic to expect an oil interceptor will be able to achieve a zero hydrocarbon detection in the discharge. It would therefore be appropriate to make some provision for “trace concentrations” of contaminants in order to remain permitted and retain the “incentive” to have such systems in place. This would also complement the provisions in Rule 64, which recognises and provides for such “trace concentrations” as a permitted activity.

1.4 The Companies support the intent of Rule 79, which relates to the discharge of runoff into or onto land. There are some service stations where runoff may be directed to ground soakage. The Companies consider it would similarly be appropriate to refer to “trace concentrations” in this rule as there will inevitably be some level of contaminant (although it should not result in adverse effects) in stormwater as a result of contact with impervious surfaces. However it may be more appropriate to amend condition b) so there is a clearer cascade to

rule 86 (e.g. by referring to an area where hazardous substances are used or stored) or include a similar worded condition to that in Rule 60 (b). In any event Rule 86 needs to be amended as standard and term (ii) implies that all runoff from a site containing hazardous substances has to be collected and discharged via a treatment device. Clearly the focus on treatment should only relate to "at-risk" areas of a site (i.e. where the hazardous substances are stored and used and handled). This is the basis upon which the MfE Guideline addresses discharges from petroleum sites. It is neither appropriate nor practicable to either collect and dilute contaminants from whole site runoff or construct treatment devices that can treat the potentially large volumes of water from a whole of site.

- 1.5 The Companies support Rule 63, which provides for incidental discharges relating to maintenance activities.

3. The Companies seek the following decisions:

- A. Retain Rule 60 without further modification except amend condition (b) along the following lines (additional text underlined, deleted text in strikethrough):

The discharge does not originate from areas within industrial or trade premises where hazardous substances are stored or used unless:

- (i) Hazardous substances cannot enter the stormwater system; or
(ii) There is an interceptor in place to collect all stormwater that contains hazardous substances and beyond trace concentrations these hazardous substances must be contained on-site until removed to an approved disposal facility for the type of hazardous substance concerned;*

- B. Retain without further modification Rules 63 and 64.

- C. Retain Rule 79 without further modification except amend condition (b) along the following lines (additional text underlined, deleted text in strikethrough):

b) The discharge does not contain any ~~hazardous substances or wastes~~;
and:

(bi) The discharge is not from an area where hazardous substances are used or stored; or if the discharge does originate from an area where hazardous substances are stored or used:

- (i) Hazardous substances cannot enter the stormwater system; or
(ii) There is an interceptor in place to collect all stormwater that contains hazardous substances and beyond trace concentrations these hazardous substances must be contained on-site until removed to an approved disposal facility for the type of hazardous substance concerned;*

- D. Retain Rule 86 without further modification except amend standard and term (ii) as follows (additional text underlined, deleted text in strikethrough):

stormwater runoff from an area the facility or site containing where hazardous substances are stored or used shall not be discharged unless: ~~is collected and discharged via a containment and treatment device or system.~~

- (i) Hazardous substances cannot enter the stormwater system; or
(ii) There is an interceptor in place to collect all stormwater that contains hazardous substances and beyond trace concentrations these hazardous*

substances must be contained on-site until removed to an approved disposal facility for the type of hazardous substance concerned;