BEFORE THE ENVIRONMENT COURT
AT WELLINGTON

I MUA I TE KŌTI TAIAO O AOTEAROA
KI TE WHANGANUI-A-TARA

IN THE MATTER	of appeals under cl 14 of Schedule 1 to Resource Management Act 1991
BETWEEN	TRANSPOWER NEW ZEALAND LIMITED
	(ENV-2019-WLG-000108)
	Z ENERGY LIMITED, BP OIL NEW ZEALAND LIMITED, MOBIL OIL NEW ZEALAND LIMITED
	(ENV-2019-WLG-000128)
	POWERCO LIMITED
	(ENV-2019-WLG-000129)
	NEW ZEALAND TRANSPORT AGENCY
	(ENV-2019-WLG-000131)
	Appellants
AND	WELLINGTON REGIONAL COUNCIL
	Respondent

Court:	Environment Judge B P Dwyer sitting alone pursuant to s 279 of the Act
Date of Order:	26 May 2021
Date of Issue:	26 May 2021

CONSENT ORDER

A: Under s 279(1)(b) of the Act, the Environment Court orders, by consent, that the changes set out in **Appendix A** be made to the Proposed Plan.

B: The parts of the appeals relating to Topic 22 (P125, P126 and Rules R140, R140B and R146A) are otherwise dismissed.

C: Under s 285 of the Act, there is no order as to costs.

REASONS

Introduction

[1] The Court has read the notices of appeal and the memorandum of the parties received 8 April 2021, the memoranda of Council dated 7 May 2021 and 14 May 2021, and the affidavit of Dr Michael Greer affirmed 13 May 2021.

Other relevant matters

[2] The following persons gave notice of an intention to become parties to the appeal under s 274 of the Act, and have signed the consent memorandum setting out the relief sought:

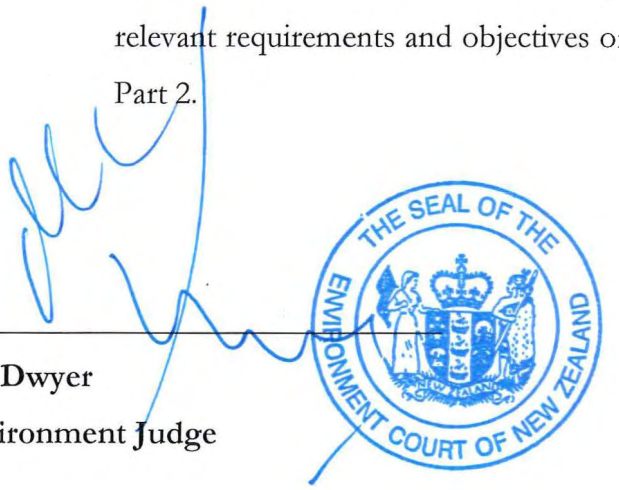
- Wellington Water Ltd;
- The Royal Forest and Bird Protection Society of New Zealand Inc;
- First Gas Ltd; and
- Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa Inc Society.

Orders

[3] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 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 the relevant requirements and objectives of the Act including, in particular, Part 2.



B P Dwyer
Environment Judge

Appendix A

KEY:

Red track - changes made by this consent order

Green track - changes in the Decisions Version of the PNRP, with clause 16 changes

Chapter 4 Policies

Policy P126: Site dewatering

Localised land subsidence resulting from **dewatering** that affects structures shall be avoided ~~or~~ and any more than minor adverse effects ~~from~~ of **dewatering** ~~that are more than minor~~ on ~~existing groundwater users or the flows, levels or quality of surface water shall be minimised~~ the following shall be avoided, remedied or mitigated:

(a) the ecosystem functioning of connected water bodies, and

(b) the reliability of supply for existing surface and ground water users, and

(c) the quality of surface or groundwater, and

(d) the contamination of land and water.

Chapter 5.6 Rules Water Allocation

Rule R140: Dewatering – permitted activity

The take of groundwater and the associated diversion and discharge of that water for the purpose of **dewatering** a site (including the use of land associated with well pointing)~~, including but not limited to, maintenance, excavation, construction or geotechnical testing~~, is a permitted activity, provided the following conditions are met:

(a) the take continues only for the time required to carry out the work but does not exceed one month, and

(b) the discharge point is not located within 20m of a **bore** used for water abstraction for potable supply or stock water;

(c)~~(b)~~ the take and diversion and discharge is not from, onto or into: ~~**contaminated land** or potentially contaminated land~~

THE SEAL OF THE ENVIRONMENT COURT OF NEW ZEALAND

(i) SLUR Category III land, or

(ii) within a **community drinking water supply protection area** shown on Maps 27a, 27b or 27c, or

(iii) land where an activity or industry described in the Ministry for the Environment *Hazardous Activities and Industries List 2011* is, or has been undertaken, and

(d) ~~(c)~~the take does not cause ground subsidence, and

(e) ~~(d)~~the take does not deplete water in a **surface water body**, and

(f) ~~(e)~~there is no flooding beyond the boundary of the **property**, and

(g) ~~(f)~~ where a discharge is to water, or ~~onto or into~~ to land where it may enter **a surface water body** ~~water: meets the conditions of Rule R42.~~

(i) at the point of discharge the quality of the discharge shall not exceed:

1. $50g/m^3$ of total suspended solids where the discharge is to a site or habitat identified in Schedule A (outstanding water bodies), Schedule C (mana whenua), Schedule F1 (rivers/lakes), Schedule F3 (significant wetlands),Schedule F4 (coastal sites) or Schedule H1 (contact recreation); or
2. $100g/m^3$ of total suspended solids where the discharge is to any site or habitat not referred to in condition (i); or
3. the maximum acceptable value (MAV) for any determinand in the Drinking-Water Standards New Zealand 2005 (Revised 2008) in a **community drinking water supply protection area** shown on Map 26, and

(ii) after the zone of reasonable mixing, the discharge shall not cause:

1. a value in Schedule W for the protection of 99% of species to be exceeded in a river identified in Schedule F1(rivers/lakes) having high macroinvertebrate community health; or
2. a value in Schedule W for the protection of 95% of species to be exceeded in any other river or lake; and

(h) where a discharge is onto or into land where it may enter groundwater within a **community drinking water supply protection area** shown on Maps 27a, 27b or 27c, the quality of the discharge at the discharge point shall not exceed the maximum acceptable value (MAV) for any

determinand in the Drinking-Water Standards New Zealand 2005 (Revised 2008), and

(i) ~~(g)~~ where the **dewatering** is located within a **community drinking water supply protection area** shown on Map 27a, Map 27b or Map 27c, or the Hutt Valley ~~aquifer system~~ Aquifer Protection Zone shown on Map 30a~~A~~, any construction or removal of building foundations or earth retention structures or excavation (permanent or temporary) associated with the dewatering does not exceed a depth of 5m below the natural ground level.

~~Note~~

~~Discharges to water, or onto or into land where it may enter water related to **dewatering** are provided for by Rule R42.~~

Rule R140B: Dewatering – restricted discretionary activity

The take of groundwater and the associated diversion and discharge of that water (including the use of land associated with well pointing) for the purpose of **dewatering** a site that is not permitted by Rule R140 is a restricted discretionary activity, provided the following condition is met:

(a) where the dewatering is located within a **community drinking water supply protection area** shown on Map 27a, Map 27b or Map 27c, or the Hutt Valley ~~aquifer system~~ Aquifer Protection Zone shown on Map 30a~~A~~, any construction or removal of building foundations or earth retention structures or excavation (permanent or temporary) associated with the dewatering does not exceed a depth of 5m below the natural ground level.

Matters for discretion

1. Duration, location, volume and rate of take, diversion or discharge
2. Quality of the discharge
3. Effects of land subsidence
4. Interference effects on lawfully existing water takes
5. Effects on **surface water bodies**
6. Effects of contamination on land, soil and water
7. Measuring, monitoring and reporting

Note:

Dewatering activity that does not comply with Rule R140B is managed under Rule R146A

Schedule W: Toxicant standards for rivers and lakes

Table W1: Water quality standards

Chemical	Level of protection (% species)		
	99%	95%	95%
	Applicable to		
	Significant rivers	All other freshwater	~~Marine water~~ Coastal water
	Numerical standards		
	(µg/l)	(µg/l)	(µg/l)
Metals and metalloids			
Aluminium	27	55	
Arsenic (As III)	1	24	
Arsenic (AsV)	0.8	13	
Boron	90	370	
Cadmium[1]	0.06	0.2	0.7
Chromium (CrIII)	N/A	N/A	27.4
Chromium (CrVI)	0.01	1.0	4.4
Cobalt	N/A	N/A	1
Copper	1.0	1.4	1.3
Lead[1]	1.0	3.4	4.4
Manganese	1200	1900	N/A
Mercury (Inorganic)	0.06	0.06	0.1
Nickel[1]	8	11	7
Selenium (Total)	5	11	
Silver	0.02	0.05	1.4
Tributyltin (as µg/L Sn)			0.0004
Vanadium			100
Zinc[1]	2.4	8.0	7
Non-metallic inorganics			

Chemical	Level of protection (% species)		
	99%	95%	95%
	Applicable to		
	Significant rivers	All other freshwater	~~Marine water~~ Coastal water
	Numerical standards		
	(µg/l)	(µg/l)	(µg/l)
Nitrate-nitrogen	1500		
Ammoniacal-nitrogen	320		910
Chlorine (Total Cl)	0.4	3	
Cyanide (Unionised, as CN)	4	7	4
Hydrogen sulphide (Un-ionised as S)	0.5	1.0	
Aromatic hydrocarbons			
Benzene	600	950	500
o-xylene	200	350	
p-xylene	140	200	
Chloroethanes			
1,1,2-trichloroethane	5400	6500	1900
Hexachloroethane	290	290	
Anilines			
Aniline	8	8	
2,4-dichloroaniline	0.6	7	
3,4-dichloroaniline	1.3	3	150
Polycyclic aromatic hydrocarbons			
Naphthalene	2.5	16	50
Nitrobenzenes			
Nitrobenzene	230	550	
Nitrotoluenes			
2,4-dinitrotoluene	16	16	
2,4,6-trinitrotoluene	100	140	
Chlorobenzenes			

Chemical	Level of protection (% species)		
	99%	95%	95%
	Applicable to		
	Significant rivers	All other freshwater	~~Marine water~~ Coastal water
	Numerical standards		
	(µg/l)	(µg/l)	(µg/l)
1,2-dichlorobenzene	120	160	
1,3-dichlorobenzene	160	260	
1,4-dichlorobenzene	40	60	
1,2,3-trichlorobenzene	3	3	
1,2,4-trichlorobenzene	85	85	80
Phenols			
Phenol	85	320	400
2-chlorophenol	340	340	
4-chlorophenol	160	220	
2,4-dichlorophenol	120	120	
2,4,6-trichlorophenol	3	3	
2,3,4,6- tetrachlorophenol	10	10	
2,4-dinitrophenol	13	45	
Phthalates			
Dimethylphthalate	3000	3700	
Diethylphthalate	900	1000	
Dibutylphthalate	10	10	
Miscellaneous industrial chemicals			
Poly(acrylonitrile-co-butadiene-co-styrene)	200	530	250
Organophosphorus pesticides			
Azinphos methyl	0.01	0.02	
Diazinon	0. 00003	0.01	
Dimethoate	0.1	0.15	
Fenitrothion	0.1	0.2	

Chemical	Level of protection (% species)		
	99%	95%	95%
	Applicable to		
	Significant rivers	All other freshwater	~~Marine water~~ Coastal water
	Numerical standards		
	(µg/l)	(µg/l)	(µg/l)
Malathion	0.002	0.05	
Carbofuran	0.06	0.06	
Methomyl	0.5	3.5	
Temephos			0.05
Herbicides and fungicides			
Diquat	0.01	1.4	
2,4-D	140	280	
Molinate	0.1	3.4	
Thiobencarb	1	2.8	
Thiram	0.01	0.01	
Atrazine	0.7	13	
Simazine	0.2	3.2	
Tebuthiuron	0.02	2.2	
Glyphosate	370	370	
Trifluralin2.6	2.6	2.6	
Surfactants			
Linear alkylbenzene sulfonates (LAS)	65	280	
Alcohol ethoxyolated sulfate (AES)	340	650	
Alcoholethoxylated surfactants (AE)	50	140	
[1]Chemicals for which algorithms have been provided in Table W2 to account for the effects of hardness in freshwaters. The values have been calculated using a hardness of 30 mg/L CaCO3. These should be adjusted to the site-specific hardness [2] See Table W3 for adjusting ammonia standards to different pHs			

Table W2: General form of the hardness-dependent algorithms describing guideline values for selected metals in freshwaters

Metal	Hardness-dependent algorithm
Cadmium HMTV	$TV\ (H/30)^{0.89}$
Lead HMTV	$TV(H/30)^{1.27}$
Nickel HMTV	$TV(H/30)^{0.85}$
Zinc HMTV	$TV(H/30)^{0.85}$

Table W3: Adjustment factor for assessing compliance with ammonia standards at different pH

pH	Multiply standard by:
6	2.86
6.1	2.84
6.2	2.82
6.3	2.80
6.4	2.77
6.5	2.73
6.6	2.70
6.7	2.64
6.8	2.59
6.9	2.51
7	2.42
7.1	2.32
7.2	2.21
7.3	2.09
7.4	1.94
7.5	1.79
7.6	1.63
7.7	1.47
7.8	1.31
7.9	1.14
8	1.00
8.1	0.87

pH	Multiply standard by:
8.2	0.73
8.3	0.62
8.4	0.53
8.5	0.44
8.6	0.38
8.7	0.32
8.8	0.27
8.9	0.23
9	0.20

Compliance with in-river guideline values can be determined using the following steps:

1. Identify the likely contaminants in the discharge and their potential maximum concentration;
2. Quantify the maximum rate of discharge;
3. Quantify low flow conditions in the receiving environment. This can be done through NIWA's NZ River Maps[2] tool which provides estimates of Mean Annual Low Flow for each river and stream reach in NZ;
4. Calculate the maximum potential concentration increase in the receiving environment after mixing through simple mass-balance principles.

$$\Delta Conc_{D/S} = \frac{Conc_{Discharge} \times Discharge\ rate}{River\ flow + Discharge\ rate}$$

[2] https://shiny.niwa.co.nz/nzrivermaps/