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23 March 2022

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For the attention of: Catherine Schache (General Counsel)  
Carl Diamond (Manager Biosecurity)

By email to: [Catherine.schache@ecan.govt.nz](mailto:Catherine.schache@ecan.govt.nz)

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Dear Catherine

**Response to your letters of 2 February 2022 and 16 March 2022 and outcome of the request to review the decision to issue Environment Canterbury with an advice letter**

On 2 February 2022 you wrote to the EPA requesting a review of the decision to issue advice to Environment Canterbury on 21 January 2022 following investigation of concerns raised by a member of the public.

On 10 March 2022 the EPA wrote to you seeking further information to assist in the review of the information and subsequently the decision to issue the advice. The EPA confirmed in the letter of 10 March 2022 it had erred in the assessment of compliance resulting in the issue of advice. The EPA misinterpreted the information available concluding the AGRPO Green Glyphosate 510 had been applied onto or into water. However, on review of the information it was identified the EPA did not have a clear understanding of how AGRPO Green Glyphosate 510 is used by or on behalf of Environment Canterbury to assess compliance with the Hazardous Substance and New Organisms Act 1996 (HSNO Act).

The letter dated 10 March 2022 advised Environment Canterbury the EPA accepts that there is insufficient evidence to conclude that AGRPO Green Glyphosate 510 was applied onto or into water. The purpose of the letter was to seek, voluntarily, any further information you may hold on the use of AGRPO Green Glyphosate 510 to ensure the review of the advice by the decision maker contained all available and relevant information when undertaking an assessment of compliance against the HSNO Act.

I understand from your letter dated 16 March 2022 you have interpreted the letter of 10 March 2022 to be the outcome of a review of the decision to issue the advice. The review of the decision had not been undertaken at the time this letter was issued and I accept this could have been clearer. Your letter dated 16 March 2022 indicates you do not have any other information on this matter. As a result a review of the decision to issue the advice has been undertaken.

### **Outcome of the review of the decision**

The decision to issue advice to Environment Canterbury following an investigation into the use of AGRPO Green Glyphosate 510 was reviewed on 23 March 2022. The documents provided by Environment Canterbury during the investigation included the following:

1. Spray handbook, pg 3, "Fairway Spraying: Spraying is carried out to control the growth of woody and herbaceous weeds... in the 'active' part of the river channel, the "fairway", which carries fast flowing water during floods" (email received 26 August 2021).
2. Spray tracks map example from a "comparable spray operation" provided (email received 26 August 2021).
3. Resource consent conditions 19 and 21 relate to testing of water where glyphosate has been discharged (email received 26 August 2021).

The EPA incorrectly interpreted this information to indicate AGRPO Green Glyphosate 510 was sprayed into and onto water.

The letter issued to Environment Canterbury is cancelled and the EPA systems updated to that effect. A copy of the cancelled advice letter is attached for your records.

The EPA initially erred in the interpretation of the information provided and this was not identified through the quality assurance process. The EPA is reviewing the process that occurred during this investigation to identify any learnings.

In your letter dated 24 August 2021 you conclude "*ECan is comfortable that it has acted at all times in a legal and appropriate manner, in line with its resource consent and the EPA Approval.*" This reflects the expectations of the EPA.

The EPA does not have sufficient information to assess compliance with the HSNO Act in relation to the use of AGRPO Green Glyphosate 510 by Environment Canterbury.

The individual approval HSR100400 that applied in 2017/2018 was reissued on 30 April 2021 with the requirement to comply with Hazardous Substances (Hazardous Property Controls) Notice 2017 (HPC) Clause 52 which contains the same requirement for AGRPO Green Glyphosate 510 '*A person must not apply an agrichemical that is in the hazard class hazardous to the aquatic environment directly into or onto water*'. Please ensure Environment Canterbury takes all necessary steps to comply with the HPC.

Thank you for engaging with us throughout this process.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Louise", with a stylized flourish at the end.

Louise Curtis  
Team Leader Compliance & Monitoring Team 1  
Compliance, Monitoring and Enforcement