

Prosecution Bulletin no. 1/2014

Summary

- An Australia-based resource company with major interest in mineral explorations in Western Queensland has been fined \$90,000, and ordered to pay legal and investigative costs of \$24,100, for allowing disposal of process water to an unauthorised disposal facility.
- The sentence was delivered in the Brisbane Magistrates Court on 29 July 2013 by Deputy Chief Magistrate Rinaudo.
- The defendant was convicted of three offences against section 430(3) of the *Environmental Protection Act 1994* (the Act) and three offences against s480 of the Act.

Facts

The company has an environmental authority (EA) allowing it to conduct exploratory activities associated with underground coal gasification (UCG) west of Dalby.

The UCG process being trialled at this site involves injecting air into a coal seam to cause a reaction that produces gas. Due to high temperatures, oil and tar in the coal produces chemicals which leak into surrounding groundwater. This water is pushed to the surface by gas and is known as 'process water'.

The process water contains contaminants at levels far greater than what would occur naturally and they have acutely toxic effects on plants, fish, crustaceans, insects and algae. Process water is classed as 'regulated waste'.

The department has a Waste Tracking System to record and verify information about the transportation of certain regulated waste with the object of minimising the risk of environmental harm. Regulated wastes must be transported by authorised vehicles to an authorised disposal facility, and copies of completed waste transport certificates must be provided to the department. The EA held by the company required it to dispose of regulated wastes (the process water) to a licensed disposal facility.

On 3, 7 and 9 June 2011, the company contracted a regulated waste transport company to transport 40,000L, 38,000L and 39,650L of process water respectively from the UCG site to a composting facility in Emerald.

The transport company described the process water as 'wash down' or 'wash pad' water in the waste transport certificate. There was no wash down facility at the site. The company did not correct the certificates before giving copies to the department.

The composting facility that the process water was transported to was not licensed to receive it and, not knowing what it really was, applied it to some of its composting material, thereby contaminating the material.

The offences were discovered during an inspection of the site on 9 June 2011.

The composting facility had to isolate the contaminated material to allow the contaminants from the process water to degrade. The manager of the transport company, who had been involved in the offences, was charged and convicted in relation to his involvement. The transport company itself was not prosecuted.

Outcome

The company was charged with respect to its involvement and on 29 July 2013, it pleaded guilty to:

- three offences against s.430(3) of the Act for allowing regulated waste to be transported to an unauthorised disposal facility in contravention of a condition of its EA for which it was fined \$60,000; and
- three offences against s.480 of the Act for providing false or misleading documentation for which it was fined \$30,000.

The court also ordered the company to pay the department's legal costs of \$18,000 and investigation costs of \$6,100. The convictions were not recorded.

The court considered the following matters to be significant:

- the potential for environmental harm
- the company's failure to check that the waste receiver was appropriately licensed
- the company's knowledge about its obligations under the EA
- the need for personal deterrence given the defendant's previous convictions
- the need for general deterrence with respect to other operators engaged in these activities.

The court also recognised that the company had cooperated with the prosecution and pleaded guilty.

The department is committed to ensuring that operators in the regulated waste industry comply with their obligations and accurately report the movement of regulated waste so that the risk of environmental harm can be managed effectively.

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