

Prosecution Bulletin no. 11/2015

Summary

- A sunshine coast based waste management company pleaded guilty to one offence of carrying out an activity without a registration certificate and six waste tracking offences and was fined \$65,000. Its Sole Director was also fined \$20,000 for failing to ensure the corporation complied with the *Environmental Protection Act 1994*.
- The offences relate to a site at Glenview where the company stored regulated waste, including a range of hydrocarbons, diesel, motor oil and other substances.
- In delivering his sentence on 29 January 2015, Magistrate O'Driscoll said that the company had previously come to the attention of the department, had failed to adhere to warnings, there had been a failure of company systems and there was a risk of serious environmental harm resulting from the offences.

Facts

The company provides regulated waste storage and management services to the gas, mining and commercial industry, and used a site at Glenview for research, development and storage. There were no permits or approvals allowing regulated waste storage at the Glenview site, and none would have been granted because Mooloolah creek runs through the site and it is subject to flooding.

Following a complaint, EHP officers entered the site and determined that regulated waste, including a range of hydrocarbons, diesel, motor oil and other substances had been stored on site between October 2012 and September 2013.

The department considered that the risk of environmental harm from the site was high because there was potential for contaminants to have discharged from the containers over time and contaminate waterways.

EHP issued an Environmental Protection Order on 16 July 2013 requiring the removal of regulated waste from the Glenview site. As part of the clean-up, approximately 130,500 litres of regulated waste was

removed.

When the regulated waste was moved to the Glenview site, there were no Waste Tracking Certificates submitted to the department, as required by law.

Outcome

On 29 January 2015, the company pleaded guilty to one (1) charge of carrying out a Chapter 4 activity (storage of 49,312 - 49,912 kilograms of regulated waste) and six (6) offences of failing to give waste tracking information to the department. The Sole Director pleaded guilty to one (1) offence for failing to ensure that the company complied with the *Environmental Protection Act 1994*.

The Maroochydore Magistrates Court fined the company \$60,000 for the regulated waste storage and \$5,000 for the waste tracking offences. The Sole Director was fined \$20,000. Both defendants were each ordered to pay \$1,575 in investigation costs and \$875 in legal costs. No conviction was recorded.

In sentencing, the Court took into account the following:

- There was a sizable quantity of regulated waste stored for an extended period where no permit would ever have been granted for that storage;
- The company should have paid more attention as it was in the waste management business;
- The offence was difficult to detect;
- Since the EPO, the company had cooperated with authorities and expended significant funds on clean-up and all waste had been removed;
- The risk of environmental harm from the site was significant but had since been removed;
- The Sole Director had committed the offences in full knowledge of the law; and
- The company had a compliance history but no previous prosecutions or convictions.

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