

## Prosecution Bulletin no. 3/2012

### Summary

A North West Queensland mining company in receivership has been fined \$500,000 and ordered to pay investigation costs of approximately \$83,000 for unlawfully causing serious environmental harm as a result of uncontrolled discharges of highly contaminated water from its mine site in early 2009.

The defendant was charged with unlawfully causing serious environmental harm in contravention of section 437 (2) of the *Environmental Protection Act 1994*, and the sentence was handed down in the Mount Isa Magistrates Court on Thursday 29 March 2012.

### Facts

The mine uses the heap leach method of mining to extract copper from oxide ore from the open pits—a process which involves using a significant amount of water.

Between 29 January and 11 February 2009, there were two unauthorised and uncontrolled discharges from the mine site causing the release of acidic water into Saga Creek, which then flowed to Inca Creek and the Buckley River. Water entered the site during the wet season from a larger than anticipated catchment causing the stormwater pond wall to fail. As a result, water flowed over the mine site becoming contaminated before flowing into the creek.

Prior to the discharges, the defendant had been alerted to issues with its stormwater ponds.

The water discharges were highly acidic and contained cobalt, copper, aluminium, sulphate, zinc, chromium, manganese and nickel at levels higher than livestock drinking water guidelines. It was estimated that the total amount of contaminated water discharged was at least 447 megalitres.

The contamination significantly impacted on the water quality of the creek causing the death of aquatic life and vegetation and forcing graziers up to 52 kilometres downstream to prevent their stock drinking the water. The incident also impacted on Traditional Owners' use of the land and waterways in the area.

The company was ordered to undertake extensive clean up and restoration work on-site, which amounted to almost \$11 million. The work included carrying out a geotechnical investigation, repairing the stormwater ponds, raising spillways, permanent diversion drains, and extensive remediation on the site and on local properties.

### Outcome

On 13 September 2011, the defendant pleaded guilty to unlawfully causing serious environmental harm under section 437 (2) of the *Environmental Protection Act 1994* before the Mount Isa Magistrates Court and on 29 March 2012 in the same court was fined \$500,000 and ordered to pay investigation costs of approximately \$83,000.

By pleading guilty to this offence, the defendant admitted that the company hadn't taken all reasonable precautions to prevent or minimise the harm.

The Magistrate commented on the activities the defendant could have undertaken to prevent or reduce the harm saying, 'the mining company did have knowledge of the problems and failed to properly address the problems that were identified at an earlier time'.

The Magistrate also pointed out the 'lack of quality control, which was a significant factor at a time when [the company] could have taken steps which were relatively easy to implement to manage those identified risks more effectively'.

When announcing the reasons for the \$500,000 fine on the defendant, the Magistrate advised that the incident caused a significant and irreversible impact upon the Traditional Owners of the land. The Magistrate continued by describing the incident as 'a very serious contravention of the provision in terms of the extent of the impact in Queensland and, certainly, in the region to which this mine is a part of'.

During the sentencing the Magistrate considered the defendant's early plea of guilty; their efforts to remediate the harm since the discharges; their involvement with land owners; and their cooperation with authorities. Consequently no conviction was recorded in recognition of the company's conduct after the incident.

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