

## Prosecution Bulletin no. 13/2015

### Summary

- The operator of an abandoned gold mine near Rockhampton has been found guilty of one offence of failing to comply with an Environmental Protection Order (EPO) and fined \$125,000. Its Managing Director was also fined \$20,000 for failing to ensure the corporation complied with the *Environmental Protection Act 1994*.
- The offences relate to the mine's failure to comply with three requirements of an EPO, including failing to provide evidence to EHP about the structural integrity of structures on site, failure to provide a report with remedial measures for the site structures and to prevent release of mine affected water and failure to submit a revised Plan of Operations.
- In delivering his sentence on 7 May 2015, Magistrate O'Driscoll said that the seepage of contaminated water into local waterways had become a chronic problem with grave concerns to all members of the Queensland community.

### Facts

The corporate defendant held an environmental authority and mining leases for a gold mine near Rockhampton. The mine was not operational and went into external administration on 23 December 2014.

EHP had been attempting since 2006 to get the corporate defendant to prepare a proper Plan of Operations and to ensure the financial assurance was adequate.

EHP officers inspected the site several times and observed that the mine pits contained a large amount of contaminated water that was discharging into Nankin Creek after rainfall. Dissolved metals in the pits and discharge runoff were at concentrations that far exceed ANZECC Guidelines values for human consumption, stock watering and aquatic ecosystem protection. There were visible signs of erosion in the pit.

EHP issued an Environmental Protection Order on 9 July 2013 which required the corporate defendant to provide evidence about the integrity of all structures,

provide a report about remedial measures for the site structures to prevent the release of mine affected water, and to submit to EHP a revised Plan of Operations with a calculation of financial assurance.

### Outcome

On 24 February 2014, the corporate defendant was charged with one offence for a wilful failure to comply with an Environmental Protection Order and the Managing Director was charged with 1 offence for failing to ensure that the corporate defendant complied with the *Environmental Protection Act 1994*.

The corporate defendant didn't attend court and the matter proceeded ex parte. The Magistrate handed down a guilty verdict on 17 March 2015 and imposed a fine of \$125,000. A conviction was recorded.

Following a contested facts hearing and a costs hearing, the Managing Director was found guilty and fined \$20,000 and ordered to pay full investigation costs of \$23,818.64 and legal costs of \$2,000. No conviction was recorded.

In sentencing, the Court took into account the following:

- That seepage of contaminated water into local waterways had become a chronic problem as the pits reached capacity;
- That the potentially millions of dollars required for supervision, monitoring and restoration to prevent further dangerous seepage would be borne by the state;
- That the toxicological consequences and implications of water seepage will be a grave concern to all members of the Qld community;
- There was no plea of guilty;
- No submissions were made in mitigation; and
- That it was a serious breach.

### September 2015

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