

Prosecution Bulletin no. 18/2015

Summary

- On 14 December 2015, a company that operates a gold and silver mine pleaded guilty to two offences of breaching conditions of a temporary emissions licence contrary to section 357I of the *Environmental Protection Act 1994* (the 'Act') and was fined \$65,000 by the Bundaberg Magistrates Court.
- The defendant company was ordered to pay legal and investigations costs totalling \$3,327.75. No convictions were recorded.

Facts

On 1 February 2013, the Department issued a Temporary Emissions Licence ('TEL') to the defendant company following extreme rainfall events associated with ex-tropical cyclone Oswald, which resulted in record flooding in the Bundaberg area and left the gold and silver mine with significant volumes of water to manage.

The TEL allowed mine affected water to be released from the mine at contaminant levels above the mine's environmental authority ('EA') limits during high flows in the receiving rivers, providing the EA limits were achieved at the monitoring point 5km downstream in the Perry River.

On 19 June 2013, the defendant company provided the Department with a report which identified that the TEL contaminant limits were exceeded for sulfate and zinc for a number of days during the TEL period. The report also identified that the dilution ratio was less than required to achieve the TEL limits. It was a condition of the TEL to cease discharging mine affected water to the river as soon as reasonably practical after becoming aware that TEL contaminant limits were not being met. However, the defendant company did not cease discharging mine affected water for a number of days following receipt of confirm laboratory analyses showing the exceedances for zinc and sulfate.

On 4 December 2015, the Department commenced a prosecution of the defendant company for contravening conditions of its TEL, contrary to section 357I of the Act.

Outcome

On 14 December 2015, the company pleaded guilty to two charges and was sentenced by Magistrate Smith in the Bundaberg Magistrates Court. The Court imposed a fine of \$65,000 on the company. It further ordered the company to pay the Department's legal costs of \$1,500 and investigations costs of \$1,827.75. No convictions were recorded.

In sentencing, the Magistrate Smith took into account the following:

- The defendant company's early pleas of guilty;
- The co-operation of the defendant with the Department in its investigation;
- The circumstances of the offences came at the time of ex-tropical cyclone Oswald which resulted in record flooding (being a 1 in 1000 year flood event);
- In applying for the TEL, the defendant company had taken steps to minimise its environmental impacts;
- The defendant company had no previous convictions in its previous 14 years of operation;
- The defendant company had a very large volume of excess water to deal with, being 3.6 ML;
- There was no evidence of acute environmental harm;
- The defendant company has now made improvements at its spillways and in its flow monitoring capacity.

December 2015

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