

Prosecution Bulletin no. 9/2019

Summary

- On 6 September 2019, the Brisbane Magistrates Court convicted the operator of a tyre recycling facilities of 65 offences against the *Environmental Protection Act 1994* (EP Act).
- The offences included wilfully failing to comply with a clean-up notice, contravening an environmental protection order (EPO) and, being an executive officer of a corporation and failing to ensure the corporation complied with the EP Act.
- The individual was convicted and fined a total of \$200,000 and ordered to pay \$2,170 investigation costs and \$5,750 legal costs.

Facts

The individual, through the company Tyremil Group Pty Ltd (in Liquidation) (Tyremil), operated a tyre storage and recycling facility at Kingston. Tyremil held an environmental authority for the transport of waste tyres in Queensland and was subject to waste tracking obligations under the EP Act. The individual also operated another tyre recycling facility at Rocklea.

On 6 December 2016, the Department issued EPOs to the operator and Tyremil in reaction to both the Kingston and Rocklea sites which required tyres to be stored in a manner that would reduce the risk of a tyre fire. Inspections conducted by departmental officers in 2017 revealed multiple contraventions of the EPOs.

On 3 July 2017, following a tyre fire at the Rocklea site, the department issued a clean-up notice to the operator requiring them to engage an authorised waste transporter to remove contaminated water from a constructed bund on the site. The individual failed to comply with the clean-up notice.

A departmental review of the regulated waste tracking information provided by Tyremil also revealed a number of instances where the prescribed information was not provided or the information that was provided was false or misleading.

The individual was charged with:

- 53 offences of failing to ensure a corporation complied with the EP Act, contrary to section 493(2) of the Act (relating to Tyremil) including:
 - 2 offences of failing to attend a stated reasonable place at a reasonable time, to answer questions, contrary to section 476(2) of the EP Act;
 - 2 offences of providing a document containing false or misleading information to the administering authority, contrary to section 480(1) of the EP Act;
 - 49 waste tracking offences, contrary to sections of the *Environmental Protection Regulation 2008*;
- 9 offences of contravening an EPO, contrary to section 361(2) of the EP Act; and
- 9 offences of wilfully failing to comply with a clean-up notice, contrary to section 363(1) of the EP Act.

Outcome

On 6 September 2019, the Brisbane Magistrates Court convicted the individual of 65 offences against the EP Act including wilfully failing to comply with a clean-up notice, contravening an EPO and being an executive officer of a corporation and failing to ensure the corporation complied with the EP Act.

The individual was convicted and fined a total of \$200,000 and ordered to pay \$2,170 investigation costs and \$5,750 legal costs.

In sentencing, the Magistrate noted that some of the offending conduct comprised wilful elements including the provision of false or misleading information to the department. The Magistrate considered the contraventions of the EP Act as being serious, that the penalty imposed must reflect the seriousness of the

offending, and the need for personal and general deterrence.

As the environmental regulator, the department takes compliance issues seriously and where compliance issues are identified, the department will take enforcement action in accordance with its enforcement guidelines available at www.des.qld.gov.au.

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