

Prosecution Bulletin no. 6/2016

Summary

- On 28 October 2015, a North Queensland mining company was fined \$250,000 and its Director fined \$50,000 after pleading guilty to 12 offences under the *Environmental Protection Act 1994*, including wilfully causing serious environmental harm, contravening an environmental protection order and contravening a transitional environmental program .
- As part of the sentencing process, the Cairns Magistrates Court made a public benefit order pursuant to s.502 of the *Environmental Protection Act 1994*, requiring the defendants to pay \$80,000 of the fines to two projects, designed to enhance the environment for the benefit of the public
- On 26 April 2016, the Court also issued the corporate defendant a rehabilitation and restoration order, pursuant to s.502 of the Act, to remedy the environmental harm caused by the company. That order was the first of its kind to be issued in Queensland.

Facts

The corporate defendant is the holder of an environmental authority for an underground and open-cut copper mine, located in the Palmer River region of North Queensland. The mine site is no longer active and has been in care and maintenance mode since 1982. The site has suffered ongoing issues relating to the seepage of contaminated water from a catchment dam wall to the downstream receiving environment.

Since 2013, both defendants wilfully contravened the environmental authority; an environmental protection order; and a transitional environmental program. A report commissioned by the Department identified that excessive levels of dissolved cadmium and cobalt had caused significant environmental harm to at least 800 metres downstream from the discharge site.

Outcome

On 28 October 2015, the defendants pleaded guilty to:

- One (1) charge of wilfully causing serious environmental harm;
- One (1) wilful breach of an environmental protection order;
- Seven (7) wilful breaches of an environmental authority; and
- Two (2) wilful breach of a requirement of transitional environmental program; and
- One (1) wilful breach of an approval of a transitional environmental program.

The Cairns Magistrates Court fined the corporate defendant \$250,000 and the individual defendant was fined \$50,000. The corporate defendant was ordered to pay \$35,590 in investigation costs and \$1500 in professional costs.

The Court also issued a public benefit order in favour of the Mitchell River Watershed Management Group and the Indigenous Land and Sea Ranger Program, to the sum of \$40,000 each.

On 26 April the Court, upon application by the Department, made a further s.502 order requiring the corporate defendant to restore and rehabilitate the environment arising from the environmental harm. This was the first time a Magistrates Court had been asked to consider and issue an order of this type.

In sentencing, the Court took into account the following:

- The substantial and continual failure of the defendants to comply with their ongoing obligations;
- The substantial environmental harm caused;
- The defendant's early plea of guilty;
- The defendants had inherited the longstanding legacy of the mine site.

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