

## Prosecution Bulletin no. 4/2014

### Summary

- A Gladstone alumina refinery, Queensland Alumina Limited, has been fined \$125,000 and ordered to pay legal and investigations costs of \$9,237 for causing serious environmental harm by releasing alkaline vapour to the atmosphere.
- Half of the fine was ordered to be equally distributed towards two projects for the community benefit.
- The Gladstone Magistrates Court ordered a conviction be recorded.
- The sentence was delivered on 19 December 2013 by Magistrate Warfield.
- Queensland Alumina Limited was charged with one offence, under section 437(2) of the *Environmental Protection Act 1994* (the Act).

### Facts

Queensland Alumina Limited has an environmental authority (EA) to conduct a number of environmentally relevant activities at its refinery at Gladstone. During the processing activities, an alkaline slurry is produced at high temperature and pressure.

On the evening of 27 November 2012, Queensland Alumina Limited's plant unexpectedly released alkaline slurry (containing sodium hydroxide) as a fine spray into the atmosphere from pipework on its site for a period of up to one hour.

The incident was caused throughout the course of the day by malfunctioning plant and equipment. This malfunction resulted in slurry entering pipework not designed to contain it; ultimately causing two gaskets to fail. A shift change meeting was occurring at the time the release was identified by staff; however the meeting was not interrupted to respond to the incident.

On the morning of 28 November 2012, Queensland Alumina Limited's employees inspected monitoring pads located outside of the plant and identified that deposition

of alkali aerosol droplets had occurred up to 3.5 kilometres away as a result of the incident.

Queensland Alumina Limited notified the department and the affected neighbourhoods later that morning.

As a result of the incident, the following impacts were recorded:

- Queensland Alumina Limited paid approximately \$106,239 in property claims, mainly or wholly relating to damage to vehicles resulting from the deposition of alkaline material;
- There were no reports from the community of any health impacts; and
- A vegetation impact assessment commissioned by Queensland Alumina Limited found evidence that the incident had resulted in the deposition of aerosol droplets on foliage up to 3.5 kilometres away, however there were no visually detectable acute impacts on native vegetation or ecological processes as a result of the incident.

Queensland Alumina Limited's permit contains no conditions that authorise the release of alkali aerosols outside of its site boundary.

### Outcome

Queensland Alumina Limited was charged with one offence of unlawfully causing serious environmental harm, being damage caused to property in an amount of over \$50,000, contrary to section 437(2) of the Act.

On 19 December 2013, Queensland Alumina Limited pleaded guilty to the charge before the Gladstone Magistrates Court and was fined \$125,000, and a conviction was recorded. The Court ordered the defendant to pay the legal costs of \$1,500 and investigative costs of \$7,737.

Pursuant to section 502(2)(b) of the Act, half of the fine was ordered to be equally distributed towards two projects for the community benefit: Gladstone and District Wildlife Carers Association and Conservation Volunteers

Australia.

The aggravating factors considered by the Court included:

- The previous convictions of the company for similar offences;
- The offence is amongst the most serious in the Act;
- The defendant was aware of the risk posed to community by its activities and more could have been done to prevent the release;
- The defendant could have been quicker in the identification of the problem and its response; and
- Although no actual harm was done to human or ecological health, the chemicals released posed a significant threat to human health.

In mitigation, the following issues were considered by the Court:

- The Queensland Alumina Limited's plea and full cooperation with the department in its investigation;
- The Queensland Alumina Limited's good character and contribution to the community;
- The offence resulted in no actual ecological harm or injury to person;
- The defendant notified the community and department of the incident; and
- The defendant compensated the community for damage to property caused by the incident.

To manage the risk of environmental harm due to inadequate plant maintenance and procedures, the department is determined to ensure that industries comply with the legislative requirements and take responsibility to ensure that plant, equipment and procedures are up-to-date.

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