

Prosecution Bulletin no. 11 /2019

Summary

- On 13 November 2019, the operator of a waste processing facility at Narangba was convicted of seven offences of contravening a condition of an environmental authority (EA), contrary to section 430(3) of the *Environmental Protection Act 1994* (EP Act). The operator was also convicted of one offence of contravening a condition of a transitional environmental program (TEP), contrary to section 432A(b) of the EP Act.
- The company was fined \$55,000 and ordered to pay \$1,500 in legal costs and \$3,703.70 in investigation costs. No conviction was recorded.

Facts

The company holds an environmental authority for its waste processing facility at Narangba. Following an exceedance of sulphur dioxide in August 2015, the company applied for, and was granted, a TEP to bring it back into compliance with the conditions of its EA. The TEP was in force until 31 August 2016.

A condition of the TEP required the company to notify the Department of certain exceedances of sulphur dioxide within 2 hours of it becoming aware of the exceedances. On two occasions, the company failed to do so.

Later in 2016 and in 2017, the company released sulphur dioxide and oxides of nitrogen to the air at levels which exceeded the levels permitted by its EA. The releases of sulphur dioxide were up to 1500 mg/Nm³ (dry) at 7% O₂ in excess of the 300 mg/ Nm³ limit. The releases of oxides of nitrogen were up to 500 mg/Nm³ in excess of the 350 mg/Nm³ (dry) at 7% O₂ limit authorised by the company's EA.

The company also released the contaminants at rates between 4.84 and 4.86 m/sec which was below the minimum 8.5m/sec velocity required. It also accepted and stored regulated waste that it was not authorised to store at the site.

There was no evidence that environmental harm was caused by the contraventions, however the activities the company carried out are environmentally relevant activities, which are regulated because of the risk that they pose to the environment.

The company was charged with seven offences of contravening a condition of an EA, contrary to section 430(3) of the EP Act and one offence of contravening a condition of a TEP, contrary to section 432A(b) of the EP Act.

Outcome

On 13 November 2019, the company pleaded guilty and was convicted of eight offences contrary to the EP Act.

The company was fined \$55,000 and ordered to pay \$1,500 in legal costs and \$3,703.70 in investigation costs. No conviction was recorded.

In sentencing, the Magistrate accepted that there was no environmental harm caused by the exceedances, however noted that the company was required to comply with the conditions of its approvals, remarking that the failure to report exceedances was a most serious matter.

In mitigation, the Magistrate considered the early pleas of guilty and whilst the company had a minor previous conviction for a waste tracking offence, it was otherwise a good corporate citizen. The company had also spent approximately \$1.6 million to install measures to prevent any further air exceedances, although the Magistrate commented that this was only done after the exceedances. The Magistrate also noted that during the period when the offences occurred the operator had an existing obligation to ensure compliance with the conditions of the EA, which was not met.

The penalty is a reminder that those carrying out environmentally relevant activities must take their environmental obligations seriously and comply with all relevant approvals, including their responsibilities in reporting contraventions to the department.

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