

Prosecution Bulletin no. 15/2018

Summary

- A South East Queensland company pleaded guilty to 19 offences of contravening a condition of an environmental authority (EA) and 1 offence of providing a false or misleading document to the department in contravention of sections 430(3) and 480 of the *Environmental Protection Act 1994* (the Act).
- The company holds an EA for surface coating at its galvanising and steel manufacturing site at Narangba, Queensland.
- The defendant was fined \$75,000 and ordered to pay \$1,500 in legal costs and \$1,715.64 in investigation costs. No conviction was recorded.
- The sentence was delivered by the Brisbane Magistrates Court on 6 November 2018.

Facts

The company conducts galvanising and steel manufacturing, including coating steel (or other ferrous materials) with zinc to protect it from corrosion. During the coating process, low levels of zinc are released into the stormwater management system and into the receiving environment.

The company's EA allows it to discharge low levels of zinc and other contaminants, however the company must monitor the quality of the water released and report any contraventions of its EA conditions to the department.

On 28 March 2017, departmental officers conducted an inspection of the defendant's site and identified a number of contraventions of conditions of its EA, including stormwater releases exceeding the levels of zinc and pH permitted by the EA. The defendant had also failed to monitor for certain contaminants and failed to report contraventions of its EA to the department within 24 hours.

The company also provided a document containing false or misleading information to the department by stating in its annual return that it had been compliant with all of its

EA conditions during the return period. The department conducted sampling of the adjacent creek and surrounding areas, and was satisfied that environmental harm was not caused by the releases.

The company has since taken steps to improve its stormwater management system and implemented significant changes to its corporate governance to prevent further contraventions of its EA conditions.

Outcome

On 6 November 2018, the defendant pleaded guilty in the Brisbane Magistrates Court to 19 offences of contravening a condition of an EA and 1 offence of providing a false or misleading document to the department, in contravention of sections 430(3) and 480 of the Act.

The defendant was fined \$75,000. The Court also ordered that the defendant pay \$1,500 in legal costs and \$1,715.64 in investigation costs. No conviction was recorded.

In sentencing the defendant, the Magistrate took into account the defendant's plea of guilty and cooperation with the investigation, however stated that:

- the defendant knew it was releasing contaminants, contravened its EA conditions on multiple occasions over an extended time period, and failed to report the contraventions to the department;
- the contaminants released by the defendant posed a risk to the environment;
- general deterrence was an important sentencing factor for offences of this kind which are difficult to detect;
- the purpose of regulating industry activities is to protect the environment while allowing for development, in a way that maintains the ecological processes on which life depends, which is achieved through the environmental licensing regime;

- the department and community trust operators to comply with their EA conditions and report any contraventions to allow the department to take actions under the Act to mitigate any risk of harm posed to the environment.

The penalty is a reminder that those carrying out environmentally relevant activities must take their environmental obligations seriously and report any contraventions of their EAs to the department.

November 2018

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