

# Prosecution Bulletin no. 4/2019

## Summary

- A company that operates a waste transfer business pleaded guilty to one offence of wilfully contravening a condition of its environmental authority (EA) contrary to section 430(2) of the *Environmental Protection Act 1994* (EP Act).
- The relevant condition of the defendant's EA was condition A2, which relates to the installation, maintenance and operation of equipment, plant and measures at the site.
- The department issued a penalty infringement notice (PIN) to the defendant for a contravention of condition A2 of the EA contrary to section 430(3) of the EP Act in the amount of \$12,190. The defendant elected to contest the PIN in Court.
- The defendant was fined \$18,000 and ordered to pay \$750 in legal costs and \$6,006.89 in investigation costs. No conviction was recorded.  
The sentence was delivered by the Maroochydhore Magistrates Court on 16 April 2019.

## Facts

The defendant operates a waste transfer business and is permitted to receive up to a specified amount of waste each day.

The defendant's core business is waste management, largely receiving dry building and household waste such as concrete, dirt, bricks, steel, cardboard, timber, packaging and plastic.

The defendant holds an EA for environmentally relevant activity (ERA) 62—Waste transfer station operation which receives more than 30 tonnes or 30 cubic metres of waste on any day.

Condition A2 of the EA requires the defendant to install and maintain all measures, plant and equipment necessary to ensure compliance with the conditions of the EA.

In May 2017, departmental environmental officers conducted an inspection and identified the following maintenance issues at the site:

1. Missing palings in the boundary fence at the rear of the site.
2. Inadequate maintenance of the bio-retention facility at the site. The purpose of the bio-retention facility is to capture and filter stormwater runoff that has been in contact with contaminants at the site.
3. Insufficient maintenance of drainage control measures at a drainage at the site.
4. There was no closure or valve in place over an outlet pipe extending from the bunded hydrocarbon storage tank, meaning any stormwater or hydrocarbon spillage inside the bund could flow out.

Departmental officers had observed similar maintenance issues at the site in 2015 and 2016 and had brought these issues to the defendant's attention.

## Outcome

On 16 April 2019, the defendant pleaded guilty in the Maroochydhore Magistrates Court to one offence of wilfully contravening a condition of its EA, namely condition A2, contrary to section 430(2) of the EP Act.

The defendant was fined \$18,000. The Court also ordered that the defendant pay \$6,006.89 in investigation costs and \$750 in legal costs. No conviction was recorded.

In sentencing the defendant, the Magistrate took into account the plea of guilty and cooperation with the investigation. The Court also took into account:

- the defendant's failure to properly address similar maintenance issues identified by departmental officers at previous site inspections in 2015 and 2016
- the fact that the defendant had the opportunity to resolve the matter early by paying the PIN but instead elected to have the matter dealt with by the Court
- the fact that the site adjoined a high ecological value wetland, and while the defendant's conduct had not caused harm, there was a risk of potential environmental harm to the surrounding environment.

The penalty is an important reminder that operators in the waste industry must be vigilant in complying with EA conditions and ensure proper maintenance of their site.

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