

Prosecution Bulletin no. 18/2018

Summary

- A company pleaded guilty to one offence of wilfully causing serious environmental harm, by releasing approximately 5000 litres of unleaded petrol from a petrol station at Cardwell in Far North Queensland contrary to section 437(1) of the *Environmental Protection Act 1994* (the EP Act).
- The defendant was fined \$75,000 and ordered to pay \$1,500 in legal costs and \$3,115.10 in investigation costs. No conviction was recorded.
- The sentence was delivered by the Townsville Magistrates Court on 26 September 2018.

Facts

Between 7 March 2016 and 21 May 2016, unleaded petrol was released from a petrol station in Cardwell.

The petrol entered groundwater and migrated from the site to the adjacent Cardwell Beach foreshore, which is adjacent to the Great Barrier Reef World Heritage Area, the Great Barrier Reef Marine Park and the Hinchinbrook Channel Habitat Protection Zone.

The company which operated the petrol station had day-to-day control of the site and the infrastructure, including the underground petroleum storage system (UPSS), and was responsible for monitoring wet stock inventory to detect any loss of product or seepage from the site.

The release initially came to the attention of the local Council in March 2016, after it received community complaints about fuel odour on the beach.

On 5 May 2016, the Department received a notification from the Council that a hydrocarbon seep had developed on the foreshore.

Departmental investigations revealed that the company had not been adequately monitoring the wet stock to detect any loss of fuel from the UPSS. The company was in possession of wet stock inventory analysis reports from as early as 1 March 2016 which showed significant fuel losses from the UPSS. It appeared that the company

had not adequately read or understood those reports, because it failed to inform the authorities of the reported losses when responding to their queries.

Once the source of the release was detected, the company fully cooperated with the Department. The company took remedial action in accordance with an emergency direction notice, a clean-up notice, and an environment protection order issued by the Department. The company also spent approximately \$400,000 to remediate the contaminated areas.

Outcome

On 26 September 2018, the defendant pleaded guilty in the Townsville Magistrates Court to one offence of wilfully causing serious environmental harm in contravention of section 437(1) of the EP Act.

The defendant was fined \$75,000 and ordered to pay \$1,500 in legal costs and \$3,115.10 in investigation costs. No conviction was recorded.

In sentencing the defendant, the Magistrate took into account the wilful aspect of the offence, noting that the company was reckless and the need for general and personal deterrence. The Court denounced this conduct and found that with respect to the company there was serious environmental harm caused to groundwater and potential environmental harm to the foreshore and marine waters. The Court also noted that the offence occurred adjacent to an area of special significance and high conservation value.

In mitigation, the Magistrate considered the defendant's timely plea of guilty, its cooperation with the investigation, the fact that the defendant had spent approximately \$400,000 on remediation of the harm and is otherwise a good corporate citizen.

The penalty is a reminder that all companies that carry out activities which are likely to cause environmental harm must take all reasonable and practicable measures to prevent or minimise the harm and should have systems in place to ensure they comply with their environmental obligations.

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