

Prosecution Bulletin no. 12/2015

Summary

- The operator of a marine vessel refuelling facility at Trinity Inlet, Cairns has been fined \$20,000 in the Cairns Magistrates Court after pleading guilty to two (2) offences under the *Environmental Protection Act 1994*, including material environmental harm and depositing prescribed water contaminant in waters.
- The offences relate to the discharge of 23,000 litres of diesel near the water's edge at the Marlin Marina.
- In delivering his sentence on 7 May 2015, Magistrate Pinder said that the defendant had failed its obligations to repair and keep the facility in good repair.

Facts

The defendant operated a marine vessel refuelling facility at Trinity Inlet, Cairns under licence which consisted of a refuelling station, two underground fuel storage tanks, a locked control box and a fuel pipeline.

The defendant conducted various audits and inspections of the fuel system, as required by its licence agreement, but none of these involved an inspection of the fuel pipeline beneath the wharf.

On 10 March 2014, the defendant's staff noted a fuel discrepancy and they later reported to EHP that 23,000 litres of diesel had discharged.

A slow leak had developed in the inner pipeline some time previously, which caused diesel to enter the interstitial space, leading to an expansion of the secondary containment line which strained an elbow in the pipeline, causing it to fail catastrophically. The diesel then travelled to the underground tank pits which overflowed near the water's edge at Marlin Marina. There was significant wear of the pipeline underneath the wharf including buckling mounting brackets and sagging and bent pipeline.

Approximately 85% of the diesel was recovered from pump outs and using skimmers and booms. The remaining 15% in the surrounding ground and groundwater was contained within booms. Approximately 10% will remain absorbed in soil

particles. The defendant reported that recovery, treatment and consultant's fees were approximately \$180,000.

Had the spill not been contained, potential environmental harm could have included a large area and a large number of species would have been exposed. The area is adjacent to the Great Barrier Reef World Heritage Area, Great Barrier Reef National Heritage place, Great Barrier Reef Marine Park (Commonwealth) and Great Barrier Reef Coast Marine Park (Queensland). Species that were potentially threatened included mangroves, seagrass, molluscs, fish, crustaceans, shorebirds, turtles, dugong, inshore dolphins and crocodiles.

Outcome

On 7 May 2015, the defendant pleaded guilty to one (1) charge of causing material environmental harm and one (1) charge of depositing prescribed water contaminants in waters.

The Cairns Magistrates Court fined the defendant \$20,000 and ordered the payment of \$3,890.97 in investigation costs and \$250 in legal costs. No conviction was recorded.

In sentencing, the Court took into account the following:

- The early guilty plea;
- The defendant was a reasonably large commercial operator;
- The defendant had obligations under its licence agreement;
- The defendant failed to conduct inspections;
- The defendant acted promptly and cooperated during the investigation at significant cost; and
- It was a case of potential environmental harm.

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