

## Environmental Protection Act 1994

### Environmental Protection Order

*This environmental protection order is issued by the administering authority pursuant to section 358 of the Environmental Protection Act 1994.*

Sojitz Blue Pty Ltd ACN: 099 442 556  
Level 27/345 Queen St,  
Brisbane City QLD 4000

Your reference: EPML00559513

Our reference: C-CPLRC-100466195; E-100560406

16/05/2024

Dear Directors

**Take notice:** that under the *Environmental Protection Act 1994* (EP Act) this environmental protection order (EPO) is issued to Sojitz Blue Pty Ltd ACN: 099 442 556 (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment, Science and Innovation (the department).

The EPO is issued with respect to the activities of Sojitz Blue Pty Ltd's at the Meteor Downs South Mine on land described as mining lease (ML) 70452 situated at Dawson Hwy, Albinia QLD 4722 (the premises).

#### A. Grounds

This EPO is issued on the following grounds:

1. The department requires you to take reasonable measures to secure compliance with the General Environmental Duty. The General Environmental Duty is detailed in s319 of the EP Act which states the following: *'A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practical measures to prevent or minimise the harm (the general environmental duty)'*.
2. The department requires you to take reasonable measures to secure compliance with conditions of Environmental Authority EPML00559513 pursuant to section 358(d)(iii) of the EP Act.

Condition E1 of EA EPML00559513 states: *'The holder of this environmental authority must not release contaminants to groundwater.'*

Condition E7 of EA EPML00559513 states: *'Groundwater quality measured for compliance bores identified in Table E1 - Groundwater monitoring locations and frequency must not exceed any of the Contaminant Limits specified in Table E2 - Groundwater quality limits on three (3) consecutive sampling occasions.'*



**Table E2: Groundwater quality limits**

| Analyte                                                                               | ANZG (2018) | Basalt unit |         |         |         |         | Colluvium unit |         |         |         |         |
|---------------------------------------------------------------------------------------|-------------|-------------|---------|---------|---------|---------|----------------|---------|---------|---------|---------|
|                                                                                       |             | MW1S        | MW2S*   | MW3S    | MW4     | MW16S   | MW17S          | MW18S   | MW7S    | MW14S   | MW15S   |
| pH                                                                                    | 6 - 8.5     | 6.5 - 8     | 6 - 8.5 | 6.5 - 8 | 6.5 - 8 | 6.5 - 8 | 6 - 8.5        | 6.5 - 8 | 6.5 - 8 | 6.5 - 8 | 6.5 - 8 |
| EC (µS/cm)                                                                            | 500         | 1778        | 903     | 1075    | 867     | 960     | 1159           | 1434    | 1661    | 1302    | 4063    |
| Major ions (Ca, Mg, Na, K, SO <sub>4</sub> , Cl, HCO <sub>3</sub> , CO <sub>3</sub> ) |             | #           | #       | #       | #       | #       | #              | #       | #       | #       | #       |
| Sulfate (mg/L)                                                                        |             | 35          | 18      | 41      | 20      | 9       | 52             | 36      | 21      | 44      | 101     |
| Aluminium (mg/L) *                                                                    | 0.055       | 0.74        | 0.055   | 0.17    | 0.25    | 0.18    | 62.6           | 0.739   | 10.41   | 0.35    | 1.33    |
| Arsenic (mg/L) *                                                                      | 0.013       | 0.013       | 0.013   | 0.013   | 0.013   | 0.013   | 0.013          | 0.013   | 0.013   | 0.013   | 0.013   |
| Boron (mg/L) *                                                                        | 0.37        | 0.12        | 0.12    | 0.12    | 0.12    | 0.12    | 0.12           | 0.12    | 0.12    | 0.28    | 0.12    |
| Cadmium(mg/L) *                                                                       | 0.0002      | 0.0002      | 0.0002  | 0.0002  | 0.0002  | 0.0002  | 0.0002         | 0.0002  | 0.0002  | 0.0002  | 0.0002  |
| Chromium (mg/L) *                                                                     | 0.001       | 0.001       | 0.001   | 0.001   | 0.001   | 0.001   | 0.184          | 0.004   | 0.084   | 0.001   | 0.045   |
| Cobalt (mg/L) *                                                                       | 0.0014      | 0.0014      | 0.0014  | 0.0014  | 0.0014  | 0.0014  | 0.1326         | 0.0014  | 0.0076  | 0.0014  | 0.0014  |
| Copper (mg/L) *                                                                       | 0.0014      | 0.0265      | 0.005   | 0.015   | 0.0069  | 0.0085  | 0.277          | 0.0102  | 0.0173  | 0.012   | 0.0188  |
| Fluoride (mg/L) *                                                                     | 2.4         | 0.3         | 0.3     | 0.3     | 0.3     | 0.3     | 0.3            | 0.3     | 0.5     | 0.3     | 0.3     |
| Lead (mg/L) *                                                                         | 0.0034      | 0.0034      | 0.0034  | 0.0034  | 0.0034  | 0.0034  | 0.0185         | 0.0034  | 0.011   | 0.0034  | 0.011   |
| Mercury(mg/L) *                                                                       | 0.0006      | 0.0006      | 0.0006  | 0.0006  | 0.0006  | 0.0006  | 0.0006         | 0.0006  | 0.0006  | 0.0006  | 0.0006  |
| Molybdenum (mg/L) *                                                                   | 0.034       | 0.004       | 0.004   | 0.004   | 0.004   | 0.004   | 0.008          | 0.009   | 0.004   | 0.004   | 0.009   |
| Nickel (mg/L) *                                                                       | 0.011       | 0.011       | 0.011   | 0.011   | 0.011   | 0.011   | 0.4035         | 0.011   | 0.044   | 0.011   | 0.033   |
| Selenium(mg/L) *                                                                      | 0.005       | 0.005       | 0.005   | 0.005   | 0.005   | 0.005   | 0.005          | 0.005   | 0.005   | 0.005   | 0.005   |
| Zinc (mg/L) *                                                                         | 0.008       | 0.119       | 0.008   | 0.05    | 0.05    | 0.05    | 0.354          | 0.05    | 0.05    | 0.05    | 0.05    |

Notes: \* All results for metals and metalloids must be analysed and reported for both the dissolved and total phases.

# For interpretation purposes only.

The facts and circumstances forming the basis for these grounds are:

1. You are the holder of environmental authority EPML00559513 (the EA) which authorised environmentally relevant activity (ERA) Schedule 3 13: Mining black coal over ML70452 also known as Meteor Downs South Coal Mine (MDS).
2. Department of Resources records identify Sojitz Blue Pty Ltd as the authorised holder of ML70452, which is authorised under the *Mineral Resources Act 1989*.
3. Section 107 of the EP Act states: 'A resource activity is an activity that involves – (a) a geothermal activity; or (b) a GHG storage activity; or (c) a mining activity; or (d) a petroleum activity'.
4. Section 110 of the EP Act states: 'A mining activity is – (a) an activity that is an authorised activity for a mining tenement under the Mineral Resources Act; or (b) another activity that is authorised under an approval under the Mineral Resources Act that grants rights over land'.
5. The EA authorises environmentally relevant activity (ERAs) 13: Mining black coal on ML70452.
6. The department is satisfied that Sojitz Blue Pty Ltd are the entity responsible for the operation and maintenance of the premises under the EA.
7. On 11 July 2023, you notified the department of a non-compliance of Condition E7 through submission to WaTERS Event ID 10029, in accordance with Condition E9 of the EA. You reported that three consecutive sulphate groundwater EA limit exceedances had been measured on 14 September 2022, 25 March 2023 and 15 June 2023.
8. On 29 September 2023, you reported to the department through submission to WaTERS Event ID 10289 that MW2S measured sulphate levels at 47 mg/L on 22 September 2023.
9. On 10 October 2023, as required by Condition E10 of the EA, you submitted an investigation report titled "MDS Trigger exceedance investigation report-2023 Bore MW2S" to the department. The investigation report determined contaminants have been released from Sump 4 via seepage into groundwater from commencement of use as a mine affected water storage in June 2022.
10. The investigation report advised the timeline of events leading to the release of contaminants as below:

- a) In May 2022, you constructed Sump 4 to *“provide a MAW holding facility for pit dewatering and also prepare for the wet season”*.
  - b) Standing Water Levels (SWL) of MW2S were showing a trend of decline in June 2022 - *“MW2S has seen a steady decline in SWL from time monitoring records has been taken (Figure 3) till June 2022”*.
  - c) Commencement of use of Sump 4 began in June 2022 - *“In the case of Sump 4, the water storage allowed progressive movement of water into the underlying basalt aquifer from commencement of use in June 2022”*.
  - d) On 13 June 2022, sulphate levels of Sump 4 measured 107 mg/L.
  - e) On 14 September 2022, the next groundwater sampling quarter following commencement of use of Sump 4 *“showed exceedances of sulfates as SO<sub>4</sub> in bore MW2S”* with levels measuring 97 mg/L.
  - f) In October 2022, MW2S SWL rapidly increased by 6.58 metres with no associated rainfall - *“neither the below long term average annual rainfall from June 2017 to June 2022, nor the subsequent limited recharge opportunity explains the 6.58m rise in SWL”*.
  - g) In November 2022, a decision was made by you that *“in order to mitigate further incidences of elevated concentrations of contaminants, Sump 4 has been maintained in an empty state since November 2022”*.
  - h) You also indicated that you would use Sump 4 for holding mine affected water in the future if *“extreme weather events necessitate it’s use for dewatering the pit”*.
11. In an email received by the department on 12 December 2023, you stated that you received a report titled *Meteor Downs South Annual Groundwater Review – September 2023* on 28 September 2023 in which states *“The recovery in water levels in MW2S is likely due to seepage from the up-gradient, unlined Sump 4 (Figures 2 & 5) which is used for temporary storage of pumped pit water before re-use for road watering and mine use”*.
12. On 20 December 2023, you reported to the department through submission to WaTERS Event ID that MW2S measured sulphate levels at 67 mg/L on 6 December 2023.
13. On 16 January 2024, the department issued pre-enforcement to you.
14. On 23 January 2024, you provided a response to the department in which you stated: *“MDS acknowledges that a release of contaminants to groundwater occurred, likely due to seepage from the mine water sump”*.
15. On 21 March, you reported to the department through submission to WaTERS Event ID 11002 that MW2S measured sulphate levels at 49 mg/L on 11 March 2024.
16. Condition E1 states: *The holder of this environmental authority must not release contaminants to groundwater.*
17. In summary, the department considers that, given the facts and circumstances detailed above, you have failed to comply with Condition E1 of the EA, and you have failed to take all reasonable and practical measures to prevent or minimise the risk of environmental harm.
18. The department considers that it is appropriate to require you to take reasonable measures to comply with your general environmental duty, including to cease carrying out activities unless those activities comply with Condition E1 of your EA.

## B. Requirements

In accordance with this EPO, you are required to do the following:

1. By **1 August 2024**, you must commission an appropriately qualified person (AQP) to undertake an investigation to determine potential impacts to groundwater as a result of an unauthorised release of contaminants from Sump 4. The investigation must as a minimum:
  - a) Investigate potential and actual environmental harm caused by release of contaminants from Sump 4 into groundwater inclusive of all potentially impacted groundwater aquifers, addressing short-term and long-term impacts; and

- b) Identify contamination pathways from identified contaminant sources to the receiving environment; and
  - c) Propose actions and management strategies including timeframes that aim to restore the environmental values and water quality of any groundwater aquifers impacted by contaminants released from Sump 4.
- 2. By **1 October 2024**, you must provide the department with a written report from the AQP outlining the findings of Requirement 1.
- 3. By **1 November 2024** you must implement the actions required by the AQP in accordance with Requirement 1.
- 4. You must notify the department within twenty-four (24) hours of becoming aware of any non-compliance with the requirements of this EPO.

**Definitions:**

- a) '**appropriately qualified person**' means a person who has professional qualifications, training, skills or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis on performance relating to the subject matter using the relevant protocols, standards, methods or literature.

## **C. Obligations**

If you propose to dispose of the place or business to which the EPO relates, you **must** advise the buyer of the existence of this EPO.

If you cease to carry out the activity to which this EPO relates, you **must** give written notice of ceasing to carry out the activity to the department within 10 days of ceasing the activity.

**Take notice:**

- the requirements of this order take effect immediately upon service of the order;
- failure to comply with this order is an offence under the EP Act;
- this order remains in force until further notice from the administering authority.

## **D. Penalty**

It is important that you know the impact to you personally as an individual or as a corporation for not meeting your obligations.

Failure to comply with an EPO is an offence.

- The maximum penalty for wilfully contravening an EPO is 6250 penalty units, totalling \$967,500 or five years imprisonment for an individual or \$4,837,500 for a corporation.
- The maximum penalty for contravening an EPO is 4500 penalty units, totalling \$696,600 for an individual or \$3,483,000 for a corporation.

Failure to provide written notice to the buyer of the existence of the order is an offence.

- The maximum penalty is 50 penalty units, totalling \$7,740, for an individual or \$38,700 for a corporation.

Failure to provide written notice to the department within 10 business days of ceasing the activity to which an environmental protection order relates is an offence.

- The maximum penalty is 50 penalty units, totalling \$7,740, for an individual or \$38,700 for a corporation.

Section 3 of the *Penalties and Sentences Regulation 2015* prescribes the monetary value of a penalty unit.

## **E. Reviews and appeals**

The provisions regarding reviews of decisions and appeals are found in sections 519 to 539 of the EP Act.

A person who is dissatisfied with an original decision made by the Department of Environment, Science and Innovation (the department) may apply to have that decision internally reviewed.

Information about initiating an appeal in relation to this notice is contained within the [Internal Reviews and Appeals Information Sheet](#) (available at [www.qld.gov.au](http://www.qld.gov.au) using the publication number ESR /2015/1742 as a search term).

A request for review or appeal is to be made using the approved form '[Application for review of original decision](#)' (available at [www.qld.gov.au](http://www.qld.gov.au) using the publication number ESR/2015/1573 as a search term).

Applications for reviews are to be sent to Permit and Licence Management, Department of Environment, Science and Innovation: via email at [palm@des.qld.gov.au](mailto:palm@des.qld.gov.au) , or by mail to the following address: GPO. Box 2454, Brisbane, QLD, 4001.

Where an application has been made for a decision to be reviewed, the applicant may also apply to the relevant court for a stay of the decision to secure the effectiveness of the review.

Once the original decision has been reviewed, a person who is dissatisfied with the review decision may be able to appeal against that decision to the relevant court within 22 business days after receiving notice of the review decision.

A person whose interests are or would be adversely affected by a decision of the department may be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

You may have other legal rights or obligations and should seek your own legal advice.

Pursuant to section 540 of the Act, the department is required to maintain a register of certain documents and information authorised under the Act. A copy of this document will be kept on the public register. The register is available for inspection by members of the public who are able to take extracts, or copies of the documents from the register. Documents that are required to be kept on the register are published in their entirety, unless alteration is required by the Act. There is no general discretion allowing the department to withhold documents or information required to be kept on the public register. For more information on the department's public register, search 'public register' at [www.qld.gov.au](http://www.qld.gov.au). For queries about privacy matters please email [privacy@des.qld.gov.au](mailto:privacy@des.qld.gov.au) or telephone 13 74 68.

**Notice**  
**Environmental Protection Order**

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Should you have any queries in relation to the notice, please contact Senior Environmental Officer Tiffany Brown on (07) 48373482.



Signature

16/05/2024

Date

Alisha Stewart

Manager Compliance (Coal)

Delegate of the Chief Executive

Department of Environment, Science and Innovation

*Environmental Protection Act 1994*

**Enquiries:** Tiffany Brown

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