Notice

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.

The Riverside Coal Transport Company Pty. Ltd.
161 Breakfast Creek Road
NEWSTEAD QLD 4006

Your reference: EPPR00465913
Our reference: STAT1016 & 101/0005122

10 May 2016

Dear Sir/Madam

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to The Riverside Coal Transport Company Pty. Ltd. (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Heritage Protection (the department). The EPO is issued with respect to the activities of The Riverside Coal Transport Pty. Ltd. at 17 Skyring Terrace, Newstead on land described as Lot 593 on SP148600 and Lot 2 on SP171342 (the premises).

A. Grounds

This EPO is issued on the following grounds:

- To secure compliance with the General Environmental Duty under section 319 of the Act;
- To secure compliance with conditions W1, G6, G7 and G8 of the environmental authority (EPPR00465913) (the EA).

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

- You carry out Environmentally Relevant Activities (ERA) 16- Screening and ERA 50- Bulk Material Handling on the premises.
- The department conducted a compliance inspection of the premises on 17 December 2015 and observed alleged non-compliances with conditions G1, G2, G4, G6, G7, G8, W1, W2, W4, W5 & W6 of the EA. The department issued you with a show cause notice in response to these matters.
- In response you indicated you would make changes to the operation on the premises to ensure compliance with the EA. This included additional measures to prevent sand entering the Brisbane River and the property the north of the premises; moving sand containment systems to ensure minimum distances required by the EA are achieved and appropriately storing chemicals.

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- On 5 April 2016, the department issued you with 3 Penalty Infringement Notices (PINs); one PIN for an alleged breach of condition G7 (for not having the required minimum setback of 5 metres from the sand stockpile to the Brisbane River); one PIN for an alleged breach of condition G8 (storing chemicals without a secondary containment system); and one PIN for an alleged breach of condition W1 (for the release of contaminants into the waters or the bed and banks of the waters). Additionally the department also issued a separate warning for potential non-compliances with the following conditions of the EA: G1, G2, G4, G6, W2, W4, W5 and W6.
- Departmental officers conducted a drive-by of the premises on 13 April 2016 and observed considerable volumes of sand had been deposited on Skyring Terrace, which runs to the west of the premises. Officers observed sand had been deposited from the premises into adjacent roadside gutters and stormwater drains and noted that sand was approximately 10 mm thick in places. The department alleges the sand on the road and in the roadside gutters and stormwater drains was a breach of condition G6 of the EA. Officers contacted Mr Angus Campbell from The Riverside Coal Transport Company Pty. Ltd. after returning to the office, who stated he aware of the sand and took actions to clean it from the road and remove it from the roadside gutters and stormwater drains.

B. Requirements

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

1. From the **date of this notice** you must prevent the release of all contaminants to waters and the bed and banks of any waters.
2. From the **date of this notice** you must take immediate action to ensure the outer limit of all stockpiles, including the stockpile containment system, is set back a minimum of five (5) metres from the top of the rock wall (Brisbane River revetment wall) as shown in the survey plan reference 6895DT, dated 14/09/2012 (Schedule 2 of the EA).
3. From the **date of this notice**, you must take immediate action to ensure all chemicals and fuel in bulk containers or volumes of greater than 15 litres are stored in a secondary container system in accordance with the specifications contained within Australian Standard 1940.
4. From the **date of this notice** you must ensure all storage and handling of sand materials on site does not cause or be reasonably likely to cause contaminants to wash, blow, fall or otherwise move into roadside gutters or stormwater drainage such as to cause any accumulation of earthen material.
5. As soon as practicable, but no later than **5.00pm on 27 May 2016**, you must engage an independent, suitably qualified erosion and sediment control professional to undertake works as described in requirement 6, below.
6. As soon as practicable, but no later than **5.00pm on 24 June 2016**, the erosion and sediment control professional, engaged in accordance with requirement (5) above, must design and submit to the department an erosion and sediment control plan which meets the requirements of condition G6, W1 & A11 of the EA. You must have due regard to any comments provided by the department and adjust the plan accordingly.
7. As soon as practicable, but no later than **5.00pm on 24 June 2016** you must submit to the department an up to date version of the site based management plan for the site, which includes (but not limited to) written procedures that:

   a) identify potential risks to the environment from the activity during routine operations and emergencies;

   b) establish and maintain control measures that minimise the potential for environmental harm;

c) ensure plant, equipment and measures are maintained in a proper and effective condition;

d) ensure plant, equipment and measures are operated in a proper and effective manner;

e) ensure that staff are trained and aware of their obligations under the Act; and

f) ensure that reviews of environmental performance are taken at least annually.

You must have due regard to any comments provided by the department and adjust the plan accordingly.

8. As soon as practicable, but no later than **5.00pm on 24 June 2016** you must develop and submit to the department an up-to-date version of the stormwater management plan for the site demonstrating compliance with condition G6 and W1 of the EA.

   You must have due regard to any comments provided by the department and adjust the stormwater management plan accordingly.

9. As soon as practicable, but no later than **5.00pm on 25 July 2016**, works to implement the erosion and sediment control plan submitted in accordance with requirement (6) above must be completed.

10. As soon as practicable, but no later than **5.00pm on 1 September 2016**, the independent suitably qualified erosion and sediment professional, engaged in accordance with requirement (5) above, must certify the completion of the works conducted under the erosion and sediment control plan, submitted under requirement (6) above.

11. As soon as practicable, but no later than **5.00pm on 25 August 2016**, you must complete all the works required to implement the requirements of the site based management plan in accordance with requirement (7) above and the stormwater management plan in accordance with requirement (8) above.

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 Act;
- this order remains in force until further notice from the administering authority.

D. Penalty

Failure to comply with an EPO is an offence.

- The maximum penalty for an individual for wilfully contravening an EPO is 6250 penalty units, totalling $736,250 or five years imprisonment.
- The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling $3,681,250
- The maximum penalty for an individual contravening an EPO is 4500 penalty units, totalling $530,100
- The maximum penalty for a corporation contravening an EPO is 22,500 penalty units, totalling $2,650,500

Failure to provide written notice to the buyer is an offence.

- The maximum penalty for an individual is 50 penalty units, totalling $5,890.
- The maximum penalty for a corporation is 250 penalty units, totalling $29,450.

Failure to provide written notice within 10 business days of ceasing the activity to the department is an offence.

- The maximum penalty for an individual is 50 penalty units, totalling $5,890.
- The maximum penalty for a corporation is 250 penalty units, totalling $29,450

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

E. Reviews and appeals

The provisions regarding review of decisions and appeals may be found in sections 519 to 539 of the Act.

A person who is dissatisfied with certain decisions of the department, may be able to apply to have the department review that original decision.

Generally, a request to have a decision reviewed must be made:

- within 10 business days of the decision being notified to the person;
- be supported by enough information to enable the department to decide the application for review; and
- be made using the application for review of an original decision form (EM709).[1]

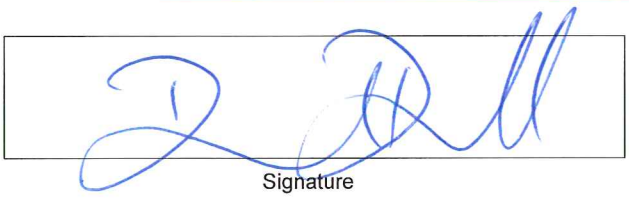
Where an application has been made for a decision to be reviewed, the applicant may also apply to the relevant court for a stay of the decision to secure the effectiveness of the review.

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

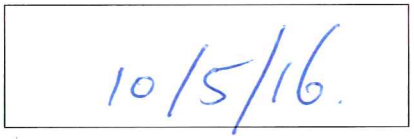
A person whose interests are or would be adversely affected by a decision of the department may also be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

For further information about reviews and appeals see the information sheet - internal review and appeal to the Planning and Environment Court (EM1866). You may have other legal rights or obligations and should seek your own legal advice.

Should you have any queries in relation to the notice, please contact Ben Grant on telephone 07 5316 8408 or via email at ESCompliance-BrisbaneMoreton@ehp.qld.gov.au.



Signature



Date

David Darvall
Manager (Compliance)
Delegate of the Chief Executive
Department of Environment and Heritage Protection
Environmental Protection Act 1994

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[1] This is the publication number. The publication number can be used as a search term to find the latest version of a publication at <www.ehp.qld.gov.au>.