

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.

Alphadale Pty Limited
44-46 SIXTH STREET,
SOUTH TOWNSVILLE, QLD, 4810

Your reference: EPML00771413

Our reference: STAT1076

17 October 2016

Dear Sir

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to Alphadale Pty Limited (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 in respect to your activities at Mining Leases 10168, 10175 and 10192 on land described as Lot 1 on SP272205 (the project site).

A. Grounds

This EPO is issued on the following grounds:

1. To secure compliance with the general environmental duty which pursuant to section 319 of the Act, requires that a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm.

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

1. You are the holder of Environmental Authority EPML00771413 (the EA) for the project site.
2. The department identified non-compliances were detected by the department following a compliance inspection on 8 June 2011. During the inspection contaminated seepage from the heap leach and the north and south waste rock dumps was identified.
3. A program notice was then submitted by Alphadale with a draft transitional environmental program MAN14100 (the TEP) to address the non-compliances identified. The TEP was subsequently approved by the department. The expiry date of the TEP following an amendment was 27 June 2014.

4. The program notice submitted prior to the TEP approval identified that with a total catchment area of 11.5 ha, an accumulated storage capacity of 84 ML (i.e. accounts for process ponds as well), and a maximum projected surface area at full supply level of 2.0 ha, unless preventative action is taken, occasional, if not regular, spillway discharges are inevitable.
5. The department completed a pre wet season compliance inspection on 20 August 2014 to determine compliance with the TEP and conditions of the EA.
6. During the inspection a pool of water was observed in Gorge Creek immediately opposite and downstream of the impoundment dam wall and within ML10192. Gorge Creek was not flowing at the time of the inspection. There was also a gully leading to the pool from the impoundment dam containing saturated soil. Department officers sampled the gully soil and the water in the pool in Gorge Creek.
7. The analytical results of the sample taken from the pool in Gorge Creek indicate that the total concentration of Arsenic in the water is 5.82 mg/L. The analytical results of the sediment sample taken from the gully leading to the pool from the direction of the impoundment dam indicate that the concentration of Arsenic in the sediment is 1000 mg/kg.
8. The results from all sample sites are summarised below:

Big Rush		Date	20 Aug 2014	20 Aug 2014	20 Aug 2014	20 Aug 2014	20 Aug 2014	20 Aug 2014
Sample site			Gorge Creek pool site gully BRGCAS	Gorge Creek pool site BRGCA	Gorge Creek upstream BRC1-1	Pregnant Pond BRPP	Barren Pond BRBP	Impoundment Dam BRID
Analyte	Units	EA Limit	Soil	Water	Water	Water	Water	Water
Arsenic dissolved	mg/L	0.5	N/A	5.48	0.002	53.3	48.5	52.3
Arsenic total	mg/L	0.5	N/A	5.82	0.002	68.0	52.8	55.9
Fluoride	mg/L	2	N/A	0.9	0.4	1.6	1.6	2.3
Arsenic	mg/kg	N/A	1000	N/A	N/A	N/A	N/A	N/A

¹ ANZECC 2000 ISQG High level from Table 3.5.1 is 70 mg/kg

9. Following this discovery an EPO (STAT900) was issued to you on 25 February 2015 requiring the company to take action to amongst other things repair any leaks in the dam wall and establish an appropriate design storage allowance for contaminated water that could be generated by the Big Rush mine.
10. The EPO was complied with and a design storage allowance created by enlarging the impoundment dam and undertaking dewatering activities to reduce the quality of contaminated water. These dewatering works including active pumping of dam water to the top of the heap leach pad and then irrigation via lay flat hose to encourage evaporative loss.
11. The reports submitted in compliance with the EPO requirements established that the impoundment dam would need to be emptied prior the wet season to create the required design storage allowance for contaminated waters.
12. Two new groundwater monitoring bores were also installed at the site to detect seepage of contaminants from the dams to Gorge Creek.
13. Two compliance inspections were conducted by EHP officers on 3 March 2016 and 30 June 2016. During these inspections officers observed that the impoundment dam contained contaminated water

and that pumping infrastructure was in place. It was discussed with you that pumping may again be needed to ensure that the impoundment dam was empty prior to the wet season.

14. During the inspection on 30 June 2016 the department took water quality samples from:
- the barren pond and the level of arsenic was 53.7 mg/L; and
 - the impoundment dam and the level of arsenic was 23.3 mg/L;
15. On 22 September 2016 Mt Moss Mining Pty Ltd wrote to EHP and in relation to the passing of Michael Curtain stated that:

There is therefore no director or ultimate executive of Mt Moss at present. Therefore no one has the authority, or can be delegated the authority to bind the company to anything until probate has been obtained.

16. The company structure of Alphadale Pty Limited is the same as that of Mt Moss Mining Pty Ltd, with both companies sharing the same sole director and company secretary.
17. Therefore the department considers that the current management status at the site is unclear and on the basis of the risks identified above, actions are required to secure compliance with the general environmental duty.

Summary

18. The above summarised monitoring data indicates that there are contaminants in surface water that are above the ANZECC guideline livestock drinking water quality levels.
19. An active pumping system is required to ensure that the dams on the mine site have the capacity to contain contaminated waters during wet season flows and prevent release to Gorge Creek.
20. Monitoring is required at the site to detect the release of contaminants to Gorge Creek.
21. Therefore the department considers that additional reasonable and practicable actions are required to prevent or minimise environmental harm in accordance with the general environmental duty.

B. Requirements

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

1. Immediately upon receipt of this EPO, you must take all necessary actions to prevent any unauthorised release of contaminants from the premises to the receiving environment.
2. You must take reasonable and practicable action necessary to secure design storage allowance for contaminated water at the project site by 1 November each year.
3. At all times you must:
 - a. Ensure appropriately qualified and experienced personal are at the premises to ensure compliance with this EPO; and
 - b. Secure and maintain all infrastructure necessary to ensure compliance with the requirements of the EPO and that may be required for the ongoing mitigation of environmental risks and/or site rehabilitation is functional and operable; and
 - c. Maintain fuel supplies and access to power to ensure the ongoing operation of required measures, plant and equipment to ensure compliance with this EPO.

4. You must not, without the administering authority's prior written approval, materially alter or dispose of any infrastructure on the premises that is necessary to ensure compliance with the requirements of this EPO, and that may be required for the ongoing mitigation of environmental risks and/or rehabilitation.
5. Provide a written monthly report to the department detailing all actions taken to ensure compliance with the requirements of this EPO.
6. The requirements of this EPO remain in force until the EPO is revoked or otherwise concluded by the department.
7. The requirements of the EPO continue to apply to you despite environmental authority EPML00771413 being cancelled, surrendered, suspended or otherwise brought to an end including by force of law.

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 \$761,675 or five years imprisonment.
- The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling \$3,809,375.
- The maximum penalty for an individual for contravening an EPO is 4500 penalty units, totalling \$548,550.
- The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling \$2,742,750.

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

- The maximum penalty for an individual is 50 penalty units, totalling \$6,095.
- The maximum penalty for a corporation is 250 penalty units, totalling \$30,475.

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 \$6,095.
- The maximum penalty for a corporation is 250 penalty units, totalling \$30,745.

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 ([ESR/2015/1573](#)).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 be able to appeal against that decision to the relevant court within 22 business days after receiving notice of the review decision.

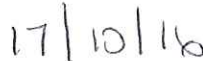
A person whose interests are or would be adversely affected by a decision of the department may also be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

For further information about reviews and appeals see the information sheet - internal review and appeal to the Planning and Environment Court ([ESR/2015/1572](#)). 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 Andrew Wallace on telephone number (07) 4722 5366.



Signature



Date

Rebecca Booker

A/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.

