

Notice

Environmental Protection Act 1994

Environmental Evaluation

Notice to conduct or commission another environmental evaluation

This notice to conduct or commission another environmental evaluation is issued by the administering authority pursuant to sections 326B and 326I(2) of the Environmental Protection Act 1994.

Southern Cross Fertilisers Pty Ltd
Level 8, 28 Freshwater Place
SOUTHBANK VIC 3006

Your reference: STAT1099

Our Reference: EPML00885513

28 April 2017

Take notice: that under the *Environmental Protection Act 1994* (the Act), a notice requiring you conduct or commission another environmental investigation and submit a report on the investigation is issued to Southern Cross Fertilisers Pty Ltd (you) by the administering authority. The administering authority is the Chief Executive of Department of Environment and Heritage Protection (the department).

The notice to conduct or commission another environmental investigation is issued in respect to the activities by Phosphate Hill Mine, on land described as mining lease ML5542, ML5543, ML5551 ML5556 (the premises).

A. Grounds

The notice to conduct or commission another environmental investigation is issued on the following grounds:

Section 326I(2) of the Act

- A notice to conduct or commission an environmental investigation was given to you by the department on 3 March 2015;
- An environmental report was submitted to the department by you on 31 March 2016;
- A request for further information was given to you by the department on 14 April 2016;
- A response was submitted to the department by you on 3 November 2016;
- The department refused the report on 1 December 2016;
- The report was refused on the grounds that it did not adequately address requirement 5 of the notice to conduct an environmental investigation;
- Further investigation is required to fully address this requirement;

The department is satisfied the report provided by you on 3 November 2016 does not adequately address the following relevant matters:

- Conduct an investigation of the regional groundwater system which, at a minimum

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- Establishes background reference water quality of each aquifer and determines appropriate trigger values and limits.
- Compares the results from the reference bores to current and historical monitoring results and consider the impact of mining activities to the premises.

Section 326(B) of the Act

The report "Phosphate Hill Groundwater Monitoring 2016 – October Quarterly Groundwater Monitoring Report" (C&R Consulting, 13 December 2016) identifies elevated electrical conductivity readings in groundwater bore GW05A. It report states "The Reference Bore electrical conductivity (EC) has risen to over 9,000us/cm, exceeding the contaminant limit by more than 3,000us/cm. Together with other exceedances in GW05A, this signals a potential source of contamination, and an upward creep in the contaminant limits derived from GW05A, warranting additional investigation to explore potential contaminant pathways." It is noted that this observation is made based on rising trends in electrical conductivity readings (an increase of more than 3,500us/cm over a period of nine months is cited in the report), and graphs on page 15 of the report depict significantly elevated EC readings from January 2016 to October 2016.

The department is satisfied that an environmental investigation should be undertaken based on reasonable grounds that the activity is causing, or is likely to cause, environmental harm.

B. Requirements

The environmental investigation must address the following matters:

1. Continues to collect and collate data to establish the background reference water quality of each aquifer. This should include, but not be limited to:
 - a. A data set which comprises a minimum of 12 monthly sampling rounds from the background reference bore of each aquifer which has been analysed for the parameters listed in Table E4 of your EA;
 - b. Descriptive statistics for each background reference bore (i.e. date range, count, median, mean, minimum, maximum, 80th and 95th percentiles);
 - c. Box plots for all background reference bores for each water quality parameter which shows the median, 20th and 80th percentiles and the environmental value of livestock drinking water, and EA limits;
 - d. The distribution of major anions and cations in each bore (i.e. piper diagram);
 - e. Time series plots and statistical analysis of the water quality for each data to assess trends in water quality parameter concentrations;
 - f. Time series plots and statistical analysis for the data collected from each background reference bore for each monitoring parameter.
2. Using the information collected in Requirement 1 determine appropriate trigger values and limits.
Note: The method of assessing groundwater quality and deriving trigger values and contaminant limits must be consistent with the document titled 'Using monitoring data to assess groundwater quality and potential environmental impacts' (March 2017, Department of Science, Information Technology and Innovation).
3. Compare the results from Requirement 1 to all current and historical groundwater monitoring results and determine:
 - a. if groundwater has been impacted by mining activities;
 - b. the source, cause and extent of any environmental harm caused by mining activities.
 Note: The sample analysis requirements of sections 1(i)-(f) must also be utilised when reviewing current and historical groundwater monitoring results.
4. Based on the outcomes of investigations carried out in accordance with Requirements 1-3, describe all relevant remediation options including the works, costs and timeframes before recommending a preferred option.
5. The environmental report must include:
 - a. the methodology applied in conducting this investigation, including any assumptions relied upon and their justification;

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- b. the outcomes and findings of the investigation, including justification for any conclusions;
- c. the raw data for any graphical summaries with a clear indication of which data has been applied to each graph.

The report on the environmental investigation must be submitted to the department on or before:

- **31 October 2017**

As the recipient of this notice, you are also required to provide a statutory declaration in the form attached to accompany the environmental report submitted to the department.

You can view an electronic version of the statutory declaration for a recipient using the search term ([ESR/2016/1997](#)).¹

Take notice:

- the requirements of the notice to conduct or commission an environmental investigation take effect immediately upon service of this notice;
- this notice remains in force until further notice from the department; and
- you are responsible for meeting the costs of conducting or commissioning the environmental investigation, preparing the environmental report and providing any further information as requested by the department.

C. Reviews and appeals

The provisions regarding reviews of decisions and appeals are 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](#)).

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*.

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.

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>.

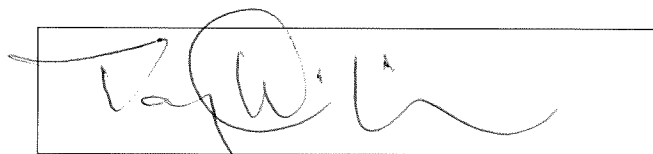
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D. Penalty

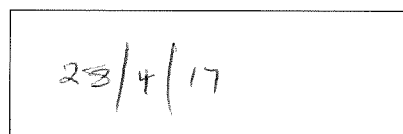
Failure to comply with a notice to conduct or commission another environmental investigation is an offence.

- The maximum penalty for an individual is 300 penalty units, totalling \$36,570.
- The maximum penalty for a corporation is 1500 penalty units, totalling \$182,850.

Should you have any queries in relation to this notice, please contact Wendy Logan of the department on telephone number (07) 4722 5221.



Signature



Date

Tony Williams
A/Manager (Compliance) |
Delegate of the Chief Executive
Department of Environment and Heritage Protection
Environmental Protection Act 1994

Enquiries:

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