

Notice

Environmental Protection Act 1994

Environmental Protection Order (Amended)

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

MGT Mining Limited
Suite 9, Level 2, 330 Churchill Avenue
SUBIACO WA 6008

Your reference: EPVL00864413

Our reference: 101/0008747, STAT1175

Dear MGT Mining Limited

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to MGT Mining Limited (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

The EPO is issued in respect to the activities of MGT Mining Limited at Mt Veteran Mill on land described as mining leases ML4349 and ML20547 (the premises).

A. Grounds

This EPO is issued on the following grounds:

- To secure compliance with the general environmental duty (GED) pursuant to section 319 of the Act, which states:
"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:

- MGT Mining Limited (MGT) owns and operates the Mount Veteran Mill under Environmental Authority EPVL00864413 (EA).
- Seepage from the downstream wall of the Mount Veteran Mill's tailings storage facility (TSF) was identified in late 2013 by the department. Seepage water was being released to a tributary of Return Creek (Males Gully) at a rate of approximately 1 L/s;
- To prevent an unauthorised release to waters from the TSF, a catch pond with a capacity to contain a 1 in 100 year, 24 hour rain event was constructed and an automatic high volume pump was installed to return the water to the TSF.
- The temporary catch pond and water return system were effective in preventing unauthorised release to the environment from the TSF during the 2015/16 wet season.

- e. On 24 June 2016, MGT requested to extend the operation of the catch pond and water return system until the end of the 2016/17 wet season.
- f. On 3 August 2016, the department allowed MGT to leave the catch pond and water return system in place during the 2016/17 wet season while MGT were identifying a permanent solution to stop seepages from the TSF. No unauthorised release from the TSF to the environment occurred during the 2016/17 wet season.
- g. On 19 April 2017, MGT notified the department that seepage at the downstream outer embankment wall between the pump pond and the fresh water dam has increased substantially.
- h. Seepage from the freshwater downstream embankment wall is at an estimated rate of 400 m³/day, causing the pump pond to overflow into the TSF. The TSF water level is reportedly rising at a rate of approximately 16mm/day.
- i. To investigate the increased seepage from the fresh water dam, MGT pumped the water from the pump pond into the fresh water dam to a level that exposed the seepage site and allowed initial investigation of the dam wall by a suitably qualified and experienced person.
- j. MGT reported that the water level in the pump pond has decreased by approximately 700mm since pumping from the pump pond commenced.
- k. The department believes that if no immediate action is taken by MGT on the fresh water dam wall, there is potential for the integrity of the structure to be compromised leading to a larger release from the fresh water dam, causing the pump pond and TSF to overflow. Additionally structural failure of the fresh water dam may lead to sudden and significant inflows to the TSF causing a subsequent catastrophic failure of the TSF embankment thereby releasing tailings and causing significant impacts to the downstream receiving environment.
- l. On 31 May 2017, MGT submitted a proposal to the department to rectify both the TSF and the freshwater dam seepage issues at the Mt Veteran Mill.
- m. The department has reviewed the proposal provided by MGT and is satisfied that it provides sufficient initial information to enable the selection and use of appropriate tools to mitigate immediate environmental risk at the premises.
- n. The department identified that, in accordance with section 358 of the EP Act, an environmental protection order (EPO) is the most appropriate tool to secure compliance by MGT with the general environmental duty.

B. Requirements

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

Fresh Water Dam – immediate requirement (structural integrity and stability):

- (1) As soon as practicable but not later than 5pm on 31 July 2017, MGT Mining Ltd must engage a suitably qualified and experienced person to:
 - (a) assess the stability and structural integrity of the fresh water dam wall;
 - (b) identify safety risks at the fresh water dam wall;
 - (c) recommend urgent actions/requirements as necessary to ensure the stability and structural integrity and to mitigate the safety risks of the fresh water dam wall for the 2017/18 wet season.
- (2) As soon as practicable but not later than 5pm on 31 August 2017, MGT Mining must submit a report duly signed and certified by the suitably qualified and experienced person documenting the outcomes of item (1) above.

- (3) As soon as practicable but not later than 5pm on 30 October 2017, MGT Mining Ltd must complete the required actions recommended by the suitably qualified and experienced person to ensure the stability and structural integrity of the fresh water dam wall.

Freshwater Dam Wall – Seepage Prevention:

- (4) As soon as practicable but not later than 5pm on 31 August 2017, MGT Mining Ltd must submit to the department a report prepared by a suitably qualified and experienced person documenting:
- (a) the detailed proposed actions/ recommendations to permanently stop the seepages from the fresh water dam wall and to ensure the long-term stability of the wall as required;
 - (b) contingency option(s) if the recommended actions or measures fail to permanently stop the seepages from the fresh water dam wall;
 - (c) program of work including timeframe for implementation of the proposed actions and alternative options to permanently stop the seepages from the fresh water dam wall and to ensure the long-term stability of the wall.

Water levels in the TSF:

- (5) As soon as practicable but not later than 5pm on 30 October 2017, MGT Mining Ltd must ensure that all reasonable and practicable measures are implemented to prevent the release of TSF water into the receiving environment, including but not limited to:
- (a) install a marker on the TSF which clearly identifies the amount of freeboard available within the structure.
 - (b) install and operate an enhanced evaporation system to significantly reduce the water level within and increase the freeboard of the TSF;
 - (c) operate and maintain the existing catch pond and water return system.

Reporting:

- (6) As soon as practicable but not later than 5pm on 31 January 2018, MGT Mining Ltd must submit a Report describing the performance of measures implemented at the fresh water dam wall and assessing the performance of water management measures in the TSF.
- (7) As soon as practicable but not later than 5pm on 31 March 2018, MGT Mining Ltd must submit to the department a Report prepared by a suitably qualified and experience person on
- (a) Detailed proposed actions/recommended measures to permanently address seepage issues at the downstream embankment of the TSF;
 - (b) details of program of work including timeframe for implementation of the proposed actions/ recommended measures identified in (a).

Definition:

“Suitably qualified and experienced person” means a person who is a Registered Professional Engineer of Queensland (RPEQ) under the provisions of the *Professional Engineers Act 2002*, and has demonstrated competency and relevant experience in civil engineering with the required qualifications in dam safety and dam design.

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:

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

D. Penalty

Failure to comply with an EPO is an offence.

1. The maximum penalty for an individual for wilfully contravening an EPO is 6250 penalty units, totalling \$788,437.50 or five years imprisonment.
2. The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling \$3,942,187.50.
3. The maximum penalty for an individual for contravening an EPO is 4500 penalty units, totalling \$567,675.
4. The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling \$2,838,375.

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

1. The maximum penalty for an individual is 50 penalty units, totalling \$6,307.50.
2. The maximum penalty for a corporation is 250 penalty units, totalling \$31,537.50.

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

3. The maximum penalty for an individual is 50 penalty units, totalling \$6,307.50.
4. The maximum penalty for a corporation is 250 penalty units, totalling \$31,537.50.

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:

1. within 10 business days of the decision being notified to the person;
2. be supported by enough information to enable the department to decide the application for review; and
3. 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.

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>.

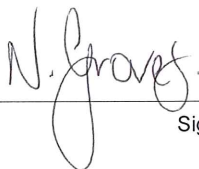
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Once the original decision has been reviewed, a person who is dissatisfied with the review decision may be able to appeal against that decision to the relevant court within 22 business days after receiving notice of the review decision.

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 Alex Apostol on telephone number (07) 4222 5359


Signature


Date

Nina Groves

A/Manager Compliance

Delegate of the Chief Executive

Department of Environment and Science

Environmental Protection Act 1994

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