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.

RTA Yarwun Pty Ltd
123 Albert Street
BRISBANE QLD 4000

cc RTA Yarwun Pty Ltd
975 Hanson Road
YARWUN QLD 4680

Our reference: 101/0006008|n5581651|CR77950|STAT1234

Dear Sir

Take notice: that under the *Environmental Protection Act 1994* (the Act), this Environmental Protection Order (EPO) is issued to RTA Yarwun Pty Ltd (RTAY) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Heritage Protection (the department).

This EPO is issued in respect to the activities of RTAY at Fisherman's Landing, Yarwun on land described as Lot 502 on Plan SP252988 (the premises).

A. Grounds

This EPO is issued on the following grounds:

1. Section 358(d) (iii) of the Act states the department may issue an EPO to secure compliance with a condition of an environmental authority.
   a) The department is satisfied that RTAY is in non-compliance with condition G2 of Environmental Authority (EA) EPPR00926513.
   b) The department is satisfied that RTAY is in non-compliance with condition L2 of EA EPPR00926513.

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

1. RTAY are the holder of EA EPPR00926513 and operate a chemical storage facility at Fisherman's Landing Wharf, Yarwun for the purpose of storing liquid caustic soda (caustic) for the use in alumina refining.
2. The storage facility includes two above ground bladders (Bladder One and Bladder Two) that hold 39,000m^3 of caustic each, which are filled via a pipeline from shipping vessels at RTAY's wharf.
3. There has been a history of caustic releases to land from the inlet weirs on both bladders. From February 2010 to April 2014, the department has issued three warning notices to RTAY for caustic releases to land.
4. On 22 November 2016, the department issued pre-enforcement correspondence to RTAY relating to incidents on 13 and 18 August 2016 involving caustic releases to land at Bladder Two. In response, RTAY

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stated the contamination was confined to a pipework area with no risk of material or serious environmental harm. RTAY also advised that the use of Bladder 2 to store caustic had ceased.

5. On 23 March 2017, RTAY notified the department of a caustic release to land at Bladder Two. Elevated pH readings were recorded during a heavy rain event over the period from 23-28 March 2017. During telecommunications between RTAY and the department on 28 March 2017, RTAY concluded that the contamination source was likely to be residue from previous releases.
6. On 6 April 2017, RTAY notified the department that there was a caustic release to land within the pipeline's corridor into Bladder One.
7. On 21 July 2017, RTAY submitted an Investigation Progress Report to the department confirming that caustic was identified both between the primary and secondary containment layers and outside the bladder in Bladder Two. RTAY stated that the contamination source was from legacy incidents prior to 2014.
8. On 15 August 2017, RTAY submitted a response to the department's further information request (dated 2 August 2017). RTAY stated that approximately 2,229L of undiluted caustic had been removed and that due to a leak detection failure (blockage), the contamination went undetected for approximately three years. The contaminated soil currently remains onsite and remediation of the area is not predicted to be completed until June 2018.
9. EA Condition G2(b) and G2(c) states:

   Maintenance of measures, plant and equipment
   The holder must:
   (b) maintain such measures, plant and equipment in a proper and efficient condition; and
   (c) operate such measures, plant and equipment in a proper and efficient manner.

10. The history of spillages and the significant timeframe that the contamination has been present and undetected indicates that the bladder and associated infrastructure has not been maintained and operated in a proper and efficient manner.
11. EA Condition L2(a)(ii) states:

    There must be no release of contaminants to land other than:
    (a) any spillage of hydrocarbons or process contaminants (including thickener overflow or underflow) within the boundaries of and to which this environmental authority relates provided that:
    (ii) the hydrocarbon or process contaminant is promptly removed from the ground and the affected area remediated (including by removal of impacted soil where necessary) to minimise any residual contamination; or…

12. The department is satisfied that RTAY has not complied with conditions G2 and L2 of EA EPPR00926513 as process contaminant (caustic) has been present in the ground for a significant amount of time without being detected and/or promptly removed from the ground and the affected area remediated.
13. The department considers it is reasonable to issue an EPO to secure compliance.

B. Requirements

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

1. By **30 November 2017**, you must develop and implement a Sampling and Analysis Plan (SAP), in accordance with *the National Environment Protection (Assessment of Site Contamination) Measure 1999*, to ensure the extent of the environmental contamination is fully understood. The SAP must include, but not be limited to:

a) Number, location and depth of sampling points.

b) Details of parameters being monitored, along with rationale of each.

2. By **30 December 2017**, you must conduct a qualitative risk assessment for the caustic bladder area, and provide the department with a report on the qualitative risk assessment, including, but not limited to:

   a) Review of all operating, maintenance and incident response procedures related to the storage of caustic.

   b) Evaluation of current risk controls used to mitigate caustic releases.

3. By **28 February 2018**, you must complete a Conceptual Site Model (CSM) to identify potential and actual contamination sources, receptors and exposure pathways in accordance with the *National Environment Protection (Assessment of Site Contamination) Measure 1999*. CSM must include, but not be limited to:

   a) An estimate of the rate of lateral and vertical movement of contaminants both in soil and groundwater.

   b) In relation to pH detection in groundwater bores, provide soil profiling for depth justification.

4. By **28 February 2018**, you must submit a remediation action plan for Bladder Two that includes, but is not limited to, the following:

   a) Remediation commitments that ensures the premises will pose no unacceptable risk to the environment, along with timeframes for each action.

   b) Establishment of environmental controls required to complete the remediation in an environmentally acceptable manner.

   c) Repair, remove or decommission the damaged infrastructure.

   d) Removal of all contamination and provide validation that all affected soil has been removed.

   e) Ensuring the premises is on the Environmental Management Register for the notifiable activity of chemical storage.

   f) Install a leak detection system under the area of the liner removed for the remediation works.

5. By **30 August 2018**, you must have completed the remediation actions in accordance with the remediation action plan, and you must submit a site validation report to the department detailing the site work conducted and future monitoring and mitigation measures for possible releases. The site validation report must be reviewed by a third party.

6. RTAY must not use Bladder Two and associated infrastructure until such time that requirements 1 to 5 have been completed.

7. All works carried out under, or in response to, the requirements of this notice must be conducted by a suitably qualified person (SQP). A SQP means a person who has demonstrable professional qualifications, training, skills and/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.

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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 6,250 penalty units, totalling $788,437 or five years' imprisonment.
- The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling $3,942,187.
- The maximum penalty for an individual for contravening an EPO is 4,500 penalty units, totalling $567,675.
- The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling $2,844,682.

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

- The maximum penalty for an individual is 50 penalty units, totalling $6,307.
- The maximum penalty for a corporation is 250 penalty units, totalling $31,537.

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 $6,307.
- The maximum penalty for a corporation is 250 penalty units, totalling $31,537.

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

[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>.

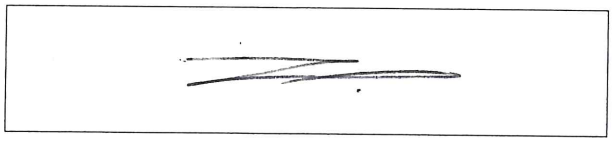
court for a stay of the decision to secure the effectiveness of the review.

Once the original decision has been reviewed, a person who is dissatisfied with the review decision may be able 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 David Love, Compliance Delivery Manager, Gladstone on telephone number (07) 4971 6508.



Signature

10 /11 /2017

Date

Jacob Toe
Delegate of the Chief Executive
Department of Environment and Heritage Protection
Environmental Protection Act 1994

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