

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.

MRV Metals Pty Ltd
Suite 8, Level 2
113 Wickham Terrace
SPRING HILL QLD 4000

Jason.elks@moretonresources.com.au

Your reference: EPML04238116

Our reference: CA50816

6 July 2018

Dear Sir/Madam

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to MRV Metals Pty Ltd (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 mining activities carried out by MRV Metals Pty Ltd at the Granite Belt Project Mine Site (ML100106), on land described as Lot 2 on SP140743 and Lot 28 on MPH14454 situated at Texas, QLD (the premises).

A. Grounds

This EPO is issued to you pursuant to section 358 of the Act to:

- Secure compliance with the general environmental duty;
- Secure compliance with a condition of an environmental authority; and
- In response to a contravention of section 440ZG of the Act.

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

1. Environmental authority EPML04238116 (the EA) was issued to MRV Metals Pty Ltd (MRV) on 16 May 2017.
2. The EA took effect upon grant of mining lease (ML) 100106 on 28 September 2017.

3. MRV are conducting mining activities at the premises under the EA.
4. On 19 June 2018, officers from the department conducted an inspection of the premises (inspection 1) in the presence of a MRV representative.
5. During inspection 1, department officers collected the following information:
 - a. The MRV site representative advised department officers that MRV was transferring water (via active pumping) from other water storages at the premises into West Dam;
 - b. Seepage was observed to be expressing from the toe of the West Dam embankment and into the Sump;
 - c. Seepage was observed to be collecting in the Sump and then releasing to downstream waters;
 - d. No effective control measures were in place to prevent or limit the overflow of seepage collecting in the Sump and the MRV representative did not nominate any proposed control measures (to prevent the overflow).
6. During inspection 1, department officers conducted in situ sampling of the water stored in West Dam and of the seepage expression collecting in the Sump, with the following results recorded:
 - a. West Dam pH of 2.7 and
 - b. Sump pH of 3.48 at surface, pH 3.6 at 0.5 m depth.
7. During inspection 1, department officers also collected water samples from West Dam and the Sump, which were subsequently analysed by ALS laboratories, with the following results reported:
 - a. West Dam – Elevated concentrations of zinc, aluminium, arsenic, copper, cobalt, chromium, cadmium, manganese, iron, nickel, sulfate, fluoride and ammonia; and
 - b. Sump – Elevated concentrations of zinc, aluminium, arsenic, copper, cobalt, chromium, cadmium, manganese, iron, nickel, sulfate, fluoride and ammonia.
8. Review of written advice provided to the department by MRV on 3 July 2018 confirms that:
 - a. MRV have transferred water to West Dam; and
 - b. That MRV were aware of the potential for seepage expressing to the Sump due to the storage of water within West Dam.
9. On 4 July 2018, department officers conducted a further inspection of the premises (inspection 2), during this inspection, the following observations were made:
 - a. Seepage was continuing to express from the toe of the West Dam embankment and into the Sump;
 - b. Seepage was continuing to collect in the Sump and then release to downstream waters, with the extent of visible flowing waters evident for approximately 70m downstream of the Sump;
 - c. The saturation within the drainage channel where the seepage was expressing had visibly increased and moved further upslope, with a greater volume of flowing water observed within the drainage channel compared to the observations made during inspection 1; and
 - d. No additional control measures had been implemented by MRV since inspection 1 to prevent or limit the release of seepage from the Sump to waters.
10. During inspection 2, department officers conducted in situ sampling of the water stored in West Dam and of the seepage expression collecting in the Sump, with the following results recorded:

- a. West Dam pH of 2.77 and
 - b. Sump pH of 2.86 at surface, pH 2.85 at 0.5 m depth.
11. The department considers that the contaminant release detailed above has the potential to cause environmental harm, based on review of published water quality guidelines, including the *Australian and New Zealand Guidelines for Fresh and Marine Water Quality (Australian and New Zealand Environment and Conservation Council, 2000)*.

Secure compliance with an EA condition

12. Condition F1 of the EA states:

Contaminants that will, or have the potential to cause environmental harm must not be released directly or indirectly to any waters, except as permitted under the conditions of this environmental authority.

13. The EA does not authorise MRV to store contaminated water within West Dam or the Sump, or to release contaminants from these structures to waters.
14. The department considers that:
- a. The contaminants released by MRV have the potential to cause environmental harm; and
 - b. The observed release of contaminants has reached waters.

15. Therefore, the observed contaminant release to waters is a contravention of EA condition F1.

General environmental duty

16. As detailed above, the department has confirmed the transfer of contaminated water to West Dam by MRV, resulting in a contaminant release to waters, which has or is likely to cause environmental harm.
17. The department considers that MRV have not taken all reasonable and practicable measures to prevent or limit environmental harm due to the identified contaminant release.
18. The department considers that reasonable and practicable measures are available to MRV to:
- a. Prevent further release of contaminants from West Dam; and
 - b. Reduce the impacts to environmental values from contaminants that have been released to waters.
19. Therefore, the department considers that MRV are not meeting their general environmental duty in conducting the mining activities.

Section 440ZG

20. Schedule 9 of the *Environmental Protection Regulation 2008* defines the following substances to be prescribed water contaminants:
- a. A liquid containing suspended or dissolved solids;
 - b. A substance that has a pH outside the range 6.5 to 8.5; and
 - c. Industrial waste.
21. The department considers the water transferred to West Dam and subsequently released via seepage to meet the definition of one or more of the prescribed water contaminants detailed above under point 20.
22. The department considers that prescribed water contaminants have been deposited by MRV:

- a. Directly into waters; and/or
 - b. To a place from which the contaminants are reasonably expected to be washed or move into waters.
23. As this release is a contravention of an EA condition and MRV has not complied with their general environmental duty, the release is considered to be unlawful.
24. Therefore, an offence has been committed under section 440ZG of the Act.

B. Requirements

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

1. By no later than 5pm on 6 July 2018, cease the transfer of contaminated water to West Dam or any other structure that is not authorised under the EA to receive or store contaminated water.
2. From 9 July 2018, implement and maintain measures sufficient to recover contaminated seepage from West Dam Sump and prevent the release of contaminants to waters.
3. From 13 July 2018, implement and maintain a monitoring program which determines on a daily basis:
 - a. The rate of seepage from West Dam to the Sump (in KL/day);
 - b. The total volume of water transferred as a requirement of this EPO (in ML/day);
 - c. The quality of water within West Dam and the quality of water within the Sump, including at minimum pH and electrical conductivity.
4. From 13 July 2018, provide a report to the department at a minimum frequency of once per calendar week detailing the following:
 - a. The actions taken by MRV to comply with this EPO; and
 - b. All results of the monitoring program conducted under requirement 3 of this EPO.
5. By 20 July 2018, complete the transfer of all water stored within West Dam to a water storage facility authorised under the EA to receive and store contaminated water.

Definitions

6. The following definitions apply to this EPO:
- a) 'West Dam' means the water storage structure at location S -28.853003° E 151.258551° and referred to in Schedule I-Figure 2 (Project Infrastructure Layout) on Page 33 of the EA as "Western Dam" in Figure 1.3 Mine Layout.
 - b) 'Sump' means the water storage structure at location S -28.85445° E 151.25867°, located downstream of the West Dam embankment.
 - c) 'Waters' has the meaning as defined in the EA. For the purposes of this EPO, waters are further defined as any of the following features located downstream of the Sump:
 - i. Groundwater;
 - ii. Creeks, streams, watercourses or drainage lines; or
 - iii. The bed and banks of any of the features identified above, whether subject to surface water flows or otherwise.

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.

7. The maximum penalty for an individual for wilfully contravening an EPO is 6,250 penalty units, totalling \$815,937.50 or five years imprisonment.
8. The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling \$4,079,687.50.
9. The maximum penalty for an individual for contravening an EPO is 4,500 penalty units, totalling \$587,475.00.
10. The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling \$2,937,375.00.

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

- The maximum penalty for an individual is 50 penalty units, totalling \$ 6,527.50.
- The maximum penalty for a corporation is 250 penalty units, totalling \$ 32,637.50.

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 \$ 6,527.50.
- The maximum penalty for a corporation is 250 penalty units, totalling \$ 32,637.50.

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:

- 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 Jessica Johnson on telephone number 07 4529 8371.



Signature

6 July 2018

Date

Jacob Toe
Delegate of the Chief Executive
Department of Environment and Science
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>.