

Clean-Up Notice

Licence - 726



CLARENCE COLLIERY PTY LTD
ABN: 19 001 680 584
PO Box 92
LITHGOW NSW 2790

Attention: Mr Martin Howe & Mr Paul Williams

Notice Number: 1531813
File Number: EF13/5179 (SF15/27932); DOC15/245759
Date of Issue: 03 July 2015

To the Proper Officer

NOTICE OF CLEAN-UP ACTION

BACKGROUND

1. CLARENCE COLLIERY PTY LTD ("the licensee") is the holder of Environment Protection Licence Number 726 ("the licence") issued under the *Protection of the Environment Operations Act 1997* ("the POEO Act"). The licence authorises the carrying out of Scheduled Activities at Clarence Colliery Road, off Bells Line of Road, Newnes Junction, NSW, 2790.
2. On 02 July 2015 at approximately 0815 hours, the Environment Protection Authority's ("the EPA") Environment Line Telephone Service received notification from Mr Martin Howe, an employee of the licensee, regarding a failure in a tailings dam wall leading to an uncontrolled release of coal fines from the premises ("the Incident"). The EPA's Duty Officer was informed at 0820 hours.
3. On 02 July 2015 from approximately 1130 hours, an EPA Authorised Officer attended the premises and carried out a preliminary investigation of the Incident.
4. During this preliminary investigation, the EPA Authorised Officer identified the following:
 - a) part of the eastern wall of Reject Emplacement Area (REA) 3 had failed, resulting in the release of both coarse reject and liquid coal fines with further investigation required to determine the cause;
 - b) the coarse reject and liquid coal fines had overflowed over the downgradient contour bank and REA toe drain, entering a drainage channel that flowed towards the Wollangambe River;
 - c) the coarse reject had moved approximately 80% downgradient of the length of the drainage channel, being stopped by topographical and other features;
 - d) the liquid coal fines had moved 100% downgradient of the length of the drainage channel, with coal fines observed within the Wollangambe River;
 - e) the licensee had re-established the toe drain embankment in case there was further slumping of the wall of REA 3 and to capture liquids;
 - f) the licensee had contractors onsite establishing sediment fencing at regular intervals along the drainage channel;
 - g) there was flow in the Wollangambe River, caused primarily by the discharge from the premises.

Clean-Up Notice



5. During the preliminary investigation, the EPA Authorised Officer and staff of the licensee took a number of water samples.
6. The EPA Authorised Officer, on 02 July 2015 at approximately 1500 hours, issued a verbal clean up direction to the licensee under Section 93 of the POEO Act having determined that a pollution incident had occurred and was still occurring at the premises and having consideration to the dictionary definition of "pollute waters" under the POEO Act.

Purpose/s for which this Notice is being issued:

7. The EPA, who is the appropriate regulatory authority for the premises, is confirming the requirements of this verbal clean up notice via this written clean up notice issued under Section 91 of the POEO Act as well as requiring additional actions as discussed with Mr Paul Williams at approximately 2000 hours on 02 July 2015.

DIRECTION TO TAKE CLEAN-UP ACTION

8. The Environment Protection Authority (EPA) directs the licensee to take the following clean up action:

CLEAN UP ACTION 1

- The licensee, as of 1500 hours on 02 July 2015, must cease all activities at or undertaken in relation to REA 3 except to make safe or contain further pollution (in accordance with clean up action 3) and until this action is formally lifted in writing by the EPA.

CLEAN UP ACTION 2

- The licensee, as of 1500 hours on 02 July 2015, must cease all and any transfer of liquid, thickened or related coal fines to REA 3 and must instead divert this material to an appropriate facility at the premises when the washery is brought back online.

CLEAN UP ACTION 3

- The licensee, immediately on receipt of this clean up notice and by no later than 1700 hours on 07 July 2015, must take all practical measures to reduce the risk of further REA 3 wall failure and movement of coarse reject and liquid coal fines or other fines.

CLEAN UP ACTION 4

- The licensee, as of 1500 hours on 02 July 2015 and by no later than 1200 hours on 04 July 2015, must install and maintain appropriate sediment fencing at 50 metre intervals within the affected drainage line up to the confluence with the Wollangambe River.
- This sediment fencing must be installed in accordance with the Managing Urban Stormwater – Soils and Construction, 4th Edition (Landcom, 2004, revised 2006).

Clean-Up Notice



CLEAN UP ACTION 5

- The licensee, as of 1500 hours on 02 July 2015 and by no later than 1200 hours on 04 July 2015, must develop and implement a daily inspection and maintenance regime for the REA 3 toe drain and the sediment fencing required by clean up action 4.

CLEAN UP ACTION 6

- The licensee, by no later than 1700 hours on 07 July 2015, must remove all coal related material/deposits within the affected drainage line within 50 metres of the confluence with the Wollangambe River, noting that the remaining material will be controlled by clean up action 4 and clean up action 9, i.e. the remediation plan.

CLEAN UP ACTION 7

- The licensee, by no later than 1700 hours on 07 July 2015, must remove all accumulated coal related material/deposits within the Wollangambe River downstream from the confluence with the affected drainage line.

CLEAN UP ACTION 8

- The licensee, as of 1500 hours on 02 July 2015, must engage a suitably qualified person to immediately investigate the stability of REA 3 (eastern extent) as well as undertaking a fault analysis as to the cause of the Incident.
- A final report of these and any other relevant findings must be provided to the EPA by no later than 1700 hours on 13 July 2015.

CLEAN UP ACTION 9

- The licensee, as of 1500 hours on 02 July 2015, must commence development of a remediation plan covering the rectification of REA 3, the affected drainage channel and the Wollangambe River.
- A draft remediation plan must be provided to the EPA by no later than 1700 hours on 17 July 2015 for review and comment.

CLEAN UP ACTION 10

- The licensee, starting on Monday 6 July 2015 and by no later than 1700 hours and weekly thereafter and until further notice, must provide the EPA with a report that outlines compliance with or actions taken to comply with these clean up actions.

Clean-Up Notice



All required correspondence must be sent to:

Mr Richard Whyte
Manager Central West
Environment Protection Authority
PO Box 1388
BATHURST NSW 2795
or at
richard.whyte@epa.nsw.gov.au

FEE TO BE PAID

- You are required by law to pay a fee of \$506 for the administrative costs of issuing this Notice. An invoice for this fee will be sent separately to this Notice.
- It is an offence not to pay this fee. However you can apply for an extension of time to pay the fee or for the fee to be waived. At the end of this Notice there is information about how and when to pay the fee and how to apply for an extension or a waiver of the fee.

.....
Richard Whyte
Regional Manager Central West
South - Bathurst
(by Delegation)

INFORMATION ABOUT THIS CLEAN-UP NOTICE

- This Notice is issued under Section 91 of the POEO Act.
- It is an offence against the POEO Act not to comply with this Notice without lawful excuse.

Penalty for not complying with this notice

- The maximum penalty for a corporation is \$1,000,000 and a further \$120,000 for each day the offence continues.
- The maximum penalty for an individual is \$250,000 and a further \$60,000 for each day the offence continues.

Clean-Up Notice



Cost recovery from the person who caused the incident

- If you comply with this Notice but you are not the person who caused the pollution incident to which the Notice relates, you have a right to go to court to recover your costs of complying with the Notice from the person who caused the incident.

Deadline for paying the fee

- The fee must be paid by **no later than 30 days after the date of this Notice**, unless the EPA extends the time to pay the fee, or waives the fee.

How to pay the fee

- Possible methods of payment are listed on the last page of the to be provided invoice.
- Please include the payment slip from the abovementioned invoice with your payment.

How to apply for an extension of time to pay/waive the fee

- Any application for and extension of time to pay the fee or for the fee to be waived should be made in writing to the EPA at the following:

Mr Chris Kelly

Head Compliance Services Unit

Environment Protection Authority

PO Box A290

Sydney South NSW 1232

- The application should set out clearly why you think your application should be granted.

Other costs

- The Protection of the Environment Operations Act allows the EPA to recover from you reasonable costs and expenses it incurs in monitoring action taken under this notice, ensuring the notice is complied with and associated matters. (If you are going to be required to pay these costs and expenses you will later be sent a separate notice called a "Notice Requiring Payment of Reasonable Costs and Expenses").

Continuing obligation

- Under section 319A of the Act, your obligation to comply with the requirements of this notice continues until the notice is complied with, even if the due date for compliance has passed.

Variation of this notice

- This notice may only be varied by subsequent notices issued by the EPA.