

Scanes Melanie

From: Bell Ewan
Sent: Thursday, 23 January 2014 12:31 PM
To: m.alam@earthpro.com.au
Cc: debbie.spann@sunshinecoast.qld.gov.au; Sale Ben; Scanes Melanie
Subject: Earthpro - sediment basin discharge following rain event 22 - 23 January 2014
Attachments: 20140123112250.pdf; 20140123112340.pdf

Hi Murshedel

Further to your telephone call earlier today regarding discharge from sediment basins at the site I have attached the following pages from the appropriately qualified professionals that Earthpro engaged as per the requirements of the EPO.

The first 2 pages are from the Contour audit dated 20 December 2013. This sets out the procedures to be followed for Water Capture, Treatment, Use and Release. Please note the points in bold in this document in the 3 paragraphs below the procedure. I have copied these below for your convenience:

NOTE: Should additional rain fall partway through the above process, then Earthpro are to recommence the process from the beginning.

We note that the likely minimum turnaround for the above process is three (3) days. It is therefore considered that the previously advised design capture capacity of the ESC measures is likely to be inadequate especially given that the release of water after a rainfall event is dependent upon many more factors, and is not assured.

We recommend that Earthpro have ready a contingency plan to safely remove the water from the site. The most effective plan would be to have the contact details of operators such as Transpacific, who have the capability and experience to safely handle and transport contaminated liquids to registered disposal facilities.

The second attachment is the Environmental Management Plan (Contaminated Stockpile) - Duke Environmental, October 2013. This page is titled the *Environmental Procedure EP005* and provides the release criteria to minimise the impact of construction activities on water quality in water bodies, external to the site, to within acceptable limits.

It is recommended that you engage with your consultants regarding any controlled discharge from this site. EHP will advise Sunshine Coast Regional Council regarding Earthpro advice that they are proposing to discharge, and we look forward to information from Earthpro regarding the testing and procedures followed by Earthpro for any discharge from the site.

The Contour audit dated 20 December 2013, identified among other issues, that clean water diversion has not been installed at the site, and that the decommissioning of Cell 9 sediment basin leaves the site without sufficient Type 1 treatment. These 2 rudimentary ESC measures are critical to diverting clean water around the site so that it does not become contaminated and then have to be treated for discharge; and critical to allow sufficient storage and capture of contaminated water. Given the approaching wet season, as these 2 measures are not in place, it is likely that Earthpro will be dealing with significant volumes of water that need to be treated prior to discharge, and dealing with an inundated site as stormwater has not been appropriately managed. The lack of these types of ESC measures will be taken into account should further enforcement action be commenced as a result of uncontrolled discharge from the site. The department will be providing a formal response to the Contour audit dated 20 December 2013 in the near future.

Please contact me if you would like to discuss any of the above.

Regards

Ewan Bell

Principal Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6128 Fax: (07) 5459 6190
ewan.bell@ehp.qld.gov.au
www.ehp.qld.gov.au



RTI DL RELEASE - EHP



ELEMENT: ENVIRONMENTAL PROCEDURE EP005		STORMWATER QUALITY																		
1.	Objective	To minimise the impact of construction activities on water quality in water bodies, external to the site, to within acceptable limits.																		
2.	Management Strategy	<p>a) To avoid detrimental impact on the water quality and the aquatic environment of downstream water bodies as a result of the discharge of contaminated stormwater runoff from the site.</p> <p>b) To comply with the <i>Environmental Protection Act</i>, and the subordinate <i>Environmental Protection Policy (Water)</i>.</p>																		
3.	Actions	<p>a) Stockpiled contaminated material is to be contained within a bunded area so as to limit the potential for contaminated materials to be transported from the site. Existing runoff paths will be diverted around this stockpile location, and bunds/fences shall be provided to retain material.</p> <p>b) Fuels and oils shall be stored in safe locations (with bunds as required by relevant Standards and Guidelines) where stormwater inundation is unlikely to occur. Any spillages of fuel and oil within the compound shall be attended to immediately to limit the potential for off-site impacts.</p> <p>c) As it is an offence under the Environmental Protection Policy (Water), the Contractor is not to deposit or release any of the following into, or in a place where it is likely to wash into a water way, a roadside gutter or a storm-water drain:-</p> <ul style="list-style-type: none">• Sand• Silt• Mud• Rubbish• Waste Water• Solvents• Oils, fuels <p>d) The contractor is to ensure that sufficient freeboard is available on the sediment basin to contain runoff in a rainfall event. Where the possibility exists that the rainfall event will cause the basin to overtop, contingency measures shall be put in place to prevent water from leaving the site.</p> <div><p style="text-align: center;">Table 3.1 Release Criteria</p><table><tr><th>Water Quality Parameter</th><th>Release Criteria</th></tr><tr><td>pH</td><td>6.5 to 8.5</td></tr><tr><td>Suspended Solids</td><td>50mg/L</td></tr><tr><td>Dissolved Oxygen</td><td>Minimum 6mg/L (80-90% saturation)</td></tr><tr><td>Oil and Grease</td><td>No visible film, no odour</td></tr><tr><td colspan="2">Trigger Value 95% protection</td></tr><tr><td>Lead</td><td>0.0034mg/L + HMTV factor</td></tr><tr><td>Arsenic</td><td>0.024mg/L</td></tr><tr><td>Aluminium</td><td>0.055mg/L (pH >6.5)</td></tr></table></div>	Water Quality Parameter	Release Criteria	pH	6.5 to 8.5	Suspended Solids	50mg/L	Dissolved Oxygen	Minimum 6mg/L (80-90% saturation)	Oil and Grease	No visible film, no odour	Trigger Value 95% protection		Lead	0.0034mg/L + HMTV factor	Arsenic	0.024mg/L	Aluminium	0.055mg/L (pH >6.5)
Water Quality Parameter	Release Criteria																			
pH	6.5 to 8.5																			
Suspended Solids	50mg/L																			
Dissolved Oxygen	Minimum 6mg/L (80-90% saturation)																			
Oil and Grease	No visible film, no odour																			
Trigger Value 95% protection																				
Lead	0.0034mg/L + HMTV factor																			
Arsenic	0.024mg/L																			
Aluminium	0.055mg/L (pH >6.5)																			



Department of
**Environment and
Heritage Protection**

Enquiries: Melanie Scanes
Telephone : 07 5459 6132
Your reference:
Our reference:

Earthpro Pty Ltd
C/- Richard Ings Pty Ltd
Bermuda Point, Suite 1303
1 Lake Orr Drive
VARSITY LAKES QLD 4227

23 January 2014

Dear Mr Davies,

Re: Erosion and Sediment Control Inspection conducted by Contour Consulting Engineers on 20 December 2013.

I refer to the inspection and report of Caloundra Landfill, Earthpro Construction site, on 20 December 2013, by Contour Consulting Engineers. The Department of Environment and Heritage Protection (the department) has reviewed the report and provides the following comments.

The erosion and sediment control (ESC) audits are conducted as a requirement of Environmental Protection Order CA28969/STAT811 for the purpose of reviewing if all reasonable and practicable measures are being implemented to demonstrate Earthpro Pty Ltd (Earthpro) are meeting their general environmental duty under the *Environmental Protection Act 1994*.

The department has reviewed the audit report and from the report identifies the following concerns:

- the full extent of the site is subject to earthworks and the contaminated soil stock pile is still yet to be placed within a monocell;
- no broad surface erosion controls were in place over the site;
- no effective clean water diversion has been constructed to protect the site from clean water entering via the Western or Southern boundaries;

Page 1 of 3

Level 6 Mike Ahern Centre
12 First Avenue Maroochydore
PO Box 362 Maroochydore
Queensland 4558 Australia
Telephone 07 5459 6132
Facsimile 07 5459 6190
Website www.ehp.qld.gov.au

ABN 46 640 294 485

- die back of grass in table drain along Eastern boundary;
- decommissioning of Cell 9 sediment basin leaves the site without sufficient Type 1 treatment;
- no effective point of discharge from the site provides no opportunity to effectively divert the substantial clean water catchments around the construction site;
- additional focus should be placed on documenting the installation, review, and maintenance of ESC measures;
- the project has been severely delayed and the increased exposure is considered to present an increased risk;
- pre-existing stockpiles were located directly adjacent to Northern cut off drain;
- pre-existing stockpiles have only limited sediment controls in place;
- stockpiles batters were typically higher and steeper than best practice;
- drainage control works were identified across the site as requiring remediation and maintenance;
- spray on liners show deterioration in the invert of the drain along the Northern extent of disturbance;
- seeding of the Eastern channel has not achieved a suitable level of strike;
- insufficient formalized Type 1 controls remain on-site (given the extent of the earthworks) where site water can be appropriately treated;
- inlets to drainage structures previously in place appear to have been removed;
- the invert of the drain along the Northern boundary has been compromised.

While the above mentioned concerns reported by the auditor are not recorded as formal corrective actions, it is noted these and other issues remain part of the corrective actions considered appropriate to be implemented to demonstrate that Earthpro are meeting their general environmental duty.

The concerns identified in the ESC audit on 20 December 2013 and listed above, indicate that best practice ESC has not been implemented at the site, and that Earthpro are not meeting their general environmental duty by taking all reasonable and practicable measures to prevent or minimise environmental harm from the activity. These issues will be taken into account should further enforcement action be commenced as a result of uncontrolled discharge of contaminated stormwater from the site.

If you wish to discuss this matter further please contact Ewan Bell on telephone (07) 5459 6132.

Yours sincerely,

sch4p4(6) Personal information

Ben Sale
Manager – Sunshine Coast, Noosa and Gympie
Southern Region
Environmental Services and Regulation
Department of Environment and Heritage Protection

RTI DL RELEASE - EHP

Scanes Melanie

From: Scanes Melanie
Sent: Wednesday, 18 December 2013 4:52 PM
To: m.alam@earthpro.com.au
Cc: roy@earthpro.com.au; Bell Ewan
Subject: Sediment on road

Hi Murshed

In addition to our phone conversation, I drove passed the site entrance today. I noticed there was some sediment spilling on to the road. I hope that it is part of your daily duties to clean up any spill over at the end of the day or if a rain event is expected.

Regards

Melanie

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au



Enquiries Melanie Scanes
Telephone (07) 54 59 6154
Your reference
Our reference CR59905

29 November 2013

Roy Davis
Earthpro Pty Ltd
P.O.Box 1954
CLEVELAND DC 4163

Dear Mr Davis,

Re: Alleged intentional release of leachate offsite at Sunshine Coast Regional Council (SCRC) Landfill Site located at Pierce Avenue, Bells Creek

The Department of Environment Heritage and Protection (EHP) has conducted an investigation into the information provided by Earthpro Pty Ltd (Earthpro) regarding the alleged release of leachate from the Pierce Avenue, Bells Creek, Landfill Site operated by Sunshine Coast Regional Council (SCRC).

EHP has reviewed the evidence and provides the following response to the complaint. The investigation outcomes are;

- 1) The allegation of pumping leachate from a leachate well into a water way
 - The leachate well located on the batter of cell 8 (observed by Earthpro) is not connected to the leachate pumpout extraction system as other wells are and cannot be accessed by a vehicle for pumpout. Leachate from this well is pumped and reinjected into the eastern cell leachate well.
 - In addition stormwater from the western areas of cell 8 was being pumped to the common discharge point.
 - The lay flat pipes pumping both leachate and stormwater lay along the northern batter and these pumps may in operation at the same time.

The investigation concluded that leachate was being pumped to a leachate well and the stormwater to the release point. In response to your complaint EHP has required the pumping of the stormwater into the waterway to cease as this water must be appropriately treated and monitored prior to release.

2) The management of leachate seepage from the eastern batter wall from cell 3.

EHP has been advised of problems with leachate seepage from the eastern batter of cell 3. There is currently a management program in place, including this area, to improve past capping of cells to prevent leachate seepage. The improvements to the eastern batter of cell 9 are planned once construction of the new cells is complete.

Council is currently managing the collection of the leaking leachate by directing it to a clay bund from which it is transferred to onsite leachate storage system ready for transport offsite. Should any breaches or leaks be observed by Earthpro, as part of your General Environmental Duty, it is appropriate to, if possible, install a short term fix and advise SCRC, and consider advising EHP if there is potential for environmental harm being caused.

EHP thanks you for bringing these issues to our attention. Should you have any questions please do not hesitate to telephone Melanie Scanes on (07) 5459 6132.

Yours sincerely

sch4p4(6) Personal information

Ben Sale

Manager

Sunshine Coast and Gympie

Southern Region

Environmental Services and Regulation

Environmental Heritage and Protection

No. Q 200000040013343

Alleged offender details

Family/Business/Company name and ACN Given name/s (If individual)

Earthpro Pty Ltd ACN 077 315 207

Male
Female

Current address/ Registered office

Richard Ings Pty Ltd, Bermuda Point,
Suite 1303, 1 Lakes Orr Drive, Varsity
Lakes Postcode 4227

Date of birth Phone Number Driver ☐ Passenger ☐ Please specify
Owner ☐ Other ☐

Identification details

Licence/Permit (type) State Number Date of expiry

Issued by Date of Issue

Vessel / Vehicle/Aircraft details

Vessel ☐ Vehicle ☐ Aircraft ☐ Commercial ☐ Private ☐
Registration number State Make Colour
Body type VIN/Chassis number Registration expires

Alleged offence details

Committed ☒ Time (hours) Day of week Date
Permitted ☐ At 13:00 on Wednesday and 30/10/13
Or (do not use between dates for offences involving vehicles)
Start date End date
Between and

Location/Lot & Plan/ Other details (including address or GPS coordinates where appropriate)

Pierce Ave, Bells Creek, Queensland
4551, at site entry point to Lot 101
on plan SP232 333

Act or Regulation breached

Act breached

Environmental Protection Act 1994

Code	Identifying particulars of the offence (Nature of alleged offence)	Penalty
EPA 30	Depositing prescribed water contaminants in waters etc if the deposit is other than willfully	\$2200

Issuing officer's details

Authorised officer's name (print)

MELANIE SCANES

Office / Department

Environment Heritage & Protection

I.D. number

7019788

Signature

[Signature]

Date

27/11/13



Enquires Ewan Bell
Telephone (07) 5459 6128
Our reference CA28989

Department of
**Environment and
Heritage Protection**

27 November 2013

Earthpro Pty Ltd
C/- Richard Ings Pty Ltd
Bermuda Point, Suite 1303
1 Lake Orr Drive
VARSITY LAKES QLD 4227

Attn: Roy Davis

Re: Reissue of a Penalty Infringement Notice for offence under the *Environmental Protection Act 1994 (the Act)*.

Penalty Infringement Notice 40013335 was issued to Earthpro Pty Ltd on the 25 November 2013. It has been found there was an error on the notice in relation to the date of the offence. Penalty Infringement Notice 40013335 is being withdrawn and you will receive official withdrawal notice in the near future.

Penalty Infringement Notice 40013343 has been issued and enclosed.

I refer to the inspection undertaken by officers of the Department of Environment and Heritage Protection (the department) at the Earthpro earthworks site at 171 Pierce Avenue BELLS CREEK, Lot 101 on Plan SP232333 (the premises), on 30 October 2013.

During the inspection it was observed that sediment transported from the premises had been deposited along Pierce Avenue from vehicles exiting the premises. Earthpro have an exclusive entrance to this earthworks site that is controlled and managed by Earthpro. Sediment was observed deposited on the road and in the gutter where it could reasonably be expected to wash into waters, a roadside gutter, or stormwater drainage.

Under section 440ZG of the Act (attached) it is an offence for a person to unlawfully deposit a prescribed water contaminant in waters; or in a roadside gutter or stormwater drainage; or at another place, and in a way, so that the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage.

The department has determined that the facts and circumstances of the offence warrant the issuing of a Penalty Infringement Notice (PIN) as an alternative to proceeding by way of prosecution in Court.

Please find enclosed a PIN issued to you in the amount of \$2200. Payment of this sum must be made within 28 days. Payment options available to you include cheque, money order, BPAY and BPOINT. For more information regarding your payment options please refer to the

Level 6, 12 First Avenue
MAROOCHYDORE QLD 4558
PO BOX 362
MAROOCHYDORE QLD 4558
Telephone (07) 5459 6132
Facsimile (07) 5459 6190
Website: www.ehp.qld.gov.au

reverse side of the PIN. Also contained in the PIN is information regarding your rights and obligations.

If you have any questions about this letter or require more information about the accompanying PIN please contact Melanie Scanes on (07) 5459 6154.

Yours sincerely

sch4p4(6) Personal information

Ben Sale
Manager (Sunshine Coast & Gympie)
Environmental Services and Regulation
Southern Region

RTI DL RELEASE - EHP



Enquires
Telephone
Our reference

Ewan Bell
(07) 5459 6128
CA28969

Department of
**Environment and
Heritage Protection**

25 November 2013

Earthpro Pty Ltd
C/- Richard Ings Pty Ltd
Bermuda Point, Suite 1303
1 Lake Orr Drive
VARSITY LAKES QLD 4227

Attn: Roy Davis

Re: Penalty Infringement Notice for offence under the *Environmental Protection Act 1994 (the Act)*.

I refer to the incident reported to the Department of Environment and Heritage Protection (the department) and report provided by Earthpro Pty Ltd (Earthpro) to the on 28 October 2013 regarding the release of turbid water from the sediment basin at the Earthpro earthworks site at 171 Pierce Avenue BELLS CREEK, Lot 101 on Plan SP232333 (the premises), on 24 October 2013.

A review of the evidence identified that turbid water was released during a planned release of treated stormwater offsite from the premises where it could reasonably be expected to wash into waters, a roadside gutter, or stormwater drainage.

Under section 440ZG of the Act (attached) it is an offence for a person to unlawfully deposit a prescribed water contaminant in waters; or in a roadside gutter or stormwater drainage; or at another place, and in a way, so that the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage.

The department has determined that the facts and circumstances of the offence warrant the issuing of a Penalty Infringement Notice (PIN) as an alternative to proceeding by way of prosecution in Court.

Please find enclosed a PIN issued to you in the amount of \$2200. Payment of this sum must be made within 28 days. Payment options available to you include cheque, money order, BPAY and BPOINT. For more information regarding your payment options please refer to the reverse side of the PIN. Also contained in the PIN is information regarding your rights and obligations.

Level 6, 12 First Avenue
MAROOCHYDORE QLD 4558
PO BOX 362
MAROOCHYDORE QLD 4558
Telephone (07) 5459 6132
Facsimile (07) 5459 6190
Website: www.ehp.qld.gov.au

If you have any questions about this letter or require more information about the accompanying PIN please contact Melanie Scanes on (07) 5459 6154.

Yours sincerely,

(sch4p4(6) Personal information

Ben Sale
Manager (Sunshine Coast & Gympie)
Environmental Services and Regulation
Southern Region

RTI DL RELEASE - EHP

Assessment Report

Penalty Infringement Notice

This Assessment Report will assist officers to record information in supporting a decision to issue of a Penalty Infringement Notice (PIN) in a circumstance under the State Penalties Enforcement Act 1999 regime. This includes the Environmental Protection Act 1994, Nature Conservation Act 1992, Forestry Act 1959, Recreational Areas Management Act 2006, Marine Parks Act 2004 and the Waste Recycling and Reduction Act 2011.

Note: For information on writing and management of PIN's please refer to the PIN Manual at <http://steps.steps/relaunch.cfm?nw=true&ref=2291>

1. Identifying details relating to the PIN

Reference details	Release of Sediment laden water by Earthpro from Caloundra Landfill Cell construction site
ECOTrack Number if used	CA28969
Licence/Permit number	N/A
File number	SOR/114550
Name of alleged offender	Earthpro Pty Ltd
Date of birth	NA
Address	RICHARD INGS Pty Ltd Burmuda Point, Suite 1303, 1 Lake Orr Drive, Varsity Lakes, Qld 4227 P.O.Box 1954 Cleveland DC 4163
ACN/ABN	39 077 375 207
Contact details	Roy Davies (07) 3829 1577

Assessment Report
Penalty Infringement Notice (PIN)

2. Background details of incident

Please outline any historical information relevant to this incident. This information may assist with the reasoning for the decision and may be essential should the matter be referred to the Magistrates Court.

sch4p4(6) Personal information

Date & time	24 October 2013; 12.30pm Approx 11.30am.
Day of the week	Wednesday
Location	Pierce Avenue, Bells Creek, at the release point from the Earthpro construction site on the SE corner.
Vehicle/vessel details	NA
Other information	<p>On 28 August 2013 Earthpro Pty Ltd were issued an EPO to secure compliance with their general environmental duty, Refer CA28969 – STAT811. Earthpro had not adequately contained soil of a known contaminated risk to the environment and human health risk to prevent releases offsite and had not taken all reasonable and practicable measures to prevent sediment from leaving the site and entering a waterway.</p> <p>Earthpro are constructing new landfill cells for the expansion of the current landfill located at Pierce Avenue Caloundra. Bells Creek which discharges to the Pumicestone Passage is located immediately downstream of the development. The construction site is located within the approved landfill and forms part of Environment Authority SPDE03088111. The jurisdiction of this site rests with EHP.</p>

3. Alleged offence details

Please outline what offences are alleged to have been committed. Details include the legislation, section number, penalty units and limitation periods. Note: If there are more than three separate PIN-able offences being considered the matters should form the basis of a complaint and summons and be heard by a Magistrate. PIN offence codes are found at: http://nsite2.dnr.qld.gov.au/compliance_coordination/pins.html#offence_codes

No.	Section	Legislation	Penalty Units	Statute Limitation
1	440ZG	Environmental Protection Act 1994	20	As per s.497 – 1 year and up to 2 years

4. Elements and supporting evidence

Please outline the elements of each of the offences listed above. Detail what evidence is available to satisfy each and every element of the offence(s), the source, how it is/was obtained and when it will/was obtained.

Offence No.	Elements	Type of evidence	Source of evidence	How evidence was obtained
1.	<p>A person must not unlawfully deposit a prescribed water contaminant at another place, and in a way, so that the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage</p> <p>A relevant act is unlawful unless it is authorised to be done under— (a) an environmental protection policy; or (b) a transitional environmental program; or (c) an environmental protection order; or (d) an environmental</p>	<p>A person Under section 39 of the <i>Environmental Protection Act 1994</i> – person is defined as a body of persons, whether incorporated or unincorporated. Section 32D of the <i>Acts Interpretation Act 1954</i> states “a reference to a person generally includes a reference to a corporation as well as an individual”.</p> <p>Unlawfully Section 493A (2) of the <i>Environmental Protection Act 1994</i> states that environmental harm or related acts are unlawful unless it is authorised to be done under— (a) an environmental protection policy; or (b) a transitional environmental program; or (c) an environmental protection order; or (d) an environmental authority; or (e) a development condition of a development approval; or (f) a standard environmental condition of a code of environmental</p>	<p>ASIC search – Organisation Search Earthpro Pty Ltd is a registered company under Australian Securities and Investments Commission (ASIC) and is therefore a person under the definitions of the <i>Environmental Protection Act 1994</i> and the <i>Acts Interpretation Act 1954</i>.</p> <p>The sediment laden water released is not authorised under any of (a) – (g) described in adjacent column.</p>	<p>Search completed using ASIC on line search engine.</p> <p>On 24 October 2013 Penny Houston (SCRC) notified EHP of an observation of Sediment laden water releasing down a stormwater drain</p>

Assessment Report
Penalty Infringement Notice (PIN)

	<p>authority; or (e) a development condition of a development approval; or (f) a standard environmental condition of a code of environmental compliance for a chapter 4 activity; or (g) an emergency direction.</p>	<p>compliance for a chapter 4 activity; or (g) an emergency direction.</p> <p>Deposit</p> <p>440ZE Meaning of deposits for Part 3C of the Environmental Protection Act 1994 – Offences relating to water contamination.</p> <p>(1) A person deposits a contaminant in waters or at another place if the person— (a) drops, places or throws the contaminant in the waters or onto the place; or (b) releases the contaminant, or otherwise causes it to move, into the waters or onto the place.</p> <p>(2) A person deposits a contaminant at a place if— (a) the person is an occupier of the place or the contaminant is under the person's control; and (b) someone deposits the contaminant at the place in a way mentioned in subsection (1); and (c) the person does not remove the contaminant from the place within a reasonable time after becoming aware that the contaminant has been deposited at the place.</p>	<p>Earthpro are in the process of constructing landfill cells as part of an expansion of Caloundra Landfill. An EPO was issued to Earthpro on the 28th August 2013 on the grounds that Earthpro had failed to meet its GED obligations in particular in relation to the ESC management and mismanagement of Contaminated soil. The Contaminated soil mentioned contains high concentrations of elemental Lead (Pb) a waste product of the former rifle range site now being converted to a landfill site. Under the EPO after a rain event Earthpro were conducting a managed release of stormwater from a sediment basin onsite. Earthpro submitted a management plan stating how the release will occur. The water of concern had been flocced and tested. The water was to be released under supervision in accordance with the submitted plan in order to meet Earthpros' general environmental duty. The management plan states that the release should be observed to be clear at all times during the release.</p> <p>On the 24 October 2013 council notified EHP by phone of a release of turbid water travelling down the internal stormwater release pathway that releases to a waterway. Council investigated the source and determined the release was coming from the Earthpro construction site. Council</p>	<p>Management plan submitted prior to the release of water from sediment dam.</p> <p>Notification report received from council including photographic evidence and water testing.</p> <p>Admission by (2) - Personal information that a release occurred and they measured the release to be Suspended Solids (SS) 200mg/L - recording</p> <p>Report provided by Earthpro to EHP explaining what had happened. The report provides an admission of the release. Melanie Scanes has some concern that information was omitted from the report as the admission by (2) - Personal information that a measurement of SS 200mg/L was not included in the report.</p>
--	--	---	--	--

Assessment Report
Penalty Infringement Notice (PIN)

		<p>then rang EHP to advise of the event they observed and provided photographic evidence.</p> <p>Melanie Scanes, EHP then rang Earthpro – Roy and Murshed ph numbers were not answered so EHP contacted Earthpro head office and asked to be transferred to the site foreman. Earthpro head office provided phone number.. EHP spoke to [REDACTED] in those conversations [REDACTED] stated he had been away from the release point and during that someone had moved the hose and a sediment laden release occurred. In a subsequent conversation [REDACTED] stated the suspended solids for that release was measured by Earthpro to be 200mg/L.</p> <p>Council organised for a bund to be placed across the waterway to prevent further release of sediment laden water to the receiving environment. Earthpro did not request such a move be made. Water according to council had been releasing for a significant period of time prior to Earthpro turning off the pump after being contacted by Council and EHP. Council conducted insitu test and advised EHP the NTU measured 600. Laboratory testing was later conducted by council, results were SS 160mm/L. Which is in excess of 20NTU.</p>	
--	--	---	--

Assessment Report
Penalty Infringement Notice (PIN)

		<p>A prescribed water contaminant Section 440ZD – <i>prescribed water contaminant</i> means – in Schedule 9 of the EP Reg - <i>a liquid containing suspended or dissolved solids</i></p> <p>At another place, and in a way, so that the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage Under the <i>Environmental Protection Act 1994</i> a contaminant can be -</p>	<p>The release meets the definition mentioned in subsection (1) in adjacent column.</p> <p>The contaminant is water that is being released from a sediment dam onsite and was measured to have contained a SS level above that determined in the management plan as a suitable release level of <20NTU. This is considered a water containing suspended solids under Schedule 9.</p> <p>The sediment laden water was a controlled release from a sediment basin located on the Earthpro site into a clean water stormwater drain that then drains offsite and leads to Bells Creek. An unknown volume of contaminated water was released to the waterway prior to the bund being placed across the drain as directed by council.</p>	<p>Incident Report by council including photographic evidence and water testing. state SS 160mg/L.</p> <p>Verbal accounts by council and Earthpro employees observing sediment laden water that originated from Earthpro site.</p> <p>Report by council including photographic evidence and water testing. state SS 160mg/L.</p> <p>Verbal accounts by council and Earthpro employees observing sediment laden water that originated from Earthpro site.</p> <p>Incident report by council including photographic evidence and water testing which state SS 160mg/L. .</p> <p>Verbal accounts by council and Earthpro employees observing sediment laden water that originated from Earthpro site.</p>
--	--	--	---	--

Assessment Report
Penalty Infringement Notice (PIN)

		<p>(a) a gas, liquid or solid; or (b) an odour; or (c) an organism (whether alive or dead), including a virus; or (d) energy, including noise, heat, radioactivity and electromagnetic radiation; or (e) a combination of contaminants </p>	<p>Bells Creek is a waterway with protected values under the <i>EPP (Water) 2009 Pummicestone Passage environmental values and water quality objectives.</i> </p>	<p>Report by council including photographic evidence and water testing. state SS 160mg/L. Verbal accounts by council and Earthpro employees observing sediment laden water that originated from Earthpro site.</p>
--	--	--	--	--

5. Other enforcement options

Please detail what other enforcement options have been considered for this matter.

Have other enforcement options been considered?	No
If yes, what are they and the reasons	N/A

Assessment Report
Penalty Infringement Notice (PIN)

for using/not using them?	
If no, please advise why no other options have been considered?	Earthpro were served an EPO on the 28 th August 2013 by EHP on the grounds of failing to meet its GED. Very poor erosion and sediment control practices were observed on site by EHP authorised officers and Earthpro had failed to appropriately manage stockpiles of Lead (Pb) contaminated soil onsite. Earthpro has engaged a CPESC (to provide ESC advice) and an SQP (to provide advice on contaminated soil management) as required by the EPO. PINs are considered an appropriate next level of enforcement to bring about compliance with the EPO.

6. Recommendation

The officer is required to make a recommendation in relation to the matter under investigation

Recommendation:

The enforcement guidelines have been considered and it has been determined that issuing a penalty infringement notice is the most appropriate enforcement action in this case. The breach is serious and the facts are indisputable. Due to the low environmental risk and the overall sediment and erosion control measures are being addressed under an EPO it is considered that this will ensure that the offence is remedied and reoccurrence is deterred.

It is recommended that a PIN be issued under section 440ZG of the Environmental Protection Act 1994 for the breach outlined above.

7. Endorsement

The recommending officer and supervisor are required to sign and date below.

Recommending Officer	Supervisory Review
Signature: sch4p4(6) Personal information	Signature: sch4p4(6) Personal information
Print Name: Melanie Scanes	Print Name: Ewan Bell
Position: Senior Environmental Officer	Position: Principal Environmental Officer
Date: 25/11/13	Date: 25/11/13

8. Approval

The appropriate manager or supervisor is required to make a decision and sign and date below.

Decision for recommendation		Approve
Reasons for decision <i>I approve this decision for the reasons set out above.</i>		
Signature:  sch4p4(6) Personal information	Print Name: Ben Sale	
Position: Manager (Sunshine Coast & Gympie)	Date: 25/11/13	

RTI DL RELEASE - EHP



Enquires Ewan Bell
Telephone (07) 5459 6128
Our reference CA28969

Department of
**Environment and
Heritage Protection**

25 November 2013

Earthpro Pty Ltd
C/- Richard Ings Pty Ltd
Bermuda Point, Suite 1303
1 Lake Orr Drive
VARSITY LAKES QLD 4227

Attn: Roy Davis

Re: Penalty Infringement Notice for offence under the *Environmental Protection Act 1994 (the Act)*.

I refer to the inspection undertaken by officers of the Department of Environment and Heritage Protection (the department) at the Earthpro earthworks site at 171 Pierce Avenue BELLS CREEK, Lot 101 on Plan SP232333 (the premises), on 30 September 2013.

During the inspection it was observed that sediment transported from the premises had been deposited along Pierce Avenue from vehicles exiting the premises. Earthpro have an exclusive entrance to this earthworks site that is controlled and managed by Earthpro. Sediment was observed deposited on the road and in the gutter where it could reasonably be expected to wash into waters, a roadside gutter, or stormwater drainage.

Under section 440ZG of the Act (attached) it is an offence for a person to unlawfully deposit a prescribed water contaminant in waters; or in a roadside gutter or stormwater drainage; or at another place, and in a way, so that the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage.

The department has determined that the facts and circumstances of the offence warrant the issuing of a Penalty Infringement Notice (PIN) as an alternative to proceeding by way of prosecution in Court.

Please find enclosed a PIN issued to you in the amount of \$2200. Payment of this sum must be made within 28 days. Payment options available to you include cheque, money order, BPAY and BPOINT. For more information regarding your payment options please refer to the reverse side of the PIN. Also contained in the PIN is information regarding your rights and obligations.

Level 6, 12 First Avenue
MAROOCHYDORE QLD 4558
PO BOX 362
MAROOCHYDORE QLD 4558
Telephone (07) 5459 6132
Facsimile (07) 5459 6190
Website: www.ehp.qld.gov.au

If you have any questions about this letter or require more information about the accompanying PIN please contact Melanie Scanes on (07) 5459 6154.

Yours sincerely,

sch4p4(6) Personal information

Ben Sale
Manager (Sunshine Coast & Gympie)
Environmental Services and Regulation
Southern Region

RTI DL RELEASE - EHP

Assessment Report

Penalty Infringement Notice

This Assessment Report will assist officers to record information in supporting a decision to issue of a Penalty Infringement Notice (PIN) in a circumstance under the State Penalties Enforcement Act 1999 regime. This includes the Environmental Protection Act 1994, Nature Conservation Act 1992, Forestry Act 1959, Recreational Areas Management Act 2006, Marine Parks Act 2004 and the Waste Recycling and Reduction Act 2011.

Note: For information on writing and management of PIN's please refer to the PIN Manual at <http://steps/steps/reflaunch.cfm?nw=true&ref=2291>

1. Identifying details relating to the PIN

Reference details	Sediment deposition on Pierce Avenue at Earthpro Pty Ltd Site Entrance Gate
ECOTrack Number if used	CA28969
Licence/Permit number	N/A
File number	SOR/1145504
Name of alleged offender	Earthpro Pty Ltd
Date of birth	NA
Address	RICHARD INGS PTY LTD Bermuda Point 1303, 1 Lake Orr Drive, Varsity Lakes, Qld 4227 P.O.Box 1954 Cleveland DC 4163
ACN/ABN	39 077 375 207
Contact details	Roy Davies (07) 3829 1577

2. Background details of incident

Please outline any historical information relevant to this information may assist with the reasoning for the decision and may be essential should the matter be referred to the Magistrates Court. sch4p4(6) Personal information

Date & time	30 October 2013; 12.30pm
Day of the week	Wednesday
Location	Pierce Avenue, Bells Creek at egress to Earthpro construction works
Vehicle/vessel details	NA
Other information	<p>On 28 August 2013 Earthpro Pty Ltd were issued an EPO to secure compliance with their general environmental duty, Refer CA28969 – STAT811. Earthpro had not adequately contained soil of a known contaminated risk to the environment and human health risk to prevent releases offsite and had not demonstrated all reasonable and practicable measure to prevent sediment from leaving the site.</p> <p>Earthpro are constructing new landfill cells for the expansion of the current landfill located at Pierce Avenue Caloundra. Bells Creek which discharges to the Pumicestone Passage is located immediately downstream of the development. The construction site is located within the approved landfill and forms part of Environment Authority SPDE03088111. The jurisdiction of this site rests with EHP.</p>

3. Alleged offence details

Please outline what offences are alleged to have been committed. Details include the legislation, section number, penalty units and limitation periods. Note: If there are more than three separate PIN-able offences being considered the matters should form the basis of a complaint and summons and be heard by a Magistrate. PIN offence codes are found at: http://insite2.dnr.qld.gov.au/compliance_coordination/pins.html#offence_codes

No.	Section	Legislation	Penalty Units	Statute Limitation
1	440ZG	Environmental Protection Act 1994	20	As per s.497 – within a year and

				up to 2 years
--	--	--	--	---------------

4. Elements and supporting evidence

Please outline the elements of each of the offences listed above. Detail what evidence is available to satisfy each and every element of the offence(s), the source, how it is/was obtained and when it will/was obtained.

Offence No.	Elements	Type of evidence	Source of evidence	How evidence was obtained
-------------	----------	------------------	--------------------	---------------------------

RTI DL RELEASE - EHP

Assessment Report
Penalty Infringement Notice (PIN)

<p>1.</p>	<p>A person must not unlawfully deposit a prescribed water contaminant at another place, and in a way, so that the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage</p> <p>A relevant act is unlawful unless it is authorised to be done under— (a) an environmental protection policy; or (b) a transitional environmental program; or (c) an environmental protection order; or (d) an environmental authority; or (e) a development condition of a development approval; or (f) a standard environmental condition of a code of environmental compliance for a chapter 4 activity; or (g) an emergency direction.</p>	<p>A person Under section 39 of the <i>Environmental Protection Act 1994</i> – person is defined as a body of persons, whether incorporated or unincorporated. Section 32D of the <i>Acts Interpretation Act 1954</i> states “a reference to a person generally includes a reference to a corporation as well as an individual”.</p> <p>Unlawfully Section 493A (2) of the <i>Environmental Protection Act 1994</i> states that environmental harm or related acts are unlawful unless it is authorised to be done under— (a) an environmental protection policy; or (b) a transitional environmental program; or (c) an environmental protection order; or (d) an environmental authority; or (e) a development condition of a development approval; or (f) a standard environmental condition of a code of environmental compliance for a chapter 4 activity; or (g) an emergency direction.</p>	<p>ASIC search – Organisation Search</p> <p>Earthpro Pty Ltd is a registered company under Australian Securities and Investments Commission (ASIC) and is therefore a person under the definitions of the <i>Environmental Protection Act 1994</i> and the <i>Acts Interpretation Act 1954</i>.</p> <p>The sediment deposited on the road was not authorised under any of (a) – (g) described in adjacent column.</p>	<p>Search completed using ASIC on line search engine</p> <p>Site visit conducted by EHP on 30th October 2013 to inspect Erosion & Sediment Control (ESC) measures in the company of Earthpro employed CPESC consultant, post EPO being issued regarding poor ESC practices.</p> <p>Site visit report dated 30 October 2013.</p>
-----------	---	--	---	--

		<p>Deposit</p> <p>440ZE Meaning of <i>deposits</i> for Part 3C of the <i>Environmental Protection Act 1994 – Offences relating to water contamination.</i></p> <p>(1) A person <i>deposits</i> a contaminant in waters or at another place if the person—</p> <p>(a) drops, places or throws the contaminant in the waters or onto the place; or</p> <p>(b) releases the contaminant, or otherwise causes it to move, into the waters or onto the place.</p> <p>(2) A person <i>deposits</i> a contaminant at a place if—</p> <p>(a) the person is an occupier of the place or the contaminant is under the person's control; and</p> <p>(b) someone <i>deposits</i> the contaminant at the place in a way mentioned in subsection (1); and</p> <p>(c) the person does not remove the contaminant from the place within a reasonable time after becoming aware that the contaminant has been deposited at the place.</p> <p>A prescribed water contaminant Section 440ZD – <i>prescribed water contaminant</i> means – <i>prescribed</i></p>	<p>Earthpro have an exclusive entrance to their site, therefore control and manage the area where the contaminant was deposited. The contaminant was clearly observed on the road and in the gutter outside the Earthpro site entrance. It had been allowed to deposit from truck movements. The deposition meets the definition mentioned in subsection (1) in adjacent column. The exit and road was generally not in accordance with best practice. The rock area leading to and from the cattle grid was covered in ground in clay, preventing mud drop off from vehicles. The cattle grid itself contained an accumulation of clay. There was an established mud pathway which extended onto the road.</p> <p>The contaminant observed would be described as sediment coming from an exposed construction site.</p>	<p>Photos taken</p> <p>Site visit report dated 30 October 2013. Photos taken</p>
--	--	--	--	--

Assessment Report
Penalty Infringement Notice (PIN)

		<p><i>water contaminant</i> means – in Schedule 9 of the EP Reg - ashes, clay, gravel, sediment, stones and similar organic or inorganic matter</p> <p>At another place, and in a way, so that the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage</p> <p>Under the <i>Environmental Protection Act 1994</i> a contaminant can be -</p> <ul style="list-style-type: none"> (a) a gas, liquid or solid; or (b) an odour; or (c) an organism (whether alive or dead), including a virus; or (d) energy, including noise, heat, radioactivity and electromagnetic radiation; or (e) a combination of contaminants 	<p>The contaminant (sediment) was deposited along Pierce Avenue in the stormwater gutters, directly in Earthpro's egress point and approximately 30m up the road. The material was deposited on public roads which are not bunded or contained. The roads have gutters and multiple stormwater drains as part of their infrastructure into which the contaminant could reasonably be expected to wash (in rain events), blow, fall or otherwise move. The roadside drains release to Bells Creek and ultimately the Pummicestone Passage.</p>	<p>Site visit report dated 30 October 2013. Photos taken</p>
--	--	---	---	--

5. Other enforcement options

Please detail what other enforcement options have been considered for this matter.

Have other enforcement options been considered?	No
---	----

If yes, what are they and the reasons for using/not using them?	N/A
If no, please advise why no other options have been considered?	Earthpro were served an EPO on the 28 th August 2013 by EHP on the grounds of failing to meet its GED. Very poor erosion and sediment control practices were observed on site by EHP authorised officers and Earthpro had failed to appropriately manage stockpiles of Lead (Pb) contaminated soil onsite. Earthpro has engaged a CPESC (to provide ESC advice) and an SQP (to provide advice on contaminated soil management) as required by the EPO. PINs are considered an appropriate next level of enforcement to bring about compliance with the EPO.

6. Recommendation

The officer is required to make a recommendation in relation to the matter under investigation

Recommendation:

The enforcement guidelines have been considered and it has been determined that issuing an infringement notice is the most appropriate enforcement action in this case. The breach is minor and the facts are indisputable. Due to the low environmental risk and the overall sediment and erosion control measures are being addressed under an EPO it is considered that this will ensure that the offence is remedied and reoccurrence is deterred.

It is recommended that a PIN be issued under section 440ZG of the Environmental Protection Act 1994 for the breach outlined above.

7. Endorsement

The recommending officer and supervisor are required to sign and date below.

Recommending Officer	Supervisory Review
Signature:	Signature:

Assessment Report
Penalty Infringement Notice (PIN)

Print Name: Melanie Scanes <small>sch4p4(6) Personal information</small>	Print Name: Ewan Bell <small>sch4p4(6) Personal information</small>
Position: Senior Environmental Officer	Position: Principal Environmental Officer
Date: 25/11/13	Date: 25/11/13

8. Approval

The appropriate manager or supervisor is required to make a decision and sign and date below.

Decision for recommendation	
Approve	
Reasons for decision <i>I approve this decision for the reasons set out above.</i>	
Signature: <small>sch4p4(6) Personal information</small>	Print Name: Ben Sale
Position: Manager (Sunshine Coast & Gympie)	Date: 25/11/13



Enquires Ewan Bell
Telephone (07) 5459 6128
Our reference CA28969

Department of
**Environment and
Heritage Protection**

25 November 2013

Earthpro Pty Ltd
C/- Richard Ings Pty Ltd
Bermuda Point, Suite 1303
1 Lake Orr Drive
VARSITY LAKES QLD 4227

Attn: Roy Davis

Re: Penalty Infringement Notice for offence under the *Environmental Protection Act 1994 (the Act)*.

I refer to the Environmental Protection Order (STAT 811) (EPO) issued to Earthpro Pty Ltd by the Department of Environment and Heritage Protection (the department) on 21 August 2013.

Following a review of the information provided to the department by the Certified Professional in Erosion and Sediment Control (CPESC) on 30 September 2013, as per Requirement 9 of the EPO, the department considers that Earthpro have contravened the following requirement:

Requirement 8 - By no later than 1200hrs Thursday 26 September 2013 Earthpro must implement all corrective actions and/or onsite modifications recommended by the independent CPESC in the report identified in Requirement 7(b).

Under section 361(2) of the Act (attached) it is an offence for the recipient not to comply with an EPO.

The department has determined that the facts and circumstances of the offence warrant the issuing of a Penalty Infringement Notice (PIN) as an alternative to proceeding by way of prosecution in Court.

Please find enclosed a PIN issued to you in the amount of \$2200. Payment of this sum must be made within 28 days. Payment options available to you include cheque, money order, BPAY and BPOINT. For more information regarding your payment options please refer to the reverse side of the PIN. Also contained in the PIN is information regarding your rights and obligations.

Level 6, 12 First Avenue
MAROOCHYDORE QLD 4558
PO BOX 362
MAROOCHYDORE QLD 4558
Telephone (07) 5459 6132
Facsimile (07) 5459 6190
Website: www.ehp.qld.gov.au

If you have any questions about this letter or require more information about the accompanying PIN please contact Ewan Bell on (07) 5459 6128.

Yours sincerely,

sch4p4(6) Personal information

Ben Sale
Manager (Sunshine Coast & Gympie)
Environmental Services and Regulation
Southern Region

RTI DL RELEASE - EHP

Report

Alleged Breach Report

This Alleged Breach Report in conjunction with the departments Enforcement Guidelines will assist officers in recording information which supports a decision to take enforcement action i.e. issue a Penalty Infringement Notice (PIN) under the State Penalties Enforcement Act 1999 regime. This includes offences under the Environmental Protection Act 1994, Nature Conservation Act 1992, Forestry Act 1959, Recreation Areas Management Act 2006, Marine Parks Act 2004, Waste Reduction and Recycling Act 2011, Chapter 3 of the Water Act 2000 and the Queensland Heritage Act 2000, as listed within the State Penalties Enforcement Regulation 2000.

Note: For information on writing and the management of PINs please refer to the [PIN Manual](#) or contact infringement.notices@ehp.qld.gov.au.

1. Identifying details

Issuing Officer	Ewan Bell
Reference details	CA28969
EcoTrack Number if used	
Licence/Permit number	NA
File number	SOR114550P2
Name of alleged offender	Earthpro Pty Ltd
Address	RICHARD INGS Pty Ltd Burmuda Point, Suite 1303, 1 Lake Orr Drive, Varsity Lakes, Qld 4227 P.O.Box 1954 Cleveland DC 4163
ACN/ABN	39 077 375 207
Contact details	Roy Davis (07) 3829 1577

2. Background details of incident

Please outline any historical information relevant to this incident. This information may assist with the reasoning for the decision, assist in completing a review of the PIN and may be essential should the matter be referred to the Magistrates Court.

Date the department became aware of the offence.	30 September 2013
--	-------------------

Form
Alleged Breach Report

Date(s) & time of offence	11 September 2013 – 30 September 2013
Day of the week	
Location	Lot 101 on Plan SP232333
Permit/ Authority details	EPO - STAT811
Site activity	Landfill cell construction for Sunshine Coast Regional Council
Vehicle/vessel details	NA
Compliance history	EPO issued to Earthpro Pty Ltd on 21 August 2013
Contact with alleged offender- have you notified them that PINS are being issued?	<p>On 21 August 2103 EPO issued to Earthpro Pty Ltd on the grounds to secure compliance with GED. The EPO related to ESC issues and contaminated soil management and included multiple requirements to engage appropriate qualified professionals to improve ESC and contaminated soil management at the site.</p> <p>Requirement 5 required Earthpro to engage an independent Certified Professional in Erosion and Sediment Control (CPESC).</p> <p>Requirement 6 required the CPESC to carry out an audit of existing erosion and sediment controls (ESC) in place at the site, and develop and operational ESC plan.</p> <p>Requirement 7 required that the CPESC must provide the assessment and plan referred to in Requirement 6 above, to the department by 11 September 2013. It was required that the assessment include corrective actions or on-site modifications required as per best practice erosion and sediment control guidelines.</p> <p>Requirement 8 required that Earthpro must by 26 September 2013 implement all corrective actions or on-site modifications referred to in Requirement 7.</p> <p>Requirement 9 required that the CPESC must provide a second report to the department by 30 September 2013 that provided an audit of the corrective actions or on-site modifications required to be implemented in Requirement 8.</p> <p>The audit completed as per Requirement 7 (Audit A) included 8 Corrective Action Requests (CAR). The audit completed as per Requirement 9 (Audit B) included an audit assessing the implementation of the CAR's. The second audit identified the following:</p> <p>Of these 8 CAR's 4 were not completed as per Requirement 8 including</p> <p>CAR 1 Remove built up sediment from the invert of the clean water diversion drain. This CAR was not completed – the report identified that once the clean water diversion drain is in place the built up sediment will be removed.</p> <p>CAR 2 Install geotextile lining to the invert of the drain - This CAR was not completed – the report identified that once the clean water diversion drain is in place the geotextile will be installed to the invert.</p>

Form
Alleged Breach Report

	<p>CAR 3 Included extending the installed spray-on protection for the full extent of the stockpile; or overlay the stockpile adjacent to the drain with geotextile. This CAR was not completed and the stockpile had neither spray-on protection installed or overlayed with geotextile.</p> <p>CAR 8 Establish clean water diversion – This CAR was not completed - page 15 of the audit clearly identified <i>that no effective clean water diversion has been constructed to protect the site from clean water entering via the Western or Southern boundaries.</i></p> <p>Correspondence from Eathpro to SCRC dated 19 November 2013 stated that <i>Earthpro implemented most of the corrective actions and plans as per CPESC reports.</i> This statement clearly indicates that Earthpro did not implement all of the CAR as per Requirement 8 of the EPO.</p>
--	--

Possible mitigating circumstances	None
Other information	NA

3. Alleged offence details

Please outline what offences are alleged to have been committed. Details include the legislation, section number, penalty units and limitation periods. Please also include the PIN offence code these can also be located on insite and Ecosteps.

Note: If there are more than three separate PIN-able offences being considered the matters should form the basis of a complaint and summons and be heard by a Magistrate.

No.	Section	PIN offence code	Legislation	Penalty Units	Statute Limitation
1	Section 361(2)	EPA08	The <i>Environmental Protection Act 1994</i>	20	S497 – within one year after the commission of the offence; or within 1 year after the offence comes to the complainants knowledge, but within 2 years after the

Form
Alleged Breach Report

					commission of the offence.
--	--	--	--	--	----------------------------

4. Elements and supporting evidence

Please outline the elements of each of the offences listed above. Provide in detail what evidence is available to satisfy each and every element of the offence(s), the source, how it is/was obtained and when it will/was obtained.

Offence No.	Elements	Type of evidence	Source of evidence	How evidence was obtained
1.	11 September 2013 - 30 September 2013	Erosion and Sediment Control Audit A – Sep 2013 Caloundra Landfill Cell 9 Queensland – Ref: CIV1098/ESC-02; Ver A.1 - 11 September 2013 Erosion and Sediment Control Audit B – Sep 2013 Caloundra Landfill Cell 9 Queensland – Ref: CIV1098/ESC-03; Ver A.1 - 30 September 2013	Audit report provided CPESC as per requirement 7 of the EPO issued to Earthpro Audit report provided CPESC as per requirement 9 of the EPO issued to Earthpro	Submitted to the department by CPESC Submitted to the department by CPESC
2.	Caloundra Landfill Cell 9 Queensland – site of earthworks being undertaken by Earthpro	Evidence that Earthpro are undertaking the earthworks at Caloundra Landfill Cell 9	Diary Notes, Inspection Reports, correspondence from SCRC and correspondence from Earthpro	Multiple sources
3.	S361(2) The recipient must not contravene an environmental protection order	S358 – the administering authority may issue an environmental protection order (EPO).		

Form
Alleged Breach Report

	The recipient	A delegate of the administering authority decided to issue an EPO to Earthpro Pty Ltd on 21 Aug 2013. Earthpro Pty Ltd is the recipient of an EPO.	EPO - STAT811 issued to Earthpro Pty Ltd on 21 August 2013.	Copy on departmental file.
	Must not contravene	<p>Requirement 8</p> <p>Erosion and Sediment Control Audit B – Sep 2013 Caloundra Landfill Cell 9 Queensland – Ref: CIV1098/ESC-03; Ver A1 - 30 September 2013. This audit report documents that Earthpro Pty Ltd have not implemented all CAR's as per Requirement 8 of the EPO.</p> <p>The report provides evidence that Earthpro have contravened Requirement 8 of the EPO.</p> <p>Email sent to the department by SCRC. The email included an attached email from Murshedul Alam from Earthpro and attached document titled Update of EPO requirement. Item 8 of this document states that <i>Earthpro implemented most of the corrective actions and plans as per CPESC report.</i> From</p>	<p>Audit report provided CPESC as per requirement 9 of the EPO issued to Earthpro</p> <p>Email from SCRC to the department.</p>	<p>Submitted to the department by CPESC</p> <p>Email sent from Debbie Spann of SCRC to officers of the department on 20/11/2013.</p>

		this document it is clear that not all of the CAR were implemented.		
--	--	---	--	--

5. Alleged offender correspondence- relating to the alleged breach

Please detail correspondence related to the alleged breach that has been received from the alleged offender, or sent from the department to the alleged offender. Attach copies of the correspondence (including letters, emails, file notes of phone conversations, etc.).

Date	Type of Correspondence	Brief description of correspondence	Which alleged offence does the correspondence relate to?	Copy Attached?
11 Sep 2013	Erosion and Sediment Control Management Plan – Audit A	Assessment and operational ESC management plan, including CAR's submitted as per Requirement 7 of the EPO.	EPA08	Y - Appendix I - CAR attached
30 Sep 2013	Erosion and Sediment Control – Audit B – Sep 2013	Assessment of implementation of CAR's Audit A as per Requirement 9 of the EPO	EPA08	Y
20 November 2013	Email correspondence from Debbie Spann, Project Coordinator, Sunshine Coast Regional Council to the Ewan Bell of the department and others.	Email from SCRC included email from Earthpro with attachment titled Update of EPO requirement.	EPA08	Y

6. Other enforcement options

Please detail what other enforcement options have been considered for this matter as per the departments Enforcement Guidelines.

Form
Alleged Breach Report

Have other enforcement options been considered?	Y
If yes, what are they and the reasons for using/not using them?	It is considered that administrative response to the offence is not appropriate given this enforcement action relates to an existing statutory notice and the offence not to comply with an environmental protection order. It is considered that an infringement notice is appropriate as it appears an offence has been committed, the breach is apparently indisputable, and can be easily remedied, and it is likely to act as a deterrent.
If no, please advise why no other options have been considered?	

7. Recommendation

The officer is required to make a recommendation in relation to the matter under investigation.

It is recommended that a penalty infringement notice be issued to Earthpro Pty Ltd for the offence s361(2) – Offence not to comply with an order. It is considered on the evidence above that the facts are indisputable.

8. Acknowledgement

The recommending officer and supervisor are required to sign and date below.

Recommending Officer	Supervisory Review
Signature: sch4p4(6) Personal information	Signature: sch4p4(6) Personal information
Print Name: Ewan Bell	Print Name: Mel Scanes
Position: Principal Environmental Officer	Position: Senior Environmental Officer
Date: 22/11/13	Date: 25/11/13

9. Endorsement

The appropriate manager or supervisor is required to either support / not support the decision and sign and date below.

Decision for recommendation	<INSERT details support/ not support>
-----------------------------	---------------------------------------

Form
Alleged Breach Report

Reasons for decision

— as per evidence provided above.

Signature: sch4p4(6) Personal information

Print Name: Ben Sale

Position: Manager, Environmental Services and
Regulation, Sunshine Coast and Gympie

Date: 25/11/13

Please ensure that the PIN, cover letter and alleged breach report are saved into Ecotrack.

RTI DL RELEASE - EHP

Bell Ewan

From: Debbie Spann <Debbie.Spann@sunshinecoast.qld.gov.au>
Sent: Wednesday, 20 November 2013 8:22 AM
To: Scanes Melanie; Bell Ewan; Sale Ben
Cc: mab@bmce.com.au; Shanna Douglas; Steve Pollard
Subject: FW: Update Registry of EPO - Cell 9 Preparation Caloundra Landfill
Attachments: Update of EPO requirement.pdf

Good morning all,

I have received this attached EPO registry table from Earthpro, however, it really doesn't give us any specific information on how things are going with the EPO.

The Contour E&SC Plan has not been fully implemented and currently there are no sediment ponds to treat water on site. We still to date, have not received any reports or results from Duke. Could EHP please provide an update to SCRC on Earthpro's progress regarding the EPO?

Kind Regards,

Debbie Spann | Project Coordinator
Business & Major Project Services
Infrastructure Services | Sunshine Coast Regional Council
Phone: 07 5420 8027
Email: debbie.spann@sunshinecoast.qld.gov.au
Website: www.sunshinecoast.qld.gov.au
Mail: Locked Bag 72 Sunshine Coast Mail Centre Qld 4560

Please consider the environment before printing this email

From: m.alam@earthpro.com.au [mailto:m.alam@earthpro.com.au]
Sent: Tuesday, 19 November 2013 1:16 PM
To: Debbie Spann
Cc: Michael Blakeney; roy@earthpro.com.au; Shanna Douglas; Steve Pollard
Subject: Update Registry of EPO - Cell 9 Preparation Caloundra Landfill

Debbie,

Please find attached update registry of EPO requirements as per your enquiry on last site meeting.

Regards

Murshedul Alam
Site Contract Administrator
EarthPro Pty Ltd
Mobile 0444 444 444 (6) Personal information



To find out more about the Sunshine Coast Council, visit your local office at Caloundra, Maroochydore, Nambour or Tewantin or visit us online at www.sunshinecoast.qld.gov.au. If correspondence includes personal information, please refer to [Council's Privacy Policy](#)

This email and any attachments are confidential and only for the use of the addressee. If you have received this email in error you are requested to notify the sender by return email or contact council on 07 5475 7272, and are prohibited from forwarding, printing, copying or using it in anyway, in whole or part.

Please note that some council staff utilise mobile devices, which may result in information being transmitted overseas prior to delivery of any communication to the device. In sending an email to Council you are agreeing that the content of your email may be transmitted overseas. Any views expressed in this email are the author's, except where the email makes it clear otherwise. The unauthorised publication of an email and any attachments generated for the official functions of council is strictly prohibited. Please note that council is subject to the Right to Information Act 2009 (Qld) and Information Privacy Act 2009 (Qld).

RTI DL RELEASE - EHP

EPO REQUIREMENT REGISTRY

<u>Item</u>	<u>EPO Section</u>	<u>EPO Item</u>	<u>Due Date</u>	<u>Action/Submission Date</u>	<u>Comment</u>
1	B (Requirements)	1	1200 hrs Tuesday 27 August 2013	1200 hrs Tuesday 27 August 2013.	Mulch used to stabilise the contaminated stockpile
2	B (Requirements)	2	1200 Hrs Wednesday 28 August 2013	1200 Hrs Wednesday 28 August 2013	Engagement of Duke Environmental by Earthpro
3	B (Requirements)	3	1200 hrs Thursday 26 September 2013	1200 hrs Thursday 26 September 2013	Duke Environmental conducted site inspection as per EPO requirement 3a, 3b, 3c and 3d
4	B (Requirements)	4	1200 hrs Thursday 26 September 2013	1200 hrs Thursday 26 September 2013	Duke Environmental 's submission of documents as per requirement 4
5	B (Requirements)	5	1200 Hrs Wednesday 28 August 2013	1200 Hrs Wednesday 28 August 2013	Engagement of Contour Consulting Engineers by Earthpro
6	B (Requirements)	6	1200 hrs Wednesday 11 September 2013	1200 hrs Wednesday 11 September 2013	Contour Consulting Engineers completed requirement 6a and 6b.
7	B (Requirements)	7	1200 hrs Wednesday 11 September 2013	1700 hrs Monday 16 September 2013	Contour Consulting Engineers submitted required documents as per requirement 7
8	B (Requirements)	8	1200 hrs Thursday 26 September 2013	1200 hrs Thursday 26 September 2013	Earthpro implemented most of the corrective actions and plans as per CPESC report. Due to change condition of site few items of CPESC plans were changed and marked out. The changed items were discussed with Contour and implemented on site.
9	B (Requirements)	9	1200 hrs Monday 30 September 2013	1200 hrs Monday 30 September 2013	Contour Consulting Engineers completed requirement 9
10	B (Requirements)	10	From 30 September 2013 to Practical Completion of the Project	Ongoing	Ongoing
11	B (Requirements)	11	From 30 September 2013 to Practical Completion of the Project	Ongoing	Ongoing
12	B (Requirements)	12	10 business days after audit inspection	Ongoing	CPESC audit report was submitted for the month of September and October.
13	B(Requirements)	13	1200 hrs 30 August 2013	1200 hrs 30 August 2013	The onsite fuel tank is no longer used for fuel storage and refuelling of plants.

Scanes Melanie

From: Scanes Melanie
Sent: Tuesday, 12 November 2013 12:26 PM
To: 'm.alam@earthpro.com.au'
Cc: roy@earthpro.com.au; Bell Ewan; Sale Ben
Subject: RE: Contaminated Soil Management

Hi Murshed

Can you advise if you have commissioned Duke to the testing of soil from the sediment basin as discussed in the Duke Report and if so please the department requests these results be forwarded us.

Regards

Melanie

From: m.alam@earthpro.com.au [mailto:m.alam@earthpro.com.au]
Sent: Monday, 11 November 2013 6:55 AM
To: Scanes Melanie; roy@earthpro.com.au
Cc: Sale Ben; Bell Ewan; sch4p4(6) Personal information
Subject: RE: Contaminated Soil Management

Hi Melanie,

Please find below comments regarding the management of sediment from the Sediment Basin in Cell 9.

1. Earthpro are consulting with Contour and Duke regarding appropriate Corrective Actions regarding any need for additional measures to manage this material.
2. From an ESC perspective, Earthpro construction staff generally followed the requirements of the Erosion and Sediment Control Management Plan (ESCMP) – Caloundra Landfill Cell 9 – Queensland, prepared for Earthpro by Contour Consulting Engineers Pty Ltd, dated 11 September 2013. That is, the soil material, being the sediment from the Cell 9 Basin, was stockpiled in an area of the site used for stockpiling.
3. The soil material removed from the Sediment basin was stockpiled, with the stockpile treated in general accord with the requirements of the ESCMP.
4. The entire construction site is bunded-off so that rainfall runoff will not exit the site, and therefore zero potential for a release of sediment laden waters to the receiving environment.
5. In general accord with the ESCMP, the management of the material considered the potential impacts of forecast rainfall events.
6. It is acknowledged that Earthpro advised Contour, Duke and EHP of a different management strategy at the meeting of 30 October 2013. Notwithstanding this previous advice, Earthpro consider that they have acted in general accord with the ESCMP.
7. Earthpro engaged a suitably qualified consultant to produce an ESCMP, with the day-to-day earthmoving operations being carried out generally in compliance with the requirements of the ESCMP, and hence in general accord with the requirements of the EPO.
8. It is to be acknowledged by EHP that NILL Sediment is likely to discharge to the receiving environment.
9. It is to be acknowledged by EHP that NILL Sediment has discharged to the receiving environment.

I also attached a response from Duke Environmental regarding the management of the contaminated material from Cell 9 sediment basin with this email.

Should you have any question please don't hesitate to contact me or sch4p4(6) Personal information

Regards

Murshedul Alam
Site Contract Administrator
EarthPro Pty Ltd
Mobile 0414 444 444 (6) Personal information

From: Scanes Melanie [mailto:Melanie.Scanes@ehp.qld.gov.au]
Sent: Wednesday, 6 November 2013 4:30 PM
To: roy@earthpro.com.au; m.alam@earthpro.com.au
Cc: Sale Ben; Bell Ewan
Subject: Contaminated Soil Management

Roy and Murshed

The department reiterates that as the primary contractor responsible for the management of the construction site Earthpro must demonstrate it is operating in a manner that meets its general environmental duty under section 319 of the *Environmental Protection Act 1994* (EP Act). The EPO requires that Earthpro engage suitably qualified professionals to develop plans and guide you in the implementation of the civil works while discharging your environmental obligation. The movement and placement of the sediment from the Cell 9 sediment basin in the location described is not included within the contaminated soil management plan developed by Duke Environmental.

The placement of this material is not part of the CPESC plan submitted and EHP was not notified by Contour Consulting (your ESC expert) or Earthpro while EHP was onsite last Wednesday, that the soil would be placed in this location. While it was known this material would be wet, Earthpro advised the department that the material would be placed directly into the contaminated soil pile which is being managed under an environmental management strategy developed by Earthpro's SQP (Duke Environmental).

The department requests that by 1300hrs Friday 8 November Earthpro provide the department with supporting evidence to demonstrate that the decision was made in consultation with its consultants (as required by the EPO) including the validation of the deposition area and how the process fits in to the current management strategy for the construction site.

The department would like to take this opportunity to highlight the following sections of the EP Act:

480 False or misleading documents

(1) A person must not give to the administering authority or an authorised person a document containing information that the person knows, or ought reasonably to know, is false or misleading in a material particular.
Maximum penalty—1665 penalty units or 2 years imprisonment.

(2) Subsection (1) does not apply to a person who, when giving the document—

(a) informs the administering authority or authorised person of the extent to which the document is false or misleading; and

(b) gives the correct information to the administering authority or authorised person if the person has, or can reasonably obtain, the correct information.

(3) It is enough for a complaint for an offence against subsection (1) to state the person knew, or ought reasonably to have known, the document was false or misleading, without specifying which of the following applies—

(a) the person knew it was false;

(b) the person knew it was misleading;

(c) the person ought reasonably to have known it was false;

(d) the person ought reasonably to have known it was misleading.

480A Incomplete documents

(1) This section applies to a person who is required under this Act to give a document to the administering authority or an authorised person.

(2) The person must not give to the administering authority or authorised person a document the person knows, or ought reasonably to know, contains incomplete information in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

(3) Subsection (2) does not apply to a person who, when giving the document—

(a) informs the administering authority or authorised person of the extent to which the document is incomplete; and

(b) gives the complete information to the administering authority or authorised person if the person has, or can reasonably obtain, the information.

(4) It is enough for a complaint for an offence against subsection

(2) to state the person knew, or ought reasonably to have known, the document was incomplete, without specifying whether the person knew it was incomplete or whether the person ought reasonably to have known it was incomplete.

481 False or misleading information

(1) A person must not—

(a) state anything to an authorised person that the person knows is false or misleading in a material particular; or

(b) omit from a statement made to an authorised person anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

The department will review the information provided to assess whether the intent of EPO requirements is currently being met and whether any additional enforcement action needs to be taken.

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

<https://report-littering-dumping.ehp.qld.gov.au/>

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

From Bell Ewan **Date** Friday, 8 November 2013 4:34:41 PM
To m.alam@earthpro.com.au; Sale Ben
Cc roy@earthpro.com.au; Scanes Melanie
Subject RE: Contaminated Soil Management

 [image002.jpg](#) (7 KB [HTML](#))  [image003.jpg](#) (3 KB [HTML](#))

Hi Murshedul

Thanks for your emails. As per previous emails, EHP have requested information from Earthpro relating to the decision to place the sediment from Cell 9 sediment basin in that area, to demonstrate that Earthpro have taken all reasonable and practicable measures to prevent or minimise environmental harm.

Given that an EPO has been issued to Earthpro at this site relating to contaminated soil management, EHP would have expected that Earthpro would have clear and accurate documentation available to support the decision to place this material in that location; and that Earthpro would not need to engage with consultants after the decision had been made, to provide the supporting evidence for the decision.

At this stage EHP is prepared to provide further time for Earthpro to provide the requested information. As per your request EHP provide until 1000 on 11 November 2013.

Regards

Ewan Bell

Principal Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6128 Fax: (07) 5459 6190
ewan.bell@ehp.qld.gov.au
www.ehp.qld.gov.au

 ehp-email-signature

From: m.alam@earthpro.com.au [mailto:m.alam@earthpro.com.au]
Sent: Friday, 8 November 2013 11:32 AM
To: Sale Ben
Cc: Bell Ewan; roy@earthpro.com.au; Scanes Melanie; Simpson Kara (EHP)
Subject: RE: Contaminated Soil Management

Hi Ben,

We would like to submit our response by 10 am Monday 11th November 2013.

sch4p4(6) Personal information Roy is not available
this week to attend the meeting with Duke environmental and Contour Consulting Engineers.

Thanks for your understanding.

Regards

Murshedul Alam

Site Contract Administrator
EarthPro Pty Ltd
Mobile 4p4(6) Personal information

From: Sale Ben [<mailto:Ben.Sale@ehp.qld.gov.au>]
Sent: Friday, 8 November 2013 9:17 AM
To: m.alam@earthpro.com.au
Cc: Bell Ewan; roy@earthpro.com.au; Scanes Melanie; Simpson Kara (EHP)
Subject: RE: Contaminated Soil Management

Hi Mushed

Thanks for the email.

I am ok with extending the time as requested – new deadline is 1500hrs today.

Regards

Ben

Ben Sale
Manager (Sunshine Coast & Gympie)
Environmental Services & Regulation | Southern Region

Ph: 07 5459 6136 | **Fax:** 07 5459 6190 | **M:** 4p4(6) Personal information
Department of Environment and Heritage Protection
P.O Box 362, Maroochydore, QLD 4558



From: m.alam@earthpro.com.au [<mailto:m.alam@earthpro.com.au>]
Sent: Friday, 8 November 2013 9:03 AM
To: Scanes Melanie
Cc: Sale Ben; Bell Ewan; roy@earthpro.com.au
Subject: RE: Contaminated Soil Management

Hi Melanie and Ben,

We would like to respond your below mentioned email by 3:00 pm today due to unavailability of Duke Environmental and Contour Consulting Engineer for a meeting for last couple of days.

We would appreciate if you can extend the time limit by 2 hours to adequately respond your enquiry. Thank you for your understanding.

Regards

Murshedul Alam

Site Contract Administrator
EarthPro Pty Ltd
Mobile 0844(6) Personal information

From: Scanes Melanie [<mailto:Melanie.Scanes@ehp.qld.gov.au>]
Sent: Wednesday, 6 November 2013 4:30 PM
To: roy@earthpro.com.au; m.alam@earthpro.com.au
Cc: Sale Ben; Bell Ewan
Subject: Contaminated Soil Management

Roy and Murshed

The department reiterates that as the primary contractor responsible for the management of the construction site Earthpro must demonstrate it is operating in a manner that meets its general environmental duty under section 319 of the *Environmental Protection Act 1994* (EP Act). The EPO requires that Earthpro engage suitably qualified professionals to develop plans and guide you in the implementation of the civil works while discharging your environmental obligation. The movement and placement of the sediment from the Cell 9 sediment basin in the location described is not included within the contaminated soil management plan developed by Duke Environmental.

The placement of this material is not part of the CPESC plan submitted and EHP was not notified by Contour Consulting (your ESC expert) or Earthpro while EHP was onsite last Wednesday, that the soil would be placed in this location. While it was known this material would be wet, Earthpro advised the department that the material would be placed directly into the contaminated soil pile which is being managed under an environmental management strategy developed by Earthpro's SQP (Duke Environmental).

The department requests that by 1500hrs Friday 8 November Earthpro provide the department with supporting evidence to demonstrate that the decision was made in consultation with its consultants (as required by the EPO) including the validation of the deposition area and how the process fits in to the current management strategy for the construction site.

The department would like to take this opportunity to highlight the following sections of the EP Act:

480 False or misleading documents

(1) A person must not give to the administering authority or an authorised person a document containing information that the person knows, or ought reasonably to know, is false or misleading in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

(2) Subsection (1) does not apply to a person who, when giving the document—

(a) informs the administering authority or authorised person of the extent to which the document is false or misleading; and

(b) gives the correct information to the administering authority or authorised person if the person has, or can reasonably obtain, the correct information.

(3) It is enough for a complaint for an offence against subsection (1) to state the person knew, or ought reasonably to have known, the document was false or misleading, without specifying which of the following applies—

(a) the person knew it was false;

- (b) the person knew it was misleading;
- (c) the person ought reasonably to have known it was false;
- (d) the person ought reasonably to have known it was misleading.

480A Incomplete documents

(1) This section applies to a person who is required under this Act to give a document to the administering authority or an authorised person.

(2) The person must not give to the administering authority or authorised person a document the person knows, or ought reasonably to know, contains incomplete information in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

(3) Subsection (2) does not apply to a person who, when giving the document—

(a) informs the administering authority or authorised person of the extent to which the document is incomplete; and

(b) gives the complete information to the administering authority or authorised person if the person has, or can reasonably obtain, the information.

(4) It is enough for a complaint for an offence against subsection

(2) to state the person knew, or ought reasonably to have known, the document was incomplete, without specifying whether the person knew it was incomplete or whether the person ought reasonably to have known it was incomplete.

481 False or misleading information

(1) A person must not—

(a) state anything to an authorised person that the person knows is false or misleading in a material particular; or

(b) omit from a statement made to an authorised person anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

The department will review the information provided to assess whether the intent of EPO requirements is currently being met and whether any additional enforcement action needs to be taken.

Regards

Melanie Scanes

Senior Environmental Officer

Environmental Services and Regulation, Southern Region

Department of Environment and Heritage Protection

PO Box 362 MAROOCHYDORE, QLD 4558

Telephone: (07) 5459 6154 Fax: (07) 5459 6190

melanie.scanes@ehp.qld.gov.au

www.ehp.qld.gov.au

<https://report-littering-dumping.ehp.qld.gov.au/>

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

RTI DL RELEASE - EHP

From: Scanes Melanie
Sent: Wednesday, 6 November 2013 4:30 PM
To: roy@earthpro.com.au; m.alam@earthpro.com.au
Cc: Sale Ben; Bell Ewan
Subject: Contaminated Soil Management

Roy and Murshed

The department reiterates that as the primary contractor responsible for the management of the construction site Earthpro must demonstrate it is operating in a manner that meets its general environmental duty under section 319 of the *Environmental Protection Act 1994* (EP Act). The EPO requires that Earthpro engage suitably qualified professionals to develop plans and guide you in the implementation of the civil works while discharging your environmental obligation. The movement and placement of the sediment from the Cell 9 sediment basin in the location described is not included within the contaminated soil management plan developed by Duke Environmental.

The placement of this material is not part of the CPESC plan submitted and EHP was not notified by Contour Consulting (your ESC expert) or Earthpro while EHP was onsite last Wednesday, that the soil would be placed in this location. While it was known this material would be wet, Earthpro advised the department that the material would be placed directly into the contaminated soil pile which is being managed under an environmental management strategy developed by Earthpro's SQP (Duke Environmental).

The department requests that by 1300hrs Friday 8 November Earthpro provide the department with supporting evidence to demonstrate that the decision was made in consultation with its consultants (as required by the EPO) including the validation of the deposition area and how the process fits in to the current management strategy for the construction site.

The department would like to take this opportunity to highlight the following sections of the EP Act:

480 False or misleading documents

(1) A person must not give to the administering authority or an authorised person a document containing information that the person knows, or ought reasonably to know, is false or misleading in a material particular. Maximum penalty—1665 penalty units or 2 years imprisonment.

(2) Subsection (1) does not apply to a person who, when giving the document—

(a) informs the administering authority or authorised person of the extent to which the document is false or misleading; and

(b) gives the correct information to the administering authority or authorised person if the person has, or can reasonably obtain, the correct information.

(3) It is enough for a complaint for an offence against subsection (1) to state the person knew, or ought reasonably to have known, the document was false or misleading, without specifying which of the following applies—

(a) the person knew it was false;

(b) the person knew it was misleading;

(c) the person ought reasonably to have known it was false;

(d) the person ought reasonably to have known it was misleading.

480A Incomplete documents

(1) This section applies to a person who is required under this Act to give a document to the administering authority or an authorised person.

(2) The person must not give to the administering authority or authorised person a document the person knows, or ought reasonably to know, contains incomplete information in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

(3) Subsection (2) does not apply to a person who, when giving the document—

(a) informs the administering authority or authorised person of the extent to which the document is incomplete; and

(b) gives the complete information to the administering authority or authorised person if the person has, or can reasonably obtain, the information.

(4) It is enough for a complaint for an offence against subsection

(2) to state the person knew, or ought reasonably to have known, the document was incomplete, without specifying whether the person knew it was incomplete or whether the person ought reasonably to have known it was incomplete.

481 False or misleading information

(1) A person must not—

(a) state anything to an authorised person that the person knows is false or misleading in a material particular; or

(b) omit from a statement made to an authorised person anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

The department will review the information provided to assess whether the intent of EPO requirements is currently being met and whether any additional enforcement action needs to be taken.

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

<https://report-littering-dumping.ehp.qld.gov.au/>

Scanes Melanie

From: Scanes Melanie
Sent: Friday, 25 October 2013 4:05 PM
To: 'm.alam@earthpro.com.au'
Subject: RE: Response of water discharge - 171 Piercer Avenue Caloundra Landfill

Ok Murshed have it in by then

From: m.alam@earthpro.com.au [mailto:m.alam@earthpro.com.au]
Sent: Friday, 25 October 2013 11:30 AM
To: Scanes Melanie
Cc: roy@earthpro.com.au
Subject: Response of water discharge - 171 Piercer Avenue Caloundra Landfill

Hi Melanie,

The reported turbid water was captured in downstream in a sump. We organised a sucker truck to offload the concerned water yesterday so that no reported turbid water mixed in downstream.

We still gathering information regarding yesterday's incident. We would like to send our response by COB Monday.

Please let us know if you are happy with this timeframe.

Regards

Murshedul Alam
Site Contract Administrator
EarthPro Pty Ltd
Mobile 0414 444 444 (6) Personal information

RTI DL RELEASE - EHP

Scanes Melanie

From: Scanes Melanie
Sent: Thursday, 24 October 2013 3:04 PM
To: roy@earthpro.com.au; m.alam@earthpro.com.au
Subject: Duty to Notify information

Hello Roy

As discussed this is the info on your environmental duty to notify

<http://www.ehp.qld.gov.au/licences-permits/business-industry/pdf/guide-duty-notify-environmental-harm-em467.pdf>

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

RTI DL RELEASE - EHP

Scanes Melanie

From: Scanes Melanie
Sent: Friday, 18 October 2013 11:03 AM
To: roy@earthpro.com.au
Subject: FW: Pumping water from Cell 9 Sediment Basin - Caloundra Landfill

Email sent to Michael Blakeney FYI. I should have cc'd you sorry.

From: Scanes Melanie
Sent: Friday, 18 October 2013 10:57 AM
To: 'mab@bmce.com.au'
Cc: Sale Ben
Subject: RE: Pumping water from Cell 9 Sediment Basin - Caloundra Landfill

Michael as I notified you yesterday they are releasing from the sediment basin. I understand he is saying the pipe is blocked can you have someone removed the blockage as it is outside of the Earthpro site.

Please have someone take a look and determine the appropriate action. The sediments could contain Pb. It maybe suitable to then put the sediment in the contaminated soil stockpile

Regards

Melanie

From: Michael Blakeney [mailto:mab@bmce.com.au]
Sent: Friday, 18 October 2013 10:48 AM
To: m.alam@earthpro.com.au
Cc: roy@earthpro.com.au; 'Debbie Spann'; 'Shanna Douglas'; 'Steve Pollard'; Scanes Melanie
Subject: RE: Pumping water from Cell 9 Sediment Basin - Caloundra Landfill

Murshed,

I am unclear as to what you actually require. Could you please explain what you mean by "make arrangement with the adjoining site owners and operators so that we can discharge water as a matter of urgency." Are you requesting that the Superintendent notify these parties of the intended release?

Regards,

Michael Blakeney
Superintendent

From: m.alam@earthpro.com.au [mailto:m.alam@earthpro.com.au]
Sent: Friday, 18 October 2013 10:22 AM
To: Michael Blakeney
Cc: roy@earthpro.com.au; Debbie Spann; Shanna Douglas; Steve Pollard
Subject: Pumping water from Cell 9 Sediment Basin - Caloundra Landfill

Michael,

Duke Environmental made representation, on behalf of Earthpro, to DEHP to release the water from Cell 9 sedimentation basin.

DEHP made a conditional approval to release the water from Cell 9 Sediment Basin.

As per DEHP requirement the water release need to be monitored at outside the Earthpro's work area within the downstream receiving environment.

The silted state of the existing stormwater pipe, which Earthpro has access within working area, has minimum of 500 mm of silt and unsuitable for releasing water as per DEHP conditional approval.

As such in order to maintain general environmental duty to discharge the water from Earthpro working area we requesting you to make arrangement with the adjoining site owners and operators so that we can discharge water as a matter of urgency.

Your earliest response will be greatly appreciated.

Regards

Murshedul Alam
Site Contract Administrator
EarthPro Pty Ltd
Mobile: 0414 444 444 (6) Personal information

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2012.0.2242 / Virus Database: 3222/6260 - Release Date: 10/17/13

RTI DL RELEASE - EHP

Scanes Melanie

From: Paula Duke <Paula@dukenviro.com.au>
Sent: Thursday, 17 October 2013 1:14 PM
To: Scanes Melanie
Cc: Sale Ben; Bell Ewan; brett@contource.com.au; david@contource.com.au; roy@earthpro.com.au; m.alam@earthpro.com.au; Julie Schubert
Subject: RE: DE1243 - Pierce Ave, Caloundra

Hi Melanie

It is my opinion that the risk to the environment has not changed since we submitted our original report and requested release of the waters. The water acidity is close to neutral as reported previously. We do not want to be in the same position as last Friday (11/10/13) where EHP were not satisfied with the release of the water from the sediment basin.

We need a decision from EHP today that they approve release of the water from the sediment basin or at least use the waters for dust suppression on site. We consider that use of the water for dust suppression will not constitute a risk to the environment on site.

We advise again that rainfall is forecast and Earthpro need to release the water from the sediment basin so that there is sufficient capacity for the forecast rainfall event.

I have left a message for Ben Sale to return my call, but he is not available.

Regards,

Paula Duke

MEngSc BAppSc(Chem) PGDipEd CEnvP MEIANZ

Director



P: 07 5493 3322

F: 07 5493 3422

M: sch4p4(6) Personal information

E: paula@dukenviro.com.au

A: 2 / 6 Innovation Parkway, Birtinya 4575

PO Box 78, Wurtulla 4575

W: dukenviro.com.au

Members of:



This email and any attached files are intended for the named recipient(s) only. If you have received this message in error inform the sender immediately and delete all copies of this email and any attachments from your computer system and network. Unless otherwise stated, the views expressed in this email and/or attachments may not reflect the views of Duke Environmental. Duke Environmental accepts no responsibility for possible viruses associated with this email and attached files.

From: Scanes Melanie [mailto:Melanie.Scanes@ehp.qld.gov.au]
Sent: Thursday, 17 October 2013 11:51 AM
To: Paula Duke
Cc: Sale Ben; Bell Ewan
Subject: RE: DE1243 - Pierce Ave, Caloundra

Hi Paula

Can you provide us with the other metal results, the hardness pH and temperature etc ?

We are seeking you to put forward your summary of the environmental risk based on the all the data, with reference to trigger values and local environment. It is not our role to provide permission, but for you to provide the lead in assessing the environment impact and risk and insitu management strategy to manage remaining risk..

Regards

Melanie

From: Paula Duke [mailto:Paula@dukenyiro.com.au]
Sent: Thursday, 17 October 2013 10:53 AM
To: Scanes Melanie
Subject: FW: DE1243 - Pierce Ave, Caloundra

From: Paula Duke
Sent: Thursday, 17 October 2013 10:51 AM
To: melanie.scanes@ehp.qld.gov
Cc: benjamin.sale@derm.qld.gov.au; Julie Schubert
Subject: DE1243 - Pierce Ave, Caloundra

Hi Melanie

As discussed Monday, we have received some preliminary results from the laboratory for the water sampled in the sediment pond.

The preliminary aluminium concentrations reported are still above ANZECC trigger values (total aluminium 0.86mg/L at 0.1 m depth, 0.84mg/L at 0.5 m depth and 4.0 mg/L at 1.0 m below depth).

There is an 80 % chance of receiving rain up to 20 mm on Friday (tomorrow) and the basin is close to capacity.

If EHP are not able to approve the release of the water to the receiving environment, are EHP amenable for the water being used for dust suppression? If so, are there any dust suppression trigger values or is it acceptable to use the irrigation trigger values from ANZECC (refer Section 4.2.6, Table 4.2.10). This would allow Earthpro to obtain greater capacity in the sediment basin, in the event that it does rain tomorrow.

Thanks

Regards,

Paula Duke

MEngSc BAppSc(Chem) PGDipEd CEnvP MEIANZ

Director



P: 07 5493 3322

F: 07 5493 3422

M: sch4p4(6) Personal information

E: paula@dukenviro.com.au

A: 2 / 6 Innovation Parkway, Birtinya 4575

PO Box 78, Wurtulla 4575

W: dukenviro.com.au

Members of:



This email and any attached files are intended for the named recipient(s) only. If you have received this message in error inform the sender immediately and delete all copies of this email and any attachments from your computer system and network. Unless otherwise stated, the views expressed in this email and/or attachments may not reflect the views of Duke Environmental. Duke Environmental accepts no responsibility for possible viruses associated with this email and attached files.

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

RTI DL RELEASE - EHP

Scanes Melanie

From: Scanes Melanie
Sent: Monday, 14 October 2013 12:22 PM
To: roy@earthpro.com.au
Cc: m.alam@earthpro.com.au; Sale Ben; Bell Ewan
Subject: FW: Pierce Avenue - Dust Suppression with Contaminated Groundwater
Attachments: DSC08343.JPG; DSC08350.JPG

Hi Roy

In regards to the below. Are you using the said groundwater for dust suppression? If so please provide the advice from your SQP that this is a suitable use for this water.

Regards

Melanie

From: Michael Blakeney [mailto:mab@bmce.com.au]
Sent: Monday, 14 October 2013 12:14 PM
To: Roy Davis
Cc: Murshedul Alam; Debbie Spann; Steve Pollard; Shanna Douglas; Scanes Melanie; Penny Houston
Subject: Pierce Avenue - Dust Suppression with Contaminated Groundwater

Roy,

As advised by email from Murshed Alam on Friday 11 October 2013 and indicated verbally by yourself at our meeting on site on Thursday 10 October 2013, there is an issue of contamination of groundwater at the site. Please find attached photos taken on site this morning showing groundwater being used for dust suppression on site. Could you please confirm that this groundwater has been appropriately tested to confirm it is free of contamination or otherwise prior to being used for dust suppression on site. It is noted that the Principal and Superintendent have yet to receive any comprehensive water testing and reporting information whatsoever from the Contractor to date. SCRC is currently arranging to obtain groundwater testing results for this site from Waste Operations as per Murshed's email request of Friday 11 October 2013.

Regards,

Michael Blakeney
Superintendent

Scanes Melanie

From: Scanes Melanie
Sent: Friday, 11 October 2013 5:56 PM
To: 'Roy Davis'; m.alam@earthpro.com.au
Cc: Paula Duke (Paula@dukenviro.com.au); Brett Thomson (Brett@contource.com.au); Sale Ben
Subject: RE: Emailing: AG1243L RE SED BASIN, Cover letter to DEHP, 01098-02-Earthpro

Hi Roy

Based on the submission provided your consultants have not provided assurance that a release can occur without causing harm. You must be taking that guidance from your SQP at all times. We understand there are operational constraints that require the sediment basin to be released. Until the SQPs are satisfied the water quality is suitable for a releases to environment and not require an alternative treatment you should not be considering a release.

Should an event or potential event that may cause environmental harm occur over the weekend under the EP Act you have a requirement to report such incidents to the department. These can be reported to the pollution hotline on **1300 130 372** .

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

From: Roy Davis [<mailto:roy@earthpro.com.au>]
Sent: Friday, 11 October 2013 4:05 PM
To: Scanes Melanie
Subject: Emailing: AG1243L RE SED BASIN, Cover letter to DEHP, 01098-02-Earthpro

Hi Melanie

Please find attached correspondence regarding cell 9

Regards
Roy Davis

Earthpro Civil Contractors

Mob 04p4(6) Personal information
Ph (07) 3829 1577
Fax (07) 3829 1477
www.earthpro.com.au

Scanes Melanie

From: Scanes Melanie
Sent: Thursday, 10 October 2013 5:04 PM
To: roy@earthpro.com.au
Cc: m.alam@earthpro.com.au; Paula Duke (Paula@dukenviro.com.au); Sale Ben
Subject: Sediment Dam Water

Hi Roy

In discussion with Debbie from Duke Environmental, we have been advised that groundwater is entering the sediment dam and site in general. She also advised there are concerns that due to the groundwater incursion the sediment dam may be at risk of breach in a new rain event. Previously Earthpro stated there was a large catchment on site and the site would back fill rather than release. Please advise if there is any change to the storage capacity on site.

Based on the analysis of the water provided by Duke Environmental, the preferred pathway would be to retest the water once the water column is stabilised at a lower pH. This may result in a delay on the fate of the water till next week.

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

Enquiries Melanie Scanes
Telephone (07) 5459 6154
Your reference
Our reference CA28969

Roy Davis
Earthpro Pty Ltd
P.O.Box 1954
CLEVELAND DC 4163

CC Sunshine Coast Regional Council
Locked Bag 72
Sunshine Coast Mail Centre Qld 4560

23 September 2013

Dear Mr Davis,

RE: Outcomes of Meeting held at EHP offices on 20 September 2013 regarding Environmental Protection Order (EPO) issued to Earthpro Pty Ltd with respect to the activities of Earthpro at Bells Creek on land described as Lot 101 on Plan SP232333, 171 Pierce Avenue, Bells Creek (the site).

I refer to the meeting held at the Department of Environment Heritage and Protection (the department) office in Maroochydore on 20 September 2013, attended by representatives of Earthpro Pty Ltd (Earthpro), Contour consulting engineers (Contour), Duke Environmental (Duke) and EHP. The meeting was held to discuss the Environmental Protection Order (EPO) issued to Earthpro Pty Ltd with respect to the activities of Earthpro at Bells Creek on land described as Lot 101 on Plan SP232333, 171 Pierce Avenue, Bells Creek. The meeting discussed how the range of issues and constraints on the site can be managed to achieve the required environmental improvements on site. As a result of the discussions, the department would like to bring your attention to the following to ensure that Earthpro discharges its general environmental duty. It is strongly recommended that Earthpro:

- Identify environmental risks onsite and implement best practice management;
- Seek advice from the CPESC and SQP engaged under the EPO and implement their advice;
- take advice from these consultants to determine a suitable suite of analytes for testing prior to release of waters collected on the site;
- Ensure that no dewatering of any water stored occurs without appropriate testing and approval given by the SQP engaged by Earthpro;
- Develop a strategy for contingency situations, such as wet season rainfall levels;

The department reminds Earthpro that under section 320 of the *Environment Protection Act 1994* you have a duty to notify the department of environmental harm. A person has a duty to notify while carrying out an activity when the person becomes aware an event has happened that causes or threatens to cause environmental harm. Attached is a guideline on this duty to further explain your obligations.

Should you have any questions please do not hesitate to telephone Melanie Scanes of the department on (07) 5459 6132.

Yours sincerely

sch4p4(6) Personal information

Ben Sale

Manager (Sunshine Coast and Gympie)

Environmental Services and Regulation

Southern Region

Department of Environmental Heritage and Protection

(Enc)

Copy of Guideline: The duty to notify of environmental harm

RTI DL RELEASE - EHP

Guideline

Environmental Protection Act 1994

The duty to notify of environmental harm

This guideline outlines the duty to notify of certain events, including those that may cause serious and material environmental harm, under ss. 320 to 320G of the Environmental Protection Act 1994.

Table of contents

1. Introduction.....	2
2. Summary of this guideline	2
3. When is there a duty to notify?	3
3.1 The duty to notify of serious or material environmental harm.....	3
3.2 Additional duty to notify when carrying out resource activities other than mining.....	3
3.3 How does the duty to notify arise?	4
4. The duty to notify employers and the administering authority.....	4
4.1 The duty of a person who is an employee, contractor, or agent to notify their employer.....	4
4.2 The duty of an employer to notify the administering authority.....	5
4.3 The duty of persons other than an employee to notify the administering authority.....	5
4.4 Reasonable excuse for failing to give written notice to the administering authority.....	5
5. The duty to notify owners or occupiers of affected land	5
5.1 The duty to notify owners or occupiers of affected land	5
5.2 How to give notice to owners or occupiers	6
5.3 Reasonable excuse for failing to give notice to owners or occupiers.....	6
6. What information is required in a written notice or in a public notice?	7
7. Penalties for failing to notify	7
7.1 Defence to failing to notify owners or occupiers	7
7.2 A written notice cannot be used as evidence in court proceedings.....	7
8. How to tell if activities are likely to cause or threaten environmental harm	7
9. Action not limited to when environmental harm is caused or threatened	8
10. More information on how to notify	8
10.1 Jointly providing notice to the administering authority or notice to registered owners or occupiers of affected land	9
10.2 Phoning the pollution hotline	9
10.3 Notification by emergency services	9
Further information.....	10
Appendix A—Table summarising the duty to notify.....	11
Appendix B—Scenarios involving the duty to notify	12

1. Introduction

This guideline outlines the duty to notify under the *Environmental Protection Act 1994* (EP Act). The duty to notify under the EP Act does not negate any notification requirements in other Queensland legislation or the common law. Similarly, because a person has met the notification requirements under other Queensland legislation does not mean the EP Act's notification requirements have been met.

Many activities may cause environmental harm. Pollution incidents and activities that cause or threaten serious or material environmental harm must be reported quickly to the administering authority, as well as to local governments so appropriate action can be taken to prevent or limit possible environmental harm. In some cases, the owner or occupier of the land must also be notified.

2. Summary of this guideline

The duty to notify requires a person or company to give notice where serious or material environmental harm, that is not authorised under the EP Act, is caused or threatened.

There is an additional duty to notify for resource activities other than mining (i.e. a petroleum, gas, geothermal or greenhouse gas activity licensed by an environmental authority) where the activity:

- causes or threatens a negative impact on the water quality of an aquifer that is not authorised under the EP Act; or
- causes the connection of two or more aquifers that is not authorised under the EP Act.

Where notification is required, notice must be given of the event, its nature and the circumstances in which the event happened.

Notification will be verbal, written or by public notice depending on who is notifying and being notified.

Where the duty to notify arises, a person may have a duty to notify one or more of the following, depending on their obligations (see Appendix A for summary of the different obligations):

- their employer or the person who has contracted or engaged their services;
- the administering authority¹; and/or
- owners or occupiers of affected land.

Employees are not required to notify owners or occupiers.

Notification is required to be given by a person who carries out an activity where either:

- their activities have caused or threatened the harm
- activities carried out by another person which are associated with their activities, have caused or threatened the harm.

Notification must be made within the timeframes outlined in the EP Act, unless the person has a reasonable excuse for not meeting these timeframes.

Note: It is necessary to read the full guideline to understand the detail of the duty to notify.

¹ If carrying out an environmentally relevant activity, the administering authority may be either the Department of Environment and Heritage Protection (EHP), the Department of Agriculture, Fisheries and Forestry (DAFF) (for intensive agriculture) or the relevant local council. As a matter of good practice, both the local council and EHP should be notified. For any other activities, the administering authority is EHP.

3. When is there a duty to notify?

The duty to notify does not apply to an event that is authorised under EP Act. An event is authorised under the EP Act if it is authorised to be caused under:

- an environmental protection policy
- a transitional environmental program
- an environmental protection order
- an environmental authority
- a development condition of a development approval
- a prescribed condition for carrying out a small scale mining activity
- an emergency direction
- an accredited environmental risk management plan.

3.1 The duty to notify of serious or material environmental harm

A person has a duty to notify when—while carrying out any activity—the person becomes aware that an event has happened that causes or threatens serious environmental harm² or material environmental harm³ (an **environmental harm event**). The **environmental harm event** can be caused by:

- the act or omission of the person or another person carrying out the activity; or
- the act or omission of another person carrying out another activity, that is being carried out in association with the activity being carried out.

3.2 Additional duty to notify when carrying out resource activities other than mining

There is an additional duty to notify for a person who carries out a resource activity other than mining (such as a coal seam gas activity). That person must notify the administering authority where:

- the activity negatively affects (or is reasonably likely to negatively affect) the water quality of an aquifer; or
- the activity has caused the unauthorised connection of two or more aquifers.

For the purposes of this document such events are referred to as an aquifer event.

There may be a duty to notify an **environmental harm event** for a resource activity other than mining even if there is no aquifer event.

² **Serious environmental harm** is defined in the *Environmental Protection Act 1994* as environmental harm (other than environmental nuisance)—

- (a) that is irreversible, of a high impact or widespread; or
- (b) caused to an area of high conservation value or special significance; or
- (c) that causes actual or potential loss or damage to property of an amount of, or amounts totalling, more than \$50 000; or
- (d) that results in costs of more than \$50 000 being incurred in taking appropriate action to—
 - (i) prevent or minimise the harm; and
 - (ii) rehabilitate or restore the environment to its condition before the harm.

³ **Material environmental harm** is defined in the *Environmental Protection Act 1994* as environmental harm (other than environmental nuisance)—

- (a) that is not trivial or negligible in nature, extent or context; or
- (b) that causes actual or potential loss or damage to property of an amount of, or amounts totalling, more than \$5000 but less than \$50 000; or
- (c) that results in costs of more than \$5000 but less than \$50 000 being incurred in taking appropriate action to—
 - (i) prevent or minimise the harm; and
 - (ii) rehabilitate or restore the environment to its condition before the harm.

3.3 How does the duty to notify arise?

The duty to notify of an **environmental harm event** applies to all persons, including:

- holders of environmental authorities
- persons who carry out an activity for which an environmental approval is not required.

The duty to notify an **aquifer event** only arises where a person is carrying out a resource activity other than mining.

Events that give rise to a duty to notify—whether an **environmental harm event** or an **aquifer event**—are referred to in this document as a **notifiable event**. The duty to notify that arises from a **notifiable event** is referred to as the **duty to notify harm**.

A condition of an environmental authority or other type of environmental approval (an **approval condition**) may include a separate requirement to notify the administering authority in certain circumstances. This is separate and in addition to the duty to notify harm. An approval condition that requires the operator to notify the administering authority will generally be more prescriptive and may require different information to be provided to that required under the duty to notify harm.

The notification requirement under an approval condition may also arise in circumstances that do not trigger the duty to notify harm (that is notification may be required under an approval condition for an event that does not trigger the duty to notify harm).

Where a person has a duty to notify harm under ss. 320–320G of the EP Act, they may also be required to give notice under an approval condition.

Where notice is required to be given for both the duty to notify harm and for a notification requirement under an approval condition, it may be possible to provide a single notice to the administering authority. In order to comply with both requirements the written notice must:

- include relevant information to satisfy the necessary requirements of the duty to notify harm and the relevant approval condition
- clearly indicate that the written notice is given in compliance with ss. 320–320G and the relevant approval condition
- be given within the earliest expiring timeframe.

While the EP Act does not contain a duty to notify the relevant local government, unless it is also an owner or an occupier, as a matter of good practice, notification is encouraged, especially for large scale events.

4. The duty to notify employers and the administering authority

4.1 The duty of a person who is an employee, contractor, or agent to notify their employer

A person who is an **employee**⁴ and causes or becomes aware of a **notifiable event** must notify their **employer**⁵ within 24 hours of becoming aware of the event.

The notice given to the employer does not have to be in writing but must contain sufficient details to provide notice of the event, its nature, and the circumstances in which it happened. An employee should always keep a record of when and to whom they gave notice of an **environmental harm event**.

⁴ That is a person who carries out an activity as part of their employment, as a contractor, or as an agent under the engagement of another person.

⁵ That is the person who has engaged them as an employee.

The duty to notify of environmental harm

If notice is given to the employer it is then the employer's responsibility to report the matter in writing to the administering authority no later than 24 hours after becoming aware of the event.

If the employer cannot be contacted, then the employee must notify the administering authority directly in writing no later than 24 hours after first becoming aware of the event.

4.2 The duty of an employer to notify the administering authority

If an employee reports a **notifiable event** to their employer, then the employer has a duty to provide written notice of the event to the administering authority no later than 24 hours after becoming aware of the event.

4.3 The duty of persons other than an employee to notify the administering authority

A person who is carrying out an activity may be neither an employer nor an employee. For example, they could be self employed (and not working as a contractor), or carrying out an activity as a hobby, outside of their work duties. In this case, if the person causes or becomes aware of a **notifiable event**, they must notify the administering authority within 24 hours of becoming aware of the event.

4.4 Reasonable excuse for failing to give written notice to the administering authority

A person will not be guilty of an offence for failing to comply with the duty to notify, where they have a reasonable excuse.

Whether an excuse is a reasonable excuse is a legal point to be decided by a Judge or Magistrate. It will depend on the circumstances and facts of each case and will be considered on a case by case basis. A concern that notification might tend to incriminate the person is not a reasonable excuse for not complying with the duty to notify.

An example of a reasonable excuse could be that the incident occurred in an isolated area of the state and it was not physically possible to provide written notice to the administering authority within 24 hours.

5. The duty to notify owners or occupiers of affected land

5.1 The duty to notify owners or occupiers of affected land

In addition to notifying EHP or DAFF and/or the local council, a person may also be required to notify **owners⁶** or **occupiers⁷** of affected land⁸ where they are:

- an employer who has been given notice of a **notifiable event**; or
- a person who had a duty to notify the administering authority because they caused or became aware of a **notifiable event** (e.g. people who are self employed or carrying out the activity as a hobby).

The person must notify **owners or occupiers** as soon as reasonably practicable after becoming aware of the event.

The duty to notify is necessary to ensure that any potentially affected persons have notice of the occurrence of an event which exposes them or their land to potentially adverse impacts. This gives these persons an opportunity to take the appropriate action to respond to any adverse impacts of an event.

Section 5.2 outlines how owners or occupiers can be identified and given notice.

⁶ An owner is either the registered owner of the land under the *Land Title Act 1994* or the lessee of the land under the *Land Act 1994*.

⁷ An occupier is a person who lives or works on the affected land.

⁸ **Affected land** is land on which an event has caused or threatens serious or material environmental harm. This may include the land on which an incident has occurred, or it may be land next to, abutting or even remote from the land on which the incident has occurred, e.g. where an incident causes contamination to water downstream of the incident.

5.2 How to give notice to owners or occupiers

Where the **notifiable event** occurs on the person's own land and does not spread beyond that land, there will be no owners or occupiers to notify under ss. 320–320G of the EP Act.

Where the **notifiable event** occurs on land which is not owned by the person, or spreads beyond the boundary of that land (e.g. enters a watercourse and flows downstream to your neighbour), there will be owners or occupiers to notify under ss. 320–320G of the EP Act.

In many cases, you will know your neighbours who are owners or occupiers and can choose any written form of communication to notify them of the **notifiable event**. However, where you do not know the owners or occupiers, you may choose to notify them by any of the following means:

- leaving the **written notice** with someone who is apparently an adult living or working on the affected land
- where there appears to be no-one present on the affected land, or the person has been denied access to the affected land, leaving the written notice at the affected land in a position where it is reasonably likely to come to an occupier's attention
- posting the written notice to the affected land (the notice may be addressed simply to 'The Occupier')
- doing a search of the Titles Registry⁹ to identify the owner registered on the title, and notifying the registered owner.

In addition, the owners or occupiers can be notified via public notice (e.g. a radio or television broadcast). The decision to give written notice or to give public notice should be considered from a commonsense approach keeping in mind the intention of the provision. The intention is to ensure persons likely to be exposed to any adverse impacts of a **notifiable event** have adequate time to respond to the event.

In circumstances where it is reasonable to believe that there are large numbers of registered owners or occupiers of affected land, or there is uncertainty as to whom the registered owners or occupiers of affected land may be, it would be appropriate to give public notice.

Public notice has not been defined and a commonsense approach should be adopted when deciding to give public notice. A public notice will generally be a radio or television broadcast to ensure there is rapid communication of the information. Public notice may also include the publishing of a written notice of the event in a newspaper or the erection of appropriately sized signs in the vicinity of the affected area.

5.3 Reasonable excuse for failing to give notice to owners or occupiers

Notice must be given to owners or occupiers (either by written notice or public notice) as soon as reasonably practicable after becoming aware of an event. However, a person will not be guilty of an offence for failing to comply with the duty to notify, where they have a reasonable excuse.

Whether an excuse is a reasonable excuse is a legal point to be decided by a Judge or Magistrate. It will depend on the circumstances and facts of each case and will be considered on a case by case basis. A concern that notification might tend to incriminate the person is not a reasonable excuse for not complying with the duty to notify.

An example of a reasonable excuse could be that the harm was threatened (not caused) and the person was able to quickly take action to remove the threat of harm, so no harm was actually caused.

⁹ See www.dnrm.qld.gov.au for more information on how to search the Titles Registry.

6. What information is required in a written notice or in a public notice?

Where a written notice of an event that has caused or threatened serious or material environmental harm is required to be given to the administering authority or owners or occupiers the notice must contain details of:

- the event
- its nature
- the circumstances in which it happened.

The administering authority's standard notice *Duty to notify of environmental harm* (EM468) may be used for providing written notice to the administering authority. The notice may also be used where a person is required to give written notice to owners or occupiers. The notice is available at www.qld.gov.au using the publication number EM468 as a search term.

Use of the administering authority's standard notice is not required by law, however providing the information specified in the template will ensure that the written notice requirements of ss. 320–320G are satisfied.

Where a decision is made to give public notice the notice should as a minimum contain the same information as required in a written notice.

7. Penalties for failing to notify

There are significant penalties that apply where a person fails to comply with the duty to notify. These penalties are listed in Appendix A.

7.1 Defence to failing to notify owners or occupiers

It is a defence to a charge of failing to notify owners or occupiers to prove that the person or employer made reasonable efforts to identify the affected land and give written notice to each owner or occupier.

Whether the person's efforts are considered reasonable is a legal point to be decided by a Judge or Magistrate. It will depend on the circumstances and facts of each case and will be considered on a case by case basis. In the past, courts have considered matters such as the capacity of the person to comply with the obligations and the physical or practical difficulty in compliance in deciding whether a person had a reasonable excuse.

7.2 A written notice cannot be used as evidence in court proceedings

Where a written notice advising of an incident is provided to the administering authority pursuant to the provisions of ss. 320–320G, s. 320G prevents the use of the notice as evidence in any court proceedings under the *Environmental Protection Act 1994* against a person in relation to the event about which the notice is given. However, the section does not prevent the use of other evidence obtained because of the written notice in legal proceedings against the person or the employer.

8. How to tell if activities are likely to cause or threaten environmental harm

It is not possible to comprehensively list all activities or events that are likely to cause or threaten serious and material environmental harm. However, the following information and the scenarios at Appendix B may be used as a guide for people to know when an activity is likely to give rise to the duty to notify.

Emergency incidents such as those involving the release of hazardous materials from fires, vehicle accidents, and spillage of explosive, flammable or toxic chemicals often involve public safety matters and require an immediate response from emergency services. These types of incidents may also threaten or cause serious or material environmental harm.

Guideline

The duty to notify of environmental harm

In some circumstances these events may not represent a widespread threat to life and property, and are therefore categorised at a lower level than more serious incidents that require an immediate response. Incidents that are categorized at a lower level may still cause or threaten serious or material environmental harm.

Whether an act or omission leading to an incident or event is likely to cause or threaten serious or material environmental harm will depend on the scale and nature of the impacts on the receiving environment.

The scale and nature of the impacts from these incidents will depend on the type, toxicity and quantity of materials released and specific circumstances of the location such as terrain, proximity to residences and the sensitivities of the receiving environment.

Short and long term impacts need to be considered including contamination of land and waters, toxic effects on biota, such as plants and animals, and public health risks from exposure to chemicals.

Where a person is in doubt as to whether their activities or the activities of another person are likely to have caused or threatened serious or material environmental harm, it is better to be cautious and provide notice in accordance with this guideline, and be in compliance with the duty to notify.

Sometimes the full impact of an event is not known until some time after the event. In these circumstances, the duty to notify will trigger as soon as the person becomes aware that the event is now threatening serious or material environmental harm.

9. Action not limited to when environmental harm is caused or threatened

Where a person undertakes an activity or becomes aware of the actions of another person that have caused environmental harm which falls short of serious or material environmental harm, they may still be required to take action to prevent the continuance of environmental harm or mitigate the environmental harm.

The requirement to take such further action may arise because of a condition of an environmental authority, development approval, code of environmental compliance or other type of environmental approval—or may arise under the general environmental duty.

Actions taken at an early stage in response to an incident may result in the environmental harm falling short of the threshold at which it would be considered to have caused or threatened serious or material environmental harm.

10. More information on how to notify

Where local government is the administering authority, written notice is to be provided to the relevant local government by email, fax or registered post to the appropriate email address, fax number or postal address.

Where written notice is required to be given to EHP, the written notice should be clearly marked 'Duty to notify of environmental harm' if EHP's standard notice is not used.

Written notification to EHP may be given by one of the following methods:

- Email: pollutionhotline@ehp.qld.gov.au Include 'Duty to notify of environmental harm' in the subject line and including details of the event, its nature and the circumstances in which the event happened or attaching a completed copy of the notice *Duty to notify of environmental harm* (EM468).
- Fax: (07) 3330 5875

- By registered post of a written notice with details of the event, its nature and the circumstances in which the event happened or a completed copy of the notice *Duty to notify of environmental harm* to:

Permit and Licence Management
Implementation and Support Unit
Department of Environment and Heritage Protection
Level 3, 400 George Street
Brisbane QLD 4000

10.1 Jointly providing notice to the administering authority or notice to registered owners or occupiers of affected land

In some circumstances the duty to notify may arise for a number of different people concerning the same event. In such circumstances a number of persons may comply with their individual duty to notify by jointly issuing one notice advising of the event where this can be done within the timeframes. To comply with the duty to notify the notice should clearly state on whose behalf the notice is given.

If the notice does not clearly state by whom the notice is given, then it may not be sufficient to verify at a later date that a person has complied with their statutory requirement to give notice.

10.2 Phoning the pollution hotline

In addition to the written notice, if a person becomes aware of an event which has caused or threatened to cause serious or material environmental harm, the person should immediately call the pollution hotline on **1300 130 372** and report the matter. This allows for an appropriate response to be initiated for matters involving serious or material environmental harm.

It is also good practice to always notify the relevant local government area in which the event occurs.

10.3 Notification by emergency services

For major incidents that require response from emergency services such as the Queensland Police Service or Queensland Fire and Rescue Services (QFRS), procedures are in place for QFRS to notify the administering authority through the pollution hotline. Where notification is given by QFRS, officers of the administering authority then provide advice on appropriate response actions and make decisions on whether it is necessary for officers of the administering authority to attend.

Further information

The latest version of this publication can be found at www.qld.gov.au using the publication number EM467 as a search term.

Disclaimer

While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the department should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

Approved by:

Omar Ameer
Director, Environmental Regulatory Practice and Support
Department of Environment and Heritage Protection
Date: 18 April 2013

Enquiries:

Permit and Licence Management
Ph: 13 QGOV (13 74 68)
Fax: (07) 3330 5875
Email: palm@ehp.qld.gov.au

RTI DL RELEASE EHP

Appendix A—Table summarising the duty to notify

Notification				Relevant section	Penalty (penalty units)	
By:	To:	Within	In writing?		Environmental harm event (s. 320A(1)(a))	Aquifer event (s. 320A(1)(b))
Employee	Employer	24 hours of becoming aware of the event ¹⁰	No. Can be verbal	320B	100	100
Employee	Administering authority (if employer is not available)	24 hours of becoming aware of the event ¹⁰	Yes.	320B	100	100
Employer	Administering authority	24 hours of becoming aware of the event ¹⁰	Yes.	320D	500	100
Employer	Owners or occupiers	As soon as reasonably practicable of becoming aware of the event ¹¹	Yes and/or by public notice.	320D	500 ¹²	100 ¹²
Another person	Administering authority	24 hours of becoming aware of the event ¹⁰	Yes.	320C	500	100
Another person	Owners or occupiers	As soon as reasonably practicable of becoming aware of the event ¹¹	Yes and/or by public notice.	320C	500 ¹²	100 ¹²

¹⁰ Unless there is a reasonable excuse for not meeting the timeframe. A concern that notification might tend to incriminate the person is not a reasonable excuse.

¹¹ Unless there is a reasonable excuse.

¹² It is a defence to a charge of failing to notify owners or occupiers to prove the person or employer made reasonable efforts to identify the affected land and give written notice to each owners or occupiers. What would be accepted as reasonable efforts would depend on the circumstances and facts of each case and will be considered on a case by case basis.

Appendix B—Scenarios involving the duty to notify

Determination of whether an activity has caused or threatened serious or material environmental harm will be dependant on a wide range of variable factors including:

- chemical characteristics
- toxicity and reactivity
- amount or volume of release
- extent of area impacted
- pathways for contaminant release and spread
- weather conditions at the time of the event or incident including exacerbating or mitigating factors like rain or temperature
- proximity of urban areas
- proximity, size, value and sensitivity of adjacent environmental areas.

The following scenarios may be used as a general indication of when activities are likely to cause or threaten serious or material environmental harm, when the duty to notify is likely to arise and what steps are required to ensure a person has discharged their duty to notify.

Scenario 1

A local government sewage treatment plant located within an urban area fails during a major flood and an unknown quantity of untreated effluent is released into the surrounding environment including a local waterway. In such a scenario it is highly likely that the release would cause or threaten serious or material environmental harm, and consequently the duty to notify would arise.

Under the circumstances, there may be a large number of owners or occupiers of affected land and it may be difficult to identify them. In such circumstances a decision to give notice to registered owners and occupiers of affected land by way of public notice would be appropriate. It would be appropriate to give public notice through a series of local press notices, radio and television broadcasts. Best practice would also include the use of temporary signs erected in the immediate vicinity providing notice of the event, its nature and the circumstances around the event.

If the local water supply for a downstream town was sourced from the impacted waterway, then best practice would require additional measures be taken to ensure appropriate public notice is given to occupiers of affected land. Appropriate notice in such circumstances would include providing written notices to the operator of the water treatment plant and other water users, in addition to press notices, public broadcasts and use of signs.

Scenario 2

A truck carrying a container of regulated waste has arrived at its destination and the truck driver has become aware that a substantial volume of waste has leaked from the transported container along the route from the point of origin. The nature of the material and volume lost is such that it is likely to cause or threaten serious or material environmental harm.

At the point at which the driver becomes aware of the event (the leakage of the material) the driver is under a duty to notify. If the driver is an employee he/she must notify his/her employer no later than 24 hours after becoming aware of the event. If the driver is **another person** he/she would have a duty to notify the administering authority in writing no later than 24 hours after becoming aware of the event and an additional duty to notify owners or occupiers as soon as practicable.

If the driver is an employee, the employer will have a duty to notify the administering authority in writing no later than 24 hours after becoming aware of the event and an additional duty to notify owners or occupiers as soon as practicable.

In such a scenario it may be difficult to identify and notify all registered owners or occupiers of potentially affected land and consequently a decision may be made to provide public notice. In the circumstances an appropriate public notice may consist of a radio and/or television broadcast. The decision to broadcast the notice locally or to a larger audience would depend on factors including the scope of the spill; area over which registered owners and occupiers of affected land are likely to be affected; and the nature of the material that was lost. If the material has leaked into the roadside drains, and pedestrians and the owners and occupiers of properties adjacent to the road are potentially affected, it may also be necessary to erect temporary signs and undertake a doorknock and letterbox drop along the route where the material was lost.

Scenario 3

An explosion and subsequent fire occurs at a chemical factory resulting in the output of a large volume of noxious odours, fumes and gases causing or threatening serious or material environmental harm. In such circumstances the duty to notify the administering authority and duty to notify owners or occupiers will arise. The contaminants would be initially airborne and likely to disperse over a wide area—subsequently resulting in a large number of potential owners or occupiers to whom notice would be required to be given. The employer must, as soon as reasonably practicable after becoming aware of the event (unless the person has a reasonable excuse), give public notice of the event, including details of its nature and the circumstances in which it happened, to owners or occupiers in the area. Under such circumstances it would be appropriate to give public notice by press notices, and radio and television broadcasts to provide notice to the widest possible audience in the shortest possible timeframe.

Scenario 4

A vessel is tied up at a wharf in a port area and awaiting refuelling. A road tanker has arrived at the wharf to refuel the vessel. A second vehicle equipped with a pump specifically designed for pumping fuel is also onsite to pump the fuel from the tanker to the vessel. During the refuelling the fuel hose comes away from the fuel inlet coupling and a large amount of fuel is pumped directly into the river.

There are mangroves and other sensitive marine and estuarine environments nearby exacerbating the effect of the incident and distribution of contaminants. The effect of the incident will be influenced by factors such as prevailing currents, tides, and weather and amount of fuel lost. A fuel pump delivering fuel at a rate of 1000 litres per minute is likely to dispense a substantial amount of fuel within a short time and will likely cause or threaten serious or material environmental harm.

In such circumstances the duty to notify the administering authority and owners or occupiers will arise.

The crew of the vessel supervising the refuelling, the pump operator and the tanker driver could all be employees and so have a duty to notify their respective employers within 24 hours of becoming aware of the event. Their respective employers would have 24 hours from when they were notified of the event to notify the administering authority and an additional duty to notify owners or occupiers as soon as practicable.

Depending on the state of the tide, how quickly booms can be put in place and other factors, it may be possible to individually identify and notify owners or occupiers. Alternatively a decision may be made to provide public notice by erecting temporary signs, placing press notices and making public broadcasts.

Scanes Melanie

From: Scanes Melanie
Sent: Monday, 23 September 2013 9:54 AM
To: 'm.alam@earthpro.com.au'
Subject: RE: Fridays meeting outcome

Sorry yes thursday is correct

From: m.alam@earthpro.com.au [mailto:m.alam@earthpro.com.au]
Sent: Monday, 23 September 2013 9:52 AM
To: Scanes Melanie; roy@earthpro.com.au
Subject: RE: Fridays meeting outcome

Hi Melanie,

Thanks for your email. Can you advise us whether the inspection will be on Wednesday 25th of September 2013 or Thursday 26th of September as per EPO.

Regards

Murshedul Alam
Site Contract Administrator
EarthPro Pty Ltd
Mobile: 0414 444 444 (6) Personal information

From: Scanes Melanie [mailto:Melanie.Scanes@ehp.qld.gov.au]
Sent: Monday, 23 September 2013 9:29 AM
To: roy@earthpro.com.au; m.alam@earthpro.com.au
Subject: Fridays meeting outcome

Hi Roy and Murshedul

Just letting you know, we've decided to summarise a few key points from Fridays meeting and put it in a letter to Earthpro. You should receive it today or tomorrow. Please keep the department updated on any work plans.

The department would like to visit the site on Wednesday at 2.00PM to review the requirements of the EPO. We would appreciate the presence of Contour during the inspection.

Regards

Melanie Scanes
Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

RTI DL RELEASE - EHP

From m.alam@earthpro.com.au **Date** Monday, 23 September 2013 9:52:44 AM
To Scanes Melanie; roy@earthpro.com.au
Cc
Subject RE: Fridays meeting outcome

Hi Melanie,

Thanks for your email. Can you advise us whether the inspection will be on Wednesday 25th of September 2013 or Thursday 26th of September as per EPO.

Regards

Murshedul Alam
Site Contract Administrator
EarthPro Pty Ltd
Mobile 0414 404 404 (6) Personal information

From: Scanes Melanie [mailto:Melanie.Scanes@ehp.qld.gov.au]
Sent: Monday, 23 September 2013 9:29 AM
To: roy@earthpro.com.au; m.alam@earthpro.com.au
Subject: Fridays meeting outcome

Hi Roy and Murshedul

Just letting you know, we've decided to summarise a few key points from Fridays meeting and put it in a letter to Earthpro. You should receive it today or tomorrow. Please keep the department updated on any work plans.

The department would like to visit the site on Wednesday at 2.00PM to review the requirements of the EPO. We would appreciate the presence of Contour during the inspection.

Regards

Melanie Scanes
Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

RTI DL RELEASE - EHP

Scanes Melanie

From: Scanes Melanie
Sent: Monday, 23 September 2013 9:29 AM
To: roy@earthpro.com.au; m.alam@earthpro.com.au
Subject: Fridays meeting outcome

Hi Roy and Murshedul

Just letting you know, we've decided to summarise a few key points from Fridays meeting and put it in a letter to Earthpro. You should receive it today or tomorrow. Please keep the department updated on any work plans.

The department would like to visit the site on Wednesday at 2.00PM to review the requirements of the EPO. We would appreciate the presence of Contour during the inspection.

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

RTI DL RELEASE - EHP

Enquiries Melanie Scanes
Telephone (07) 54 59 6154
Your reference
Our reference CA28969

Roy Davis
Earthpro Pty Ltd
P.O.Box 1954
CLEVELAND DC 4163

CC Sunshine Coast Regional Council
Locked Bag 72
Sunshine Coast Mail Centre Qld 4560

19 September 2013

Dear Mr Davis,

RE: Environmental Protection Order (EPO) issued to Earthpro Pty Ltd in respect to the activities of Earthpro at Bells Creek on land described as Lot 101 on Plan SP232333, 171 Pierce Avenue, Bells Creek.

The Department of Environment Heritage and Protection (the department) has received an email from Sunshine Coast Regional Council (council), as the holder of Environmental Authority EPPR00978713 (formerly SPDE03088111) on the 19 September 2013 advising of an intended release of stormwater from Pierce Avenue, Bells Creek Landfill by Earthpro Pty Ltd (Earthpro). The email stated that Earthpro intend to only monitor the water quality parameters of NTU and pH prior to release.

The EPO (attached), issued by the department on the 21 August 2013, placed a number of requirements on Earthpro to ensure the environmental risks associated with the activity are clearly identified and properly managed. This included the requirement to engage suitably qualified professionals to provide technical advice and guidance to Earthpro on how the environmental risks associated with the construction activity must be managed.

It is the department's view that, in order to comply with the intent of the EPO, Earthpro must take advice from its consultants to determine a suitable suite of analytes for testing prior to release of waters collected on the construction site. If Earthpro choses to disregard this advice and dewater construction water collected on site without knowledge of its quality the department will consider taking additional enforcement action.

A written response to this letter outlining proposed measures discussed above is requested by 1500hrs Thursday 20 September 2013. Should you have any questions please do not hesitate to telephone Melanie Scanes of the department on (07) 5459 6132.

Yours sincerely

sch4p4(6) Personal information

Ben Sale
Manager (Sunshine Coast and Gympie)
Environmental Services and Regulation
Southern Region
Department of Environmental Heritage and Protection

(Enc)
Copy of EPO issued to Earthpro by the department on 21 August 2013

RTI DL RELEASE - EHP

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.

Earthpro Pty Ltd
ACN: 077 375 207
C/- Richard Ings Pty Ltd
Bermuda Point
Suite 1303, 1 Lake Orr Drive
VARSITY LAKES QLD 4227
Attn: Director, Roy Davis

Your reference:

Our reference: CA28969

21 August 2013

Dear Mr Davis

Take notice: that under the provisions of the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is served on you by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Heritage Protection (the department).

The EPO is issued in respect to the activities of Earthpro Pty Ltd (Earthpro) at Bells Creek on land described as at Lot 101 on Plan SP232333, 171 Pierce Avenue Bells Creek (the premises).

A. Grounds

This EPO is issued on the following grounds:

- Secure compliance with the general environmental duty provision of the Act.

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

- On 7 August 2013 the department attended at the premises with Sunshine Coast Regional Council (SCRC) officers. The department and SCRC officers carried out an inspection of the premises with Earthpro representatives.
- During the inspection the department observed a large stockpile of soil that was identified as soil extracted from Lot 101 SP232333, which is registered on the Environmental Management Register (EMR). The soil had been subject to a contamination investigation and found to have Lead (Pb) contamination levels that pose a potential risk to human and environmental health.

- The Lead (Pb) contaminated soil (the contaminated soil) stockpile was observed to be exposed to the environment. The bunding and containment around the contaminated soil was poorly maintained, broken, and in places non-existent. Evidence indicated the bunding had been breached at multiple locations. The contaminated soil stockpile had evidence of rill erosion across the surface. It was evident from the inspection, and confirmed by Earthpro staff present during the inspection, that runoff from the contaminated soil that breached the bunding, did not report to any appropriate retention basin and discharged directly to stormwater drains leading to a wetland adjoining the Pumicestone Passage.
- Earthpro staff advised that the contaminated soil was placed on suitable impermeable barrier, but that the contaminated soil was not fully contained on the impermeable barrier.
- In regards to Erosion and Sediment Control (ESC) measures implemented on the premises the department observed the following key points that do not meet the requirements of best practise ESC;
 - No effective clean water diversion in place.
 - Soil stockpiles not stabilised and actively eroding.
 - Limited erosion control measures in place.
 - Sediment fences not installed appropriately.
 - Concentrated flow paths not effectively stabilised.
 - No effective staging of works to minimise sediment release to waters.
 - No stabilisation of sediment basin inflow structure.
 - Sediment basin has never been de-silted, and had not been constructed as per the recommended design.
 - The culvert where all waters discharge from the premises is heavily silted and it is evident that large volumes of sediment have been transported from this site.
- In relation to the designated diesel fuelling area the following observations were made:
 - The fuelling area was bunded and was observed to contain a large volume of water.
 - The bunded fuelling area was observed to be uncovered, appeared to be inadequately sized, and inadequately maintained to contain a spill.
 - No apron or spill containment was observed for the vehicle refuelling area.
- On the basis of these observations the department has reasonable grounds to believe the fuelling area does not meet the requirements of the relevant Australian Standard.

B. Requirements

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

1. By no later than 1200hrs Tuesday 27 August 2013, Earthpro must stabilise the contaminated soil using an impermeable protective cover to prevent erosion of the contaminated soil.
2. By 1200hrs Wednesday 28 August 2013 Earthpro must provide written evidence to the department at sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558 to demonstrate it has engaged a suitably qualified professional (SQP), who meets the requirements of Part 4, Section 3 of the department's "Guideline for Contaminated Land Professionals" (<http://www.ehp.qld.gov.au/licences-permits/contaminated-land/documents/guideline-contaminated-land-professionals.pdf> last accessed 20/08/13).

3. By no later than 1200hrs Thursday 26 September 2013 the SQP must:
 - a. Have conducted an investigation to determine the extent of the distribution of the contaminated soil within the constraints of the construction site; and
 - b. establish if contaminants from the contaminated soil have been transported off site; and
 - c. develop a management plan to manage the contaminated soil until the final completion of the construction works; and
 - d. confirm the environmental fate of the Lead (Pb) contaminated soil to landfill.
4. By no later than 1200hrs Thursday 26 September 2013 the SQP must provide the department with the relevant documents required to demonstrate compliance with requirement 3(a), (b), (c), and (d) to sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558.
5. By no later than 1200hrs Wednesday 28 August 2013 Earthpro must provide written evidence to demonstrate to the department that it has engaged an independent Certified Professional in Erosion and Sediment Control (CPESC) to sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558.
6. The CPESC must :
 - a. Complete an assessment of the existing erosion and sediment controls in place at the premises; and
 - b. develop an operational ESC management plan that meets best practise requirements.
7. By no later than 1200hrs Wednesday 11 September 2013 the independent CPESC must provide the assessment and ESC plan referred to in (6) above to sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558. The assessment and ESC plan must:
 - a) Include an assessment, which must be presented as an audit of the existing erosion and sediment controls in place at the premises, including but not limited to clean water diversion, erosion control measures, stockpile stabilisation, stabilised concentrated flow paths, sediment control devices, sediment basin design and sizing calculations, and
 - b) include recommendations and timeframes for corrective actions and/ or onsite modifications required as per best practice erosion and sediment control guidelines, and to achieve compliance with section 319 of the Act; and
 - c) include ESC measures that must be implemented throughout the program of works until the final completion of the construction works; and
 - d) must include certification by the independent CPESC, that it is true, accurate and complete, to the best knowledge and belief of that person.
8. By no later than 1200hrs Thursday 26 September 2013 Earthpro must implement all corrective actions and/or onsite modifications recommended by the independent CPESC in the report identified in requirement 7(b).
9. By no later than 1200hrs Monday 30 September 2013 the independent CPESC must provide a 2nd report to the department at sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558. This 2nd report must be presented as an audit of the corrective actions and/ or onsite modifications identified in requirement 8.

10. From Monday 30 September 2013 until the final completion of the construction works Earthpro must comply with the erosion and sediment control management plan referred to in requirement 6(b).
11. From Monday 30 September 2013 until the final completion of the construction works the CPESC must complete monthly audits against the erosion and sediment control management plan in 6(b).
12. The audits required by requirement 11 must determine whether Earthpro has complied with the erosion and sediment control management plan in requirement 6(b). Within 10 business days of each audit the CPESC must submit an audit report to sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558.
13. By no later than 1200hrs 30 August 2013 Earthpro must ensure fuel storage and refuelling area is compliant with the relevant Australian standard for storage and handling of flammable and combustible liquids. This standard must be maintained until final completion of the construction works.

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 is 2,000 penalty units, totalling \$220,000 or 2 years imprisonment.
2. The maximum penalty for a corporation is 10,000 penalty units, totalling \$1,100,000.

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

1. The maximum penalty for an individual is 50 penalty units, totalling \$5,500.
2. The maximum penalty for a corporation is 250 penalty units, totalling \$27,500.

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 \$5,500.
4. The maximum penalty for a corporation is 250 penalty units, totalling \$27,500.

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:

Notice
Environmental Protection Order

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 (EM709).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 (EM1866). 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 Ewan Bell on telephone number 5459 6128

sch4p4(6) Personal information	21/08/13
Signature	Date

Ben Sale
Manager – Sunshine Coast and Gympie
Delegate of the Chief Executive
Department of Environment and Heritage Protection
Environmental Protection Act 1994

Enquiries:

Department of Environment and Heritage
Protection

12 First Ave, Maroochydore

PO Box 362, Maroochydore QLD 4558

Ph: (07) 5459 6132

Email: sunshinecoast.esr@ehp.qld.gov.au

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.

From Scanes Melanie **Date** Thursday, 19 September 2013 11:56:00 AM
To m.alam@earthpro.com.au; roy@earthpro.com.au; Debbie.Spann@sunshinecoast.qld.gov.au;
(penny.houston@sunshinecoast.qld.gov.au); Garry Reeve
(Garry.Reeve@sunshinecoast.qld.gov.au)
Cc Sale Ben; Butcher Paul
Subject Release of stormwater on Earthpro construction site - Caloundra Landfill

 **Earthpro EPO Stormwater release 190913.pdf** (1.5 MB [HTML](#))

Morning

EHP received an email this morning from Sunshine Coast Regional Council regarding Earthpro's intent to release stormwater from the Pierce Ave construction site. Please find attached EHP's response regarding this matter

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

RTI DL RELEASE - EHP

From Scanes Melanie **Date** Monday, 16 September 2013 10:07:00 AM
To m.alam@earthpro.com.au
Cc roy@earthpro.com.au; Bell Ewan; Sale Ben
Subject RE: Diesel storage - 171 Pierce Ave Caloundra Landfill

Morning Murshedul

It is a requirement that **all** the fuels, oils and chemical stored onsite are stored and managed in accordance with the Australian Standard and in their use all reasonable and practicable measures are implemented to prevent a release to the environment. It is not restricted to just the fuel tank.

Regards

Melanie

From: m.alam@earthpro.com.au [mailto:m.alam@earthpro.com.au]
Sent: Monday, 16 September 2013 9:54 AM
To: Scanes Melanie
Cc: roy@earthpro.com.au
Subject: RE: Diesel storage - 171 Pierce Ave Caloundra Landfill

Good Morning Melanie,

Can you clarify the requirements as per Paragraph 1 in your email below? My understanding is that the SQP need to do the assessment of the fuel storage area and provide supporting evidence that we are not using the onsite fuel tank for refuelling.

We will provide all the documents as per Paragraph 2 of your email enquiry by COB today.

Regards

Murshedul Alam
Site Contract Administrator
EarthPro Pty Ltd
Mobile: 0414 444 444 (6) Personal information

From: Scanes Melanie [mailto:Melanie.Scanes@ehp.qld.gov.au]
Sent: Friday, 13 September 2013 2:46 PM
To: m.alam@earthpro.com.au; roy@earthpro.com.au
Cc: Bell Ewan; Sale Ben
Subject: RE: Diesel storage - 171 Pierce Ave Caloundra Landfill

Dear Murhedul

Thankyou for your response to the request that Earthpro demonstrate they are in compliance with Requirement 13 of EPO CA28969. Under Requirement 13 Earthpro is to ensure they are in compliance with the relevant Australian Standard for storage and handling of flammable and combustible liquids. EHP requests that in support of your advised changes you have notified us of, that you provide supporting evidence that you are operating in accordance with the Australian Standard. This should be in the form of a suitably qualified person providing an assessment and statement to this fact.

In regard to the change to the use of mobile refuelling units, it remains a requirement under the EP Act that Earthpro is operating in accordance with your general environmental duty by implementing all reasonable and practicable measures to prevent any contaminants from releasing to the environment during refuelling. EHP requests Earthpro clearly outline the measures in place for mobile refuelling to demonstrate you are operating in accordance with your environmental duty. EHP A written response to this request is requested by close of business Monday 16 September.

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

From: m.alam@earthpro.com.au [mailto:m.alam@earthpro.com.au]

Sent: Thursday, 12 September 2013 4:44 PM

To: Scanes Melanie

Cc: roy@earthpro.com.au

Subject: Diesel storage - 171 Pierce Ave Caloundra Landfill

Hi Melanie,

Please find below our management in Diesel storage area.

- The fuel tank will be emptied by tomorrow. We will not use any more diesels from the fuel tank. The trailer will stay onsite within the bunded area for the use of greasing and pumping up flat tyres.
- Ground area around store is clear of vegetation or waste for a distance of at least 3 m.
- We will buy spillage control kit tomorrow for the site.
- Three fire extinguishers are installed in storage area.
- We have ordered signage/sticker for the storage area and will be erected by next week.
- We already bunded the area of 110% volume of liquid stored in fuel tank. As we will not use the fuel tank anymore for refuelling we believe bund to drain to pit is not required.
- We don't require bund to drain to pit as no fuel will be stored in the oil tanker.
- The tank and the container both are padlocked.
- Because we will be no more refuel from the tank anymore we are not required to maintain three metre distance between tank and filler point.
- We will have a signage on tank isolating valve by next week.

Regards

Murshedul Alam

Site Contract Administrator

EarthPro Pty Ltd

Mobile 04(6) Personal information

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

RTI DL RELEASE - EHP

Scanes Melanie

From: Scanes Melanie
Sent: Monday, 16 September 2013 11:45 AM
To: 'm.alam@earthpro.com.au'
Cc: roy@earthpro.com.au; Sale Ben; Bell Ewan
Subject: RE: Diesel storage - 171 Pierce Ave Caloundra Landfill

Thanks Murshedul for your response to paragraph 2.

EHP has requested in paragraph 2 that **Earthpro's** demonstrate they are operating in accordance with best practice management and demonstrating **their** environmental duty. Engaging a responsible and suitably licenced contractor is one part of the requirement. What are your procedures and requirements to ensure the activity is able to meet best practice environmental management. These will need to be general and site specific. It is not my role to advise you on what are the requirements for best practice environmental management, it is Earthpro's role to be aware of their legal obligations and implement all reasonable and practicable measures to meet them.

EHP will still require a response from Earthpro by close of business today or further action will be considered.

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

From: m.alam@earthpro.com.au [mailto:m.alam@earthpro.com.au]
Sent: Monday, 16 September 2013 11:07 AM
To: Scanes Melanie
Cc: roy@earthpro.com.au
Subject: FW: Diesel storage - 171 Pierce Ave Caloundra Landfill

Good Morning Melanie,

Please find attached documents, from mobile refuelling subcontractor, as per your enquiry in Paragraph 2 of your email below.

Regards

Murshedul Alam
Site Contract Administrator
EarthPro Pty Ltd
Mobile 04(6) Personal information

From: Scanes Melanie [<mailto:Melanie.Scanes@ehp.qld.gov.au>]
Sent: Friday, 13 September 2013 2:46 PM
To: m.alam@earthpro.com.au; roy@earthpro.com.au
Cc: Bell Ewan; Sale Ben
Subject: RE: Diesel storage - 171 Pierce Ave Caloundra Landfill

Dear Murhedul

Thankyou for your response to the request that Earthpro demonstrate they are in compliance with Requirement 13 of EPO CA28969. Under Requirement 13 Earthpro is to ensure they are in compliance with the relevant Australian Standard for storage and handling of flammable and combustible liquids. EHP requests that in support of your advised changes you have notified us of, that you provide supporting evidence that you are operating in accordance with the Australian Standard. This should be in the form of a suitably qualified person providing an assessment and statement to this fact.

In regard to the change to the use of mobile refuelling units, it remains a requirement under the EP Act that Earthpro is operating in accordance with your general environmental duty by implementing all reasonable and practicable measures to prevent any contaminants from releasing to the environment during refuelling. EHP requests Earthpro clearly outline the measures in place for mobile refuelling to demonstrate you are operating in accordance with your environmental duty. EHP A written response to this request is requested by close of business Monday 16 September.

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

From: m.alam@earthpro.com.au [<mailto:m.alam@earthpro.com.au>]
Sent: Thursday, 12 September 2013 4:44 PM
To: Scanes Melanie
Cc: roy@earthpro.com.au
Subject: Diesel storage - 171 Pierce Ave Caloundra Landfill

Hi Melanie,

Please find below our management in Diesel storage area.

- The fuel tank will be emptied by tomorrow. We will not use any more diesels from the fuel tank. The trailer will stay onsite within the bunded area for the use of greasing and pumping up flat tyres.
- Ground area around store is clear of vegetation or waste for a distance of at least 3 m.
- We will buy spillage control kit tomorrow for the site.
- Three fire extinguishers are installed in storage area.
- We have ordered signage/sticker for the storage area and will be erected by next week.
- We already bunded the area of 110% volume of liquid stored in fuel tank. As we will not use the fuel tank anymore for refuelling we believe bund to drain to pit is not required.
- We don't require bund to drain to pit as no fuel will be stored in the oil tanker.
- The tank and the container both are padlocked.

- Because we will be no more refuel from the tank anymore we are not required to maintain three metre distance between tank and filler point.
- We will have a signage on tank isolating valve by next week.

Regards

Murshedul Alam
Site Contract Administrator
EarthPro Ptv Ltd
Mobile: 01746464646
Email: alam.murshedul@earthpro.com
Website: www.earthpro.com
Address: 14/6 Personal information

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2013.0.3392 / Virus Database: 3222/6666 - Release Date: 09/14/13

RTI DL RELEASE - EHP

Scanes Melanie

From: Scanes Melanie
Sent: Friday, 13 September 2013 2:46 PM
To: 'm.alam@earthpro.com.au'; 'Roy Davis (roy@earthpro.com.au)'
Cc: Bell Ewan; Sale Ben
Subject: RE: Diesel storage - 171 Pierce Ave Caloundra Landfill

Dear Murhedul

Thankyou for your response to the request that Earthpro demonstrate they are in compliance with Requirement 13 of EPO CA28969. Under Requirement 13 Earthpro is to ensure they are in compliance with the relevant Australian Standard for storage and handling of flammable and combustible liquids. EHP requests that in support of your advised changes you have notified us of, that you provide supporting evidence that you are operating in accordance with the Australian Standard. This should be in the form of a suitably qualified person providing an assessment and statement to this fact.

In regard to the change to the use of mobile refuelling units, it remains a requirement under the EP Act that Earthpro is operating in accordance with your general environmental duty by implementing all reasonable and practicable measures to prevent any contaminants from releasing to the environment during refuelling. EHP requests Earthpro clearly outline the measures in place for mobile refuelling to demonstrate you are operating in accordance with your environmental duty. EHP A written response to this request is requested by close of business Monday 16 September.

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

From: m.alam@earthpro.com.au [<mailto:m.alam@earthpro.com.au>]
Sent: Thursday, 12 September 2013 4:44 PM
To: Scanes Melanie
Cc: roy@earthpro.com.au
Subject: Diesel storage - 171 Pierce Ave Caloundra Landfill

Hi Melanie,

Please find below our management in Diesel storage area.

- The fuel tank will be emptied by tomorrow. We will not use any more diesels from the fuel tank. The trailer will stay onsite within the bunded area for the use of greasing and pumping up flat tyres.
- Ground area around store is clear of vegetation or waste for a distance of at least 3 m.
- We will buy spillage control kit tomorrow for the site.
- Three fire extinguishers are installed in storage area.
- We have ordered signage/sticker for the storage area and will be erected by next week.

- We already banded the area of 110% volume of liquid stored in fuel tank. As we will not use the fuel tank anymore for refuelling we believe bund to drain to pit is not required.
- We don't require bund to drain to pit as no fuel will be stored in the oil tanker.
- The tank and the container both are padlocked.
- Because we will be no more refuel from the tank anymore we are not required to maintain three metre distance between tank and filler point.
- We will have a signage on tank isolating valve by next week.

Regards

Murshedul Alam
Site Contract Administrator
EarthPro Ptv Ltd
Mobile: 01746 464646

RTI DL RELEASE - EHP

Scanes Melanie

From: Scanes Melanie
Sent: Thursday, 12 September 2013 4:25 PM
To: 'David McDougall'
Cc: 'Roy Davis (roy@earthpro.com.au)'; 'm.alam@earthpro.com.au'; 'Brett Thomson'; Sale Ben; Bell Ewan
Subject: RE: 1098 - Caloundra Landfill - EHP Ref CA28969 - Erosion and Sediment Control Plan - EPO Requirement 7

Roy, Murshedul and David

In response to a phone discussion between myself and David McDougall this afternoon regarding the erosion and sediment control plan. I was advised aspects of the plan are incomplete due to time constraints. Contour advised they have put forward a plan that Earthpro can act upon with the completed plan to be submitted. Compliance with Requirement 7 of the EPO was to be submitted at 1200hrs 11 September 2013. EHP has agreed to a timeframe for submission of the completed plan of 1600hrs Monday 16 September. If this extended submission date is not met the department will consider further compliance action. In the meantime Earthpro can proceed with the actions outlined in the plan submitted on the 11 September 2013.

EHP reminds Earthpro that any non-compliance with an EPO requirement is cause for further compliance action. This may be in the form of a Penalty Infringement Notice (PIN) or prosecution by court. Earthpro has been provided with the departments Enforcement Guidelines to inform you of the departments enforcement policy. You may contact EHP if you have any questions in regard to the requirements of your EPO.

This extension does not change any other due dates noted in the EPO. It is expected that Earthpro will be implementing the current plan, an additional requirements will be taken as soon as they become available.

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

From: Scanes Melanie **On Behalf Of** ESR - Sunshine Coast
Sent: Thursday, 12 September 2013 1:58 PM
To: 'David McDougall'
Cc: Roy Davis (roy@earthpro.com.au); m.alam@earthpro.com.au; Brett Thomson; Sale Ben; Bell Ewan
Subject: RE: 1098 - Caloundra Landfill - INFORMATION - DEHP Ref CA28969 - Erosion and Sediment Control Plan

David

We acknowledge receipt of your report at 6.14pm 11/09/13. On initial review its found Appendices C, D G, H are missing. EHP requests these are provided by close of business today.

We will conduct a complete review of the plan and respond shortly.

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

From: David McDougall [<mailto:David@contource.com.au>]
Sent: Wednesday, 11 September 2013 6:14 PM
To: ESR - Sunshine Coast
Cc: Roy Davis (roy@earthpro.com.au); m.alam@earthpro.com.au; Brett Thomson
Subject: 1098 - Caloundra Landfill - INFORMATION - DEHP Ref CA28969 - Erosion and Sediment Control Plan

To whom it may concern,

Please find attached in accordance with Item 6 and 7 of requirement B of the EPO ref CA28969 an Erosion and sediment Control Management Plan and Audit Assessment which can be downloaded via the attached link.

<https://www.dropbox.com/s/sjb4vcve2ny9d70/1098%20130911%20ESC%20Plans.zip>

Please do not hesitate to contact me should you require further information.

Regards,

Regards,

David McDougall

Senior Engineer

For and on behalf of:

CONTOUR Consulting Engineers Pty Ltd



CONTOUR

Phone (07) 5493 9777 Fax (07) 5493 6888
Email david@ContourCE.com.au
Website www.ContourCE.com.au
PO Box 474, Buddina 4575, Qld. Suite 2 Level 1,
6 Innovation Parkway, Birtinya 4575, Sunshine Coast, Qld.

CONFIDENTIALITY: The contents of this email, including any attachments, are confidential and protected by professional standards legislation. The contents are intended only for the intended recipient of this email. If you are not the intended recipient you are prohibited from using, reproducing, disclosing or distributing the information contained in the email. If you have received this email in error, please reply to us immediately and delete this email and any copies from your computer.

LIABILITY: Liability limited by a scheme approved under professional standards legislation.

Please consider the environment before printing this message

Members of:



RTI DL RELEASE - EHP

From Scanes Melanie **Date** Thursday, 12 September 2013 4:24:00 PM
To David McDougall
Cc Roy Davis (roy@earthpro.com.au); m.alam@earthpro.com.au; Brett Thomson; Sale Ben; Bell Ewan
Subject RE: 1098 - Caloundra Landfill - EHP Ref CA28969 - Erosion and Sediment Control Plan - EPO Requirement 7

 [image001.jpg](#) (11 KB [HTML](#))  [image002.jpg](#) (71 KB [HTML](#))

Roy, Murshedul and David

In response to a phone discussion between myself and David McDougall this afternoon regarding the erosion and sediment control plan. I was advised aspects of the plan are incomplete due to time constraints. Contour advised they have put forward a plan that Earthpro can act upon with the completed plan to be submitted. Compliance with Requirement 7 of the EPO was to be submitted at 1200hrs 11 September 2013. EHP has agreed to a timeframe for submission of the completed plan of 1600hrs Monday 16 September. If this extended submission date is not met the department will consider further compliance action. In the meantime Earthpro can proceed with the actions outlined in the plan submitted on the 11 September 2013.

EHP reminds Earthpro that any non-compliance with an EPO requirement is cause for further compliance action. This may be in the form of a Penalty Infringement Notice (PIN) or prosecution by court. Earthpro has been provided with the departments Enforcement Guidelines to inform you of the departments enforcement policy. You may contact EHP if you have any questions in regard to the requirements of your EPO.

This extension does not change any other due dates noted in the EPO. It is expected that Earthpro will be implementing the current plan, an additional requirements will be taken as soon as the they become available.

Regards

Melanie Scanes

Senior Environmental Officer
 Environmental Services and Regulation, Southern Region
 Department of Environment and Heritage Protection
 PO Box 362 MAROOCHYDORE, QLD 4558
 Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

From: Scanes Melanie **On Behalf Of** ESR - Sunshine Coast

Sent: Thursday, 12 September 2013 1:58 PM

To: 'David McDougall'

Cc: Roy Davis (roy@earthpro.com.au); m.alam@earthpro.com.au; Brett Thomson; Sale Ben; Bell Ewan

Subject: RE: 1098 - Caloundra Landfill - INFORMATION - DEHP Ref CA28969 - Erosion and Sediment Control Plan

David

We acknowledge receipt of your report at 6.14pm 11/09/13. On initial review its found Appendices C, D G, H are missing. EHP requests these are provided by close of business today.

We will conduct a complete review of the plan and respond shortly.

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

From: David McDougall [<mailto:David@contource.com.au>]

Sent: Wednesday, 11 September 2013 6:14 PM

To: ESR - Sunshine Coast

Cc: Roy Davis (roy@earthpro.com.au); m.alam@earthpro.com.au; Brett Thomson

Subject: 1098 - Caloundra Landfill - INFORMATION - DEHP Ref CA28969 - Erosion and Sediment Control Plan

To whom it may concern,

Please find attached in accordance with Item 6 and 7 of requirement B of the EPO ref CA28969 an Erosion and sediment Control Management Plan and Audit Assessment which can be downloaded via the attached link.

<https://www.dropbox.com/s/sjb4vcve2ny9d70/1098%20130911%20ESC%20Plans.zip>

Please do not hesitate to contact me should you require further information.

Regards,

Regards,

David McDougall

Senior Engineer

For and on behalf of:

CONTOUR Consulting Engineers Pty Ltd

 Description:
cid:image003.jpg@01CE941A.DA7563F6

Phone (07) 5493 9777 Fax (07) 5493 6888

Email david@ContourCE.com.au

Website www.ContourCE.com.au

PO Box 474, Buddina 4575, Qld. Suite 2 Level 1,

6 Innovation Parkway, Birtinya 4575, Sunshine Coast, Qld.

 Description: cid:image005.jpg@01CE9510.0B219A50

RTI DL RELEASE - EHP

From m.alam@earthpro.com.au **Date** Wednesday, 11 September 2013 3:13:09 PM
To Scanes Melanie; roy@earthpro.com.au
Cc Sale Ben; Bell Ewan
Subject RE: EPO CA28969

Hi Melanie,

Contour consulting engineers is still working on Requirement 7 as per EPO CA28969. They will submit by COB today. Due to their office fire drill they were unable to submit by 1200 hrs today.

We cleaned the fuel storage area last week. We put all the contaminated material in contaminated stockpile and put mulch on top of it. We engage Duke environmental to give us direction which will comply with the relevant Australian Standard in accordance with Requirement 13. We will submit our onsite methodology regarding management of fuel storage area once we got direction from Duke Environmental Management.

Regards

Murshedul Alam
Site Contract Administrator
EarthPro Pty Ltd
Mobile 0414 414 414 (6) Personal information

From: Scanes Melanie [mailto:Melanie.Scanes@ehp.qld.gov.au]
Sent: Wednesday, 11 September 2013 8:26 AM
To: roy@earthpro.com.au; m.alam@earthpro.com.au
Cc: Sale Ben; Bell Ewan
Subject: EPO CA28969

Dear Roy

This is a reminder that in accordance with Requirement 7 an ESC assessment and plan is to be submitted by 1200hrs today.

Also Earthpro have not demonstrated that the fuel storage area is compliant with the relevant Australian Standard in accordance with Requirement 13. Please advise immediately on this matter.

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

RTI DL RELEASE - EHP

Scanes Melanie

From: Scanes Melanie
Sent: Wednesday, 11 September 2013 8:26 AM
To: roy@earthpro.com.au; m.alam@earthpro.com.au
Cc: Sale Ben; Bell Ewan
Subject: EPO CA28969

Dear Roy

This is a reminder that in accordance with Requirement 7 an ESC assessment and plan is to be submitted by 1200hrs today

Also Earthpro have not demonstrated that the fuel storage area is compliant with the relevant Australian Standard in accordance with Requirement 13. Please advise immediately on this matter.

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

RTI DL RELEASE - EHP

From m.alam@earthpro.com.au
To Scanes Melanie; roy@earthpro.com.au
Cc Bell Ewan; Sale Ben
Subject RE: Show Cause Notice

Date Friday, 6 September 2013 3:19:15 PM

 **stat dec.pdf** (402 KB [HTML](#))

Hi Melanie,

Please find stat dec for the qualification of Duke Environmental as a SQP. We believed Duke Environmental already sent to you like Contour did. Sorry for miscommunication.
Just wondering whether we still need to reply the show cause notice as per your email below.

Regards

Murshedul Alam
Site Contract Administrator
EarthPro Pty Ltd
Mobile: 08 444 4444 (6) Personal information

From: Scanes Melanie [mailto:Melanie.Scanes@ehp.qld.gov.au]
Sent: Friday, 6 September 2013 2:30 PM
To: roy@earthpro.com.au
Cc: Bell Ewan; Sale Ben; m.alam@earthpro.com.au
Subject: Show Cause Notice

Dear Roy

In relation to the Environmental Protection Order (EPO) issued to Earthpro on the 21 August, EHP is yet to receive written evidence that a Suitably Qualified Professional has been engaged for the contaminated land investigation. This is stated in Requirement 2 of the EPO. This is in breach of your EPO. See the attached is a Show Cause Notice

Regards

Melanie Scanes
Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

RTI DL RELEASE - EHP

Declaration by a suitably qualified person (SQP)

A statutory declaration is a written statement that is sworn under the *Oaths Act 1867*. This statutory declaration should be completed and forwarded to the administering authority by a person who satisfies section 564 of the *Environmental Protection Act 1994* (EP Act). In accordance with section 566 of the EP Act, a site investigation report submitted to the administering authority must be accompanied by a declaration by the investigator of that site (a SQP), containing the information stated in section 566(2) of the EP Act.

The information provided in this declaration must be true and correct to the best of the declarant's knowledge. It is an offence under sections 480A and 480 of the EP Act to give the administering authority, or an authorised person, a document containing information that the declarant knows is false, misleading or incomplete in a material particular.

I Paula Duke make this declaration as a person who

(Name of person who will make the declaration)

may conduct a site investigation pursuant to section 565 of the EP Act, as I am a person who:

- is a current member of a prescribed organisation under Schedule 8 of the Environmental Protection Regulation 2008 pursuant to section 564; and
- has qualifications and experience relevant to the regulatory function pursuant to section 564.

On the basis of my compliance with section 564 of the EP Act, I am a SQP for the purposes of section 565 of the EP Act for the investigation of contaminated soil in response to Item B3 of the Environmental Protection Order CA28969, dated 21 August 2013, issued to Earthpro Pty Ltd.

I make this declaration with the understanding that this site investigation will be performed in accordance with the 'Guideline for contaminated land professionals' (EHP, 2012) and that the conclusions and recommendations made in the report may be relied upon by the administering authority in making its decisions under the EP Act.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1867*.

Taken and declared before me, at

Birtinya

Insert location

this 28th day of August in the year 2013

sch4p4(6) Personal information

Signed

(Person making this declaration)

Signed

(Cross out whichever is not applicable) Justice of the Peace/Commissioner for Declarations/Notary Public/Solicitor/Barrister/Conveyancer

Julie Schubert

Print name and registration number (if applicable)



Enquiries Melanie Scanes
Telephone (07) 54 59 6154
Your reference
Our reference CR59905

06 September 2013

Roy Davis
Earthpro Pty Ltd
P.O.Box 1954
CLEVELAND DC 4163

Dear Mr Davis,

**Re: Alleged intentional release of leachate offsite at Sunshine Coast Regional Council
Landfill Site located at Pierce Avenue, Bells Creek**

The Department of Environment Heritage and Protection (EHP) has received your information regarding the alleged release of leachate from the Pierce Avenue, Bells Creek, landfill Site.

The role of EHP is to investigate this matter and ensure that where a genuine problem is found to exist, action is taken to remedy the problem.

EHP registered your complaint on receipt of your email on 15 August 2013. Since receiving your information, EHP has contacted the persons responsible for the landfill site in regard to the information you provided. EHP is in process of investigating your complaint and will advise you of the outcome of the investigation when the investigation is complete or of progress should the complaint be on-going.

EHP trusts that this information is of assistance to you. Should you have any questions please do not hesitate to telephone Melanie Scanes of the EHP on (07) 5459 6132.

Yours sincerely

sch4p4(6) Personal information

Ben Dale
Manager
Sunshine Coast and Gympie
Southern Region
Environmental Services and Regulation
Environmental Heritage and Protection

From Scanes Melanie
To roy@earthpro.com.au
Cc Bell Ewan; m.alam@earthpro.com.au
Subject Complaint response letter

 **CR59905.pdf** (47 KB [HTML](#))

Dear Roy

Complaint acknowledgement letter

Regards

Melanie Scanes

Senior Environmental Officer

Environmental Services and Regulation, Southern Region

Department of Environment and Heritage Protection

PO Box 362 MAROOCHYDORE, QLD 4558

Telephone: (07) 5459 6154 Fax: (07) 5459 6190

melanie.scanes@ehp.qld.gov.au

www.ehp.qld.gov.au

RTI DL RELEASE - EHP



Department of
**Environment and
Heritage Protection**

Enquiries: Melanie Scanes
Telephone : 07 5459 6154
Your reference:
Our reference: CA28969/SOR/113550

Earthpro Pty Ltd
C/- Richard Ings Pty Ltd
Burmuda Point, Suite 1303
1 Lake Orr Drive
VARSITY LAKES QLD 4227
Attn: Roy Davis

6 September 2013

Dear Sir,

Re: Non-compliance with Environmental Protection Order (CA28969) issued to Earthpro for activities undertaken at 171 Pierce Avenue Bells Creek, Lot 101 on Plan SP232333.

I refer to identified non-compliance against requirements of the Environmental Protection Order (EPO), issued to Earthpro Pty Ltd (Earthpro) by the Department of Environment and Heritage Protection (the department) on 21 August 2013 for 171 Pierce Avenue Bells Creek, Lot 101 on Plan SP232333 (the premises).

The department considers that Earthpro has not complied with the following EPO requirement:

Requirement 2. Written evidence has not been provided to the department by Earthpro to demonstrate engagement of a suitably qualified professional (SQP), who meets the requirements of Part 4, Section 3 of the department's *"Guideline for Contaminated Land Professionals"*

I draw your attention to section 361 the *Environmental Protection Act 1994* (attached), which states the offence provisions for non-compliance with an EPO. The department has a responsibility to respond to any non-compliance with legislative requirements. In the event of non-compliance with the legislation and the environmental performance standards, the department has the ability to use a number of enforcement tools including warning notices, statutory orders requiring certain actions to be taken, Penalty Infringement Notices (PINs), Environmental Protection Orders and prosecution. Please note that a PIN can be issued for each breach of an EPO requirement.

Page 1 of 3

Level 6 Mike Ahern Centre
12 First Avenue Maroochydore
PO Box 362 Maroochydore
Queensland 4558 Australia
Telephone 07 5459 6147
Facsimile 07 5459 6190
Website www.ehp.qld.gov.au

ABN 46 640 294 485

The department requests Earthpro show cause as to why enforcement action should not be taken by submitting a response by **12.00 pm Tuesday 10 September 2013**. The department will consider this submission before deciding an appropriate response to the non-compliances identified.

If you have any queries or wish to discuss this matter further, please contact Melanie Scanes on (07) 5459 6132.

Yours sincerely

sch4p4(6) Personal information

Ben Sale
Manager (Sunshine Coast and Gympie)
Environmental Services and Regulation - Southern Region
Department of Environment and Heritage Protection

RTI DL RELEASE - EHP

Attachment 1.

361 Offence not to comply with order

(1) The recipient must not wilfully contravene an environmental protection order.

Maximum penalty—2000 penalty units or 2 years imprisonment.

(2) The recipient must not contravene an environmental protection order.

Maximum penalty—1665 penalty units.

(3) In a proceeding for an offence against subsection (1), if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence against subsection (2), the court may find the defendant guilty of the offence against subsection (2).

RTI DL RELEASE - EHP

Scanes Melanie

From: Scanes Melanie
Sent: Thursday, 29 August 2013 11:46 AM
To: 'roy@earthpro.com.au'
Subject: FW: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra

Hi Roy

Sorry for another email, in regard to the engagement of SQP in Requirement 2 and a CPESC in Requirement 5. We require the written evidence from the consultants that they meet these qualification requirements. Please provide this as soon as possible

Regards

Melanie

From: Scanes Melanie
Sent: Thursday, 29 August 2013 11:33 AM
To: 'roy@earthpro.com.au'
Subject: FW: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra

Roy

In regards to the below email. Can you please clarify what consultants have been engaged for the Contaminated Lands work (EPO Requirement 2) and the CPESC works (EPO Requirement 5). The information below does not reflect the type of discussion I had with Duke Environmental yesterday. That was about the contaminated land, but below it states ESP. It also states Contour are test consultants, please clarify this.

Also Roy have you implemented the improved cover of the southern side of the southern Contaminated Soil profile. EHP requires improved cover in this area be instated prior to the next rain event.

Regards

Melanie

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

From: ESR - Sunshine Coast
Sent: Wednesday, 28 August 2013 10:55 AM
To: Scanes Melanie
Subject: FW: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra

Tina Boss
A/Environmental Support Officer
Environmental Services & Regulation, Southern Region
Department of Environment and Heritage Protection

Ph: 07 5459 6161, Fax: 07 5459 6190
Email: tina.boss@ehp.qld.gov.au
PO Box 362 MAROOCHYDORE QLD 4558

From: Roy Davis [<mailto:roy@earthpro.com.au>]
Sent: Wednesday, 28 August 2013 10:49 AM
To: Bell Ewan
Cc: ESR - Sunshine Coast
Subject: RE: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra

Hi Ewan,

Earthpro Pty Ltd has engaged the following to work with use in relation to Pierce Avenue Caloundra Landfill :

Contour Consulting Engineers as test consultants
Contact: Brett Thomson

Suite 2 Level 1,
6 Innovation Parkway,
Birtinya 4575, Sunshine Coast, Qld.
PO Box 474, Buddina 4575, Qld.
Sch4p4(6) Personal information
PH: 07 5493 9777
FAX:07 5493 6888
EMAIL: admin@contource.com.au

Duke Environmental to conduct ESP management.
Contact: Julie Schubel

Level 1 Building A
6 Innovation Parkway Birtinya 4575
P.O Box 78 Wurtulla 4575
P: 07 5493 3322
F: 07 5493 3422

Please don't hesitate to contact me if you require any further information.

Regards

Roy Davis

Earthpro Civil Contractors

Mob Sch4p4(6) Personal information
Ph (07) 3829 1577
Fax (07) 3829 1477

From: Bell Ewan [<mailto:Ewan.Bell@ehp.qld.gov.au>]
Sent: Wednesday, 21 August 2013 4:25 PM
To: roy@earthpro.com.au
Subject: FW: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra

Hi Roy

In regard to previous advice the department has now decided to issue Earthpro Pty Ltd an EPO for the activities at Lot 101 SP232333. Please find attached the EPO, a copy of the review and appeal provisions, and a copy of the departments enforcement guidelines.

This information has also been sent via registered mail to the ASIC current registered office, as per the service of documents provisions in *Acts Interpretation Act 1954*.

Please contact me if you would like to discuss this matter further.

Regards

Ewan Bell

Principal Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6128 Fax: (07) 5459 6190
ewan.bell@ehp.qld.gov.au
www.ehp.qld.gov.au

From: Bell Ewan
Sent: Monday, 12 August 2013 1:11 PM
To: 'roy@earthpro.com.au'
Subject: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra

Dear Mr Davis

I refer to the site 171 Pierce Avenue Bells Creek, Lot 101 on plan SP232333 for which Earthpro Pty Ltd is contracted by Sunshine Coast Regional Council (SCRC) to conduct works to construct an extension of the current landfill. On the 7 August 2013 EHP officers Ewan Bell and Melanie Scanes conducted an inspection at the site with council staff Debbie Spann and Michael Blakeney and Earthpro staff Lance Carey, Murshedul Alam and George Mumford. The inspection was brought about by concerns raised by SCRC in relation to Earthpro Pty Ltd not conducting operations onsite using all reasonable and practicable measures in regard to management of contaminated soil and erosion and sediment control.

During the inspection the department observed a stockpile known to be contaminated soil, exposed to the environment with evidence of rill erosion across the stockpile surface. Bunding surrounding the stockpile was poorly constructed, poorly maintained, in some places non-existent, and evidence indicated that the bunding had been breached at multiple locations. In addition, it was confirmed during the inspection that stormwater run-off from this stockpile did not report to any form of retention basin, and discharged directly off-site. EHP was advised that the contaminated soil was placed on a suitable impermeable barrier but the volume of soil now extended beyond the extent of the impermeable barrier.

In the course of the inspection EHP officers made observations of the erosion and sediment control measures at the site. EHP officers are of the opinion that all reasonable and practicable measures have not been implemented to demonstrate that Earthpro Pty Ltd are operating in accordance with the general environmental duty obligations under the *Environmental Protection Act 1994* (the Act). EHP officers observed that effective clean water drains had not been established and maintained, concentrated flow paths were poorly maintained, sediment fences not

properly installed, large volumes of soil and soil stockpiles exposed with no effective erosion protection measures, and no clarity around sediment basin sizing for catchment area reporting to the basin.

EHP officers also observed diesel fuel and chemical storage area bund to be near full of contaminated water and poorly constructed, and no spillage containment for refuelling areas.

EHP propose to issue Earthpro Pty Ltd an Environmental Protection Order (EPO) under s358 of the Act to secure compliance with the general environmental duty to address the above mentioned issues.

Prior to deciding to issue an EPO, EHP now provide Earthpro Pty Ltd a period of natural justice to provide the department with any information relating the above. Any information provided by Earthpro Pty Ltd must be received at EHP at sunshinecoast.esr@ehp.qld.gov.au or PO Box 362, MAROOCHYDORE QLD 4558 by 1700hrs 15 August 2013.

For your information I have attached a link to the Act, and a copy of EHP's enforcement guidelines. Please note sections 358 and 361 of the Act relating to issuing an EPO and offence not to comply with the order.

Please contact me if you would like to discuss any of the matters raised in this email.

<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/EnvProtA94.pdf>

Regards

Ewan Bell

Principal Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6128 Fax: (07) 5459 6190
ewan.bell@ehp.qld.gov.au
www.ehp.qld.gov.au

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

Scanes Melanie

From: Scanes Melanie
Sent: Thursday, 29 August 2013 11:33 AM
To: 'roy@earthpro.com.au'
Subject: FW: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra

Roy

In regards to the below email. Can you please clarify what consultants have been engaged for the Contaminated Lands work (EPO Requirement 2) and the CPESC works (EPO Requirement 5). The information below does not reflect the type of discussion I had with Duke Environmental yesterday. That was about the contaminated land, but below it states ESP. It also states Contour are test consultants, please clarify this.

Also Roy have you implemented the improved cover of the southern side of the southern Contaminated Soil profile. EHP requires improved cover in this area be instated prior to the next rain event.

Regards

Melanie

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

From: ESR - Sunshine Coast
Sent: Wednesday, 28 August 2013 10:55 AM
To: Scanes Melanie
Subject: FW: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra

Tina Boss
A/Environmental Support Officer
Environmental Services & Regulation, Southern Region
Department of Environment and Heritage Protection

Ph: 07 5459 6161, Fax: 07 5459 6190
Email: tina.boss@ehp.qld.gov.au
PO Box 362 MAROOCHYDORE QLD 4558

From: Roy Davis [<mailto:roy@earthpro.com.au>]
Sent: Wednesday, 28 August 2013 10:49 AM

To: Bell Ewan
Cc: ESR - Sunshine Coast
Subject: RE: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra

Hi Ewan,

Earthpro Pty Ltd has engaged the following to work with use in relation to Pierce Avenue Caloundra Landfill :

Contour Consulting Engineers as test consultants
Contact: Brett Thomson

Suite 2 Level 1,
6 Innovation Parkway,
Birtinya 4575, Sunshine Coast, Qld.
PO Box 474, Buddina 4575, Qld.

4p4(6) Personal information

PH: 07 5493 9777
FAX:07 5493 6888
EMAIL: admin@contource.com.au

Duke Environmental to conduct ESP management.
Contact: Julie Schubel

Level 1 Building A
6 Innovation Parkway Birtinya 4575
P.O Box 78 Wurtulla 4575
P: 07 5493 3322
F: 07 5493 3422

Please don't hesitate to contact me if you require any further information.

Regards

Roy Davis

Earthpro Civil Contractors

4p4(6) Personal information
Ph (07) 3829 1577
Fax (07) 3829 1477
www.earthpro.com.au

From: Bell Ewan [<mailto:Ewan.Bell@ehp.qld.gov.au>]
Sent: Wednesday, 21 August 2013 4:25 PM
To: roy@earthpro.com.au
Subject: FW: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra

Hi Roy

In regard to previous advice the department has now decided to issue Earthpro Pty Ltd an EPO for the activities at Lot 101 SP232333. Please find attached the EPO, a copy of the review and appeal provisions, and a copy of the departments enforcement guidelines.

This information has also been sent via registered mail to the ASIC current registered office, as per the service of documents provisions in *Acts Interpretation Act 1954*.

Please contact me if you would like to discuss this matter further.

Regards

Ewan Bell

Principal Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6128 Fax: (07) 5459 6190
ewan.bell@ehp.qld.gov.au
www.ehp.qld.gov.au

From: Bell Ewan

Sent: Monday, 12 August 2013 1:11 PM

To: 'roy@earthpro.com.au'

Subject: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra

Dear Mr Davis

I refer to the site 171 Pierce Avenue Bells Creek, Lot 101 on plan SP232333 for which Earthpro Pty Ltd is contracted by Sunshine Coast Regional Council (SCRC) to conduct works to construct an extension of the current landfill. On the 7 August 2013 EHP officers Ewan Bell and Melanie Scanes conducted an inspection at the site with council staff Debbie Spann and Michael Blakeney and Earthpro staff Lance Carey, Murshedul Alam and George Mumford. The inspection was brought about by concerns raised by SCRC in relation to Earthpro Pty Ltd not conducting operations onsite using all reasonable and practicable measures in regard to management of contaminated soil and erosion and sediment control.

During the inspection the department observed a stockpile known to be contaminated soil, exposed to the environment with evidence of rill erosion across the stockpile surface. Bunding surrounding the stockpile was poorly constructed, poorly maintained, in some places non-existent, and evidence indicated that the bunding had been breached at multiple locations. In addition, it was confirmed during the inspection that stormwater run-off from this stockpile did not report to any form of retention basin, and discharged directly off-site. EHP was advised that the contaminated soil was placed on a suitable impermeable barrier but the volume of soil now extended beyond the extent of the impermeable barrier.

In the course of the inspection EHP officers made observations of the erosion and sediment control measures at the site. EHP officers are of the opinion that all reasonable and practicable measures have not been implemented to demonstrate that Earthpro Pty Ltd are operating in accordance with the general environmental duty obligations under the *Environmental Protection Act 1994* (the Act). EHP officers observed that effective clean water drains had not been established and maintained, concentrated flow paths were poorly maintained, sediment fences not properly installed, large volumes of soil and soil stockpiles exposed with no effective erosion protection measures, and no clarity around sediment basin sizing for catchment area reporting to the basin.

EHP officers also observed diesel fuel and chemical storage area bund to be near full of contaminated water and poorly constructed, and no spillage containment for refuelling areas.

EHP propose to issue Earthpro Pty Ltd an Environmental Protection Order (EPO) under s358 of the Act to secure compliance with the general environmental duty to address the above mentioned issues.

Prior to deciding to issue an EPO, EHP now provide Earthpro Pty Ltd a period of natural justice to provide the department with any information relating the above. Any information provided by Earthpro Pty Ltd must be received at EHP at sunshinecoast.esr@ehp.qld.gov.au or PO Box 362, MAROOCHYDORE QLD 4558 by 1700hrs 15 August 2013.

For your information I have attached a link to the Act, and a copy of EHP's enforcement guidelines. Please note sections 358 and 361 of the Act relating to issuing an EPO and offence not to comply with the order.

Please contact me if you would like to discuss any of the matters raised in this email.

<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/EnvProtA94.pdf>

Regards

Ewan Bell

Principal Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6128 Fax: (07) 5459 6190
ewan.bell@ehp.qld.gov.au
www.ehp.qld.gov.au

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

Scanes Melanie

From: Scanes Melanie
Sent: Wednesday, 28 August 2013 1:40 PM
To: 'roy@earthpro.com.au'
Subject: Golders Report
Attachments: Detailed Site Investigation (contamination).pdf

Thankyou Roy, we received your notification today as required by the EPO. Could you please ensure Paula from Duke is provided with a copy of the Golders Report, she had not seen it as of this morning. I have attached a copy of the report that was provided to me from Council. Check that is the same copy you have. If there is any discrepancy please advise. You must ensure Duke Environmental are provided with all information necessary to conduct a complete assessment of the issue. If you have additional information that must be provided including management plans.

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

RTI DL RELEASE - EHP

Item# 2240509

Assessment Report

Environmental Protection Order

This document is intended for internal use to assist Environmental Service officers (officers) to document the information considered by the Department of Environment and Heritage Protection (the department) when forming the decision whether to issue an environmental protection order (EPO) under the Environmental Protection Act 1994.

Identifying details	
Compliance activity number	CR59674, CR59563, CA28969
EcoTrack number	241999
Permit number	SPDE03088111
File number	SOR/114544
Applicant number	241999
Trading as	Earthpro
Registered business address	C/- Richard Ings Pty Ltd Burmuda Point, Suite 1303 1 Lake Orr Drive VARSITY LAKES QLD 4227
Date decision made	16 August 2013

Note:

1. Assessment reports recommending a decision be made are to be structured in the format shown below.
2. Explanatory notes for completing the report are given under each heading.
3. The report is to be endorsed by the environmental service officer, supervisor (where possible) and the delegated decision maker.

1. Grounds for use of an EPO

The legislation specifies that the EPO can only be used in certain circumstances (see section 358). Please identify the relevant grounds upon which the decision whether to use an EPO is based:

- ☐ A person did not comply with a requirement to conduct or commission an environmental evaluation and submit it to the department;

Assessment Report Environmental Protection Order (EPO)

- ☐ A person did not comply with a requirement to prepare a transitional environmental program and submit it to the department;
- ☐ As a result of an environmental evaluation, the department is satisfied that an activity being carried out, or that is likely to be carried out, or is proposed to be carried out, has caused or is likely to cause unlawful environmental harm;
- ☐ Alleged breach of:
- ☒ general environmental duty;
 - ☐ an environmental protection policy (EPP);
 - ☐ a condition of an environmental authority (EA) or a development approval (DA);
 - ☐ a prescribed condition for carrying out a small scale mining activity;
 - ☐ a condition of a site management plan;
 - ☐ an audit notice;
 - ☐ a surrender notice;
 - ☐ a rehabilitation direction;
 - ☐ a regulation;
 - ☐ an accredited environmental risk management plan (ERMP);
- ☐ The person is, or has been, contravening any of the following provisions:
- ☐ direction notices (section 363E);
 - ☐ noise standards (section 440Q);
 - ☐ depositing prescribed water contaminants in waters (section 440ZG);
 - ☐ releases from boats into non-coastal waters (chapter 8, part 3D);
 - ☐ air contamination (chapter 8, part 3E);
 - ☐ fuel standards (chapter 8, part 3F).

2. Expand upon the grounds

Please expand upon the grounds identified for issuing the EPO, including identifying an alleged offence, any statutory requirement which must be met prior to the department using an EPO, or any instance of non-compliance.

Each ground should be listed independently and be allocated a separate number.

Number	Specific ground
1	To secure compliance with the General Environmental Duty under s319 of the Act
2	
3	
4	

Assessment Report

3. Brief history of the matter

Please briefly outline any historical information relevant to this decision.

- Sunshine Coast Regional Council (SCRC) officer Debbie Spann notified the pollution hotline on 20 July 2013 at 1.24pm advising that their contractor (Earthpro) constructing a new cell as part of an approved expansion of Caloundra Landfill had allowed dirty water to leave the construction site in breach of council development approval. The event was registered by the pollution hotline on ecotrack and given the record no. CR59563
- Sunshine Coast office received notification of the event on 22 July 2013. Council were contacted about the release. Council advised that they felt Earthpro had not implemented adequate erosion and sediment control measures. SCRC advised a number of ESC audits, both by council and external providers, had been conducted at the site, and SCRC believe Earthpro has not responded to the concerns repeatedly raised. SCRC requested a meeting with EHP to discuss the issue further.
- 26 July 2013 a meeting was held with EHP staff Ben Sale, Ewan Bell and Melanie Scanes and Debbie Spann and Penny Houston. SCRC provided additional information in regard to their belief of Earthpros' ongoing disregard of requests to improve ESC on the site. SCRC advised the site contains soil contaminated with lead. SCRC advised they had suspended works onsite due to poor performance and Earthpro was currently seeking damages from council as a result of the suspension, and works have since restarted. SCRC advised on the 25 July 2013 turbid water was observed being pumped into the clean water drain leading off site. SCRC sampled the water and measured it to be in excess of 400 NTU. In the discussion EHP requested council provide the current Stormwater Management Plan for the site and copies of the ESC audits. These were later provided. EHP agreed to attend the site if another release event was observed.
- 7 August 2013 10.00am Debbie Spann called Melanie Scanes of EHP to advise that they had been notified that turbid water was being released from the site. Melanie Scanes and Ewan Bell attended the site with Debbie Spann and Michael Blakeney of SCRC. At the time EHP attended the site no release of water from the site was occurring. EHP and SCRC officers met with Earthpro representatives and an inspection of the site was conducted.
- No effective clean water diversion drains were installed and operating around the site, and as such the site receives clean water from catchments external to the site which becomes contaminated at the site and is then required to be managed. No erosion control measures were observed across the soil stockpiles around the site. One sediment fence observed at the northern end of the site was not keyed in correctly. A portion of the site that was unstabilised did not discharge to any form of sediment basin and discharged directly off-site. Two sediment basins were observed at the site during the inspection – one at the southern extent of the site and one towards the northern extent of the site. Obvious erosion and infill was evident at the unstabilised inlet structure of the southern basin. The overflow from the northern basin discharges via a concentrated flow path that is only partly stabilised, and the stabilisation is poorly maintained, and the flow path channel accepts dirty water which then discharges directly off site.

- In summary the inspection identified that ESC measures at the site were either non-existent, or poorly implemented/maintained and it would not be considered that Earthpro have done everything reasonable and practicable to prevent or minimise environmental harm.
- The site is known to contain contaminated soil which is required to be managed appropriately. At the time of inspection a large volume of contaminated soil was observed stored in a stockpile. The stock pile had no erosion control in place and evidence of erosion across the stockpile was evident. The northern section of the stockpile had no bunding in place and would discharge contaminated storm water away from the contaminated soil area across the site. The eastern section of the bunding was being repaired during the inspection. It appeared the contaminated stockpile material was being used as the bunding material for these repairs. Other sections of this bunding has obviously been breached previously, had been repaired with rock in some locations and as such would not act as a bund, and had not been repaired in other locations. The bund was poorly constructed and poorly maintained and would not act as an effective stockpile bund. In addition, any discharge from the bund discharged directly off site and there was no secondary containment for contaminated storm water run off from the contaminated soil stockpile.. Diesel storage area bund was uncovered and contained water at the time of inspection. The diesel bund was a sheet of rubber matting and did not appear appropriately constructed, or appropriate size for the tank size. There was no spill containment for refuelling areas.

4. Detail the matters considered

Link the elements of the alleged breach or instance of non-compliance to the evidence gathered and the conclusions formed. This section should also record how the department has met any statutory requirements associated with the use of the statutory tool.

Consider the accuracy and relevance of the information available, historical details, professional expertise and the weight attributed to any direct testimony provided.

Elements of the offence or legislative requirement	Evidence	Facts and circumstances
List the elements of any alleged offence or (for grounds which are not offences) list the legislative requirement to be met by the department.	Identify the information considered which is relevant to the elements or requirement (i.e. statements, photographs, and recordings)	Detail the facts and circumstance that support the department's findings.
Number 1		
<p><i>EPAct Section 319 General Environmental Duty (1) A person must not carry out an 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</i></p> <p>A person</p>	<p>The Acts Interpretation Act 1954 part 8 provides a definition for person. Person includes an individual and a</p>	<p>Proprietary company Earthpro Pty Ltd is a corporation and as such is considered a person.</p>

<p>Must not carry out an activity that causes or likely to cause environmental harm</p> <p>Environmental Harm– any adverse effect or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance.</p> <p>Environmental Value – (a) a quality or physical characteristic of the environment that is conducive to ecological health or public amenity or safety; or (b) another quality of the environment identified and declared to be an environmental value under an environmental protection policy or regulation</p>	<p>corporation. Section 32D of the Acts Interpretation Act 1954 provides example that express references to a corporation includes a company.</p> <p>Earthpro are contracted by the Sunshine Coast Regional Council to construct a new stage of a landfill.</p> <p>The site contains contaminated soil with known lead contamination that was identified in the report commissioned by council - <i>Pierce Ave landfill Expansion Area – Stage 2 Detailed Site Investigation (Contamination – June 2012 – Report No. 127683009-002-R-Rev0)</i>. This report clearly states the risk to human health and the environment, and appropriate management strategies.</p> <p>The sediment laden water is at high risk of leaving the site, without suitable treatment to reduce contaminant levels to a reasonable and practicable concentration to minimise impact on ecological health of a waterway.</p> <p>The management of diesel fuel storage and refuelling operations are not managed to best practice standards. Fuel bund was observed uncovered</p>	<p>Earthpro are contracted to construct a new cell. This requires extensive earth works.</p> <p>Contaminated Soil Stockpiles - Lead contaminated soil has been left exposed to the environment. The soil has poorly constructed and maintained, and in some areas non existent bunding to capture contaminated sediment and water. Bunding in place had clearly overtopped and discharged from the site. Lead monitoring of water leaving the site is currently not being conducted. Earthpro staff advised that the piles had extended beyond the extent of the underlying impermeable barrier.</p> <p>Erosion and Sediment Control - In regards to Erosion and Sediment Control on site EHP observed;</p> <ul style="list-style-type: none"> ○ No effective clean water diversion in place. ○ The majority of soil stockpiles not stabilised. ○ Limited erosion control measures in place. ○ Sediment fences not installed appropriately. ○ Concentrated flow paths not effectively stabilised. ○ Inappropriate staging of works creating longer periods of time with exposed soil and of greater than
---	---	--

Assessment Report
Environmental Protection Order (EPO)

	<p>and containing contaminated water. It had been several days since last rainfall. No action had been taken to appropriately disposed of, no spill capture during refilling in place. This water is at risk of being released to land and via fast flow and clean flow stormwater drains to a waterway and potentially impacting on ecological health of the waterway.</p>	<p>reasonable land area.</p> <ul style="list-style-type: none"> ○ No stabilisation of sediment basin inflow structure. ○ Sediment basin has never been de-silted. ○ Information indicates sediment basin may not appropriately sized for current catchment area ○ The culvert where all waters discharge from the premises is heavily silted and it is evident that large volumes of sediment have been transported from this site. ○ The discharge of contaminated soil from inappropriate and poor management of the contaminated soil stockpile, and discharge of sediment from the site from inappropriate ESC would be considered to constitute environmental harm.
<p>Take all reasonable and practicable measures to prevent or minimise environmental harm</p>	<p>EHP officers observed a large stockpiled area identified by Earthpro staff and council staff as contaminated soil. It was exposed to the environment with no form of cover.</p> <p>The contaminated soil was not bunded on all sides to contain any runoff of water or sediment from the exposed contaminated soil.</p> <p>Some bunds were in place around the contaminated soil. These were observed with rilling indicating they had overtopped. The overtopped water would have entered a flow pathway allowing contaminated stormwater to discharge directly offsite.</p> <p>In regard to the unbunded area surrounding the contaminated soil, any runoff would have</p>	<p>Earthpro have not made any attempt to cover exposed contaminated soil. Earthpro have poorly constructed and ineffective controls surrounding the contaminated soil and releases to water will occur during rainfall events. Earthpro have not managed soil with known contaminant risks according to best practice and a management report to prevent and minimise risks to the environment.</p> <p>Sediment and Erosion Control management measures implemented onsite did not meet best practice requirements to demonstrate the GED had been met. Council has conducted regular audits against the guideline IECA (Australasia) identifying problems and these have been inadequately addressed. Council have provide EHP with copies of the onsite audits and the issues raised. There have been independent audits by <i>Future-plus environmental</i> and <i>O₂ Environment</i> and</p>

Assessment Report Environmental Protection Order (EPO)

	<p>entered a clean flow path and left the site or into a sediment dam before releasing offsite. The department has not been provided with evidence of suitable monitoring of Pb and BaH levels prior to any release of water offsite.</p> <p>EHP officers observed in regard to sediment and erosion control measures – Clean water diversion drains were not installed around the complete perimeter of the site, portions of the clean water diversion were installed and these were receiving contaminated water from the construction site.</p> <p>Sediment fences were observed to not be properly installed allowing sediment flow under the fence.</p> <p>Stabilisation material was not being used on stockpiles around the site</p> <p>A report titled Erosion and Sediment Control plan – Caloundra Landfill Cell 9 was developed prior to construction works by O₂ . This plan formed part of the agreement between Council and Earthpro on how sediment and erosion issues will be managed during the Cell construction. EHP observed this plan was not being implemented.</p> <p>EHP officers observed the diesel fuel storage and refuelling area bunding contained a substantial amount of contaminated water. The area is uncovered and the site had had no rain for several days. Earthpro were yet to</p>	<p><i>Engineering.</i> These also state sediment and erosion control measures are inadequate. Council has provided EHP with copies of these external audits.</p> <p>The issues raised in the audits include no effective clean water diversion around the site had been installed nor was it proposed to be installed, Stockpiles not being managed in accordance with erosion and sediment control plan, sediment basin construction doesn't meet plan criteria and not being operated within the 5 day turnaround period that is required</p> <p>EHP observed generally poor sediment and erosion control measures in place. Reasonable best practice measures had not been implemented to prevent sediment releases from the site.</p> <p>Council made allegations that releases were occurring without flocking testing of the water. They have test results and photographic evidence of this.</p> <p>Also the diesel and chemical storage bund contain contaminated water and urgently needed emptying. The bund itself was did not appear appropriately sized, designed or maintained to effectively capture spill events. The reasonable requirement for activities such as this is to meet the appropriate national standard for chemical storage. Earthpro need to demonstrate this or modify the activity to meet this requirement.</p>
--	--	--

Assessment Report
Environmental Protection Order (EPO)

	empty the bund. The bund was at risk of overtopping should another rain event occur.	
<INSERT details>		
Number 2		
Number 3		
<INSERT details>	<INSERT details>	<INSERT details>
<INSERT details>	<INSERT details>	<INSERT details>
Number 4		
<INSERT details>	<INSERT details>	<INSERT details>
<INSERT details>	<INSERT details>	<INSERT details>

Standard Criteria Checklist

Provide brief details of your consideration of each of the standard criteria in supporting and substantiating the relevant grounds purposed. If a criterion is not applicable, write "N/A".

Standard criteria	Detailed comments
Environmental policy	<p>The conditions of the approval have been put in place to protect the environment and ensure that all environmental values are considered.</p> <p>The precautionary principle has been considered, as the level of harm this site has caused and the potential to cause future harm is unknown. Scientific certainty may not determine the extent of the harm, and as such swift action is required to appropriately manage the known environmental risks.</p> <p>Intergenerational equity has been considered- future generations may be impacted by the poor environmental standard of the site, such as releases of contaminants into the local environment and high level of exposed soil increasing the level of erosion and sedimentation being washed off site into the receiving environment.</p> <p>Ecological integrity has been considered. The site drains into a natural waterway and the contaminants have the potential to contaminate and suffocate the waterway resulting in diminished integrity overtime.</p>
Plans, standards or agreements	An erosion and sediment control plan was developed for the construction works prior to works beginning. Evidence suggests this plan has not been reasonably implemented. Earthpro have a contractual agreement with council to construct the new cells and

Assessment Report
Environmental Protection Order (EPO)

	implement comply with required environmental standards as part of the works. Council has audited the site regularly to their environmental standard and found Earthpro are not meeting their requirements.
Wild river declaration	N/A
Environmental impact study, assessment or report	N/A
Receiving environment	The site drains into the Pumistone Passage Catchment. The passage is regarded as a very sensitive environment due to the unique characteristics of the passage and that environmental contaminants can accumulate in the passage and a gradual decline of environment values has been observed. The aim of the Water EPP is to ensure water quality objectives are maintained or improved overtime. The EPO will protect the receiving environment and help protect against deterioration of the WQO of the Pumistone Passage.
Submissions received	<p>On 15 August Earthpro provided a response to the opportunity to provide information to the departments concerns. The response provides information regarding Earthpro and SCRC dealing about the contaminated soil stockpile. Regardless of this information the department is dealing with the concerns identified during the site inspection on 7 August 2013 relating to environmental management at the site. In addition Earthpro have provided evidence of alleged leachate discharge at SCRC landfill. This matter is not considered as part of this EPO assessment report.</p> <p>Earthpro provided calculations for volume of contaminated stockpile bund and submit that it is capable of storing a 40.6mm rainfall event. It was evident that the bund had been breached and collapsed at multiple locations during the inspection on 7 August 2013 and would not have been operating to design capacity. At one location the collapsed bund had been repaired with rock that would clearly allow contaminated water to discharge from the bund. The bund remained collapsed at other locations during the inspection. At the time of the inspection there was no bunding at all for the whole northern section of the contaminated soil stockpile. In addition contaminated water that would discharge from the bund discharges directly off site and not to some form of secondary containment. Regardless of the ability to capture a design rainfall event, by not implementing simple erosion protection measures across the contaminated soil stockpile, and not implementing some secondary containment, it is considered that Earthpro have not done everything reasonable and practicable to prevent or minimise environmental harm.</p> <p>Earthpro provide test results for one sample they advise was taken from the contaminated soil stockpile bund. No other information is</p>

provided as to where the sample was taken, when and what type of rainfall event occurred prior to the sample, whether the sample was taken by a suitably qualified person, and no information regarding chain of custody information.

Earthpro have provided information regarding sediment basin sizing including a plan and table identifying sediment basins. Table 2 identifies

- Catchment area 1 with a catchment area of 27300m² and comments that a bund to form a temporary basin is adequate - at the time of inspection it was evident, and confirmed by Earthpro staff, that this bund was a diversion bund to divert stormwater across to another section of the site, not to capture stormwater run-off. This bund consisted of a pile of soil across a flow path and another pile of soil as a diversion bank. A diversion bund would not be considered an appropriately designed sediment basin and erosion across the ground surface was evident, and it was evident that the diversion bund had been breached and broken, and as such would not be capturing the catchment area stated by Earthpro. In addition, because of the location of the bund placed across the flow path is much of the catchment Earthpro are claiming would report to this bund would not, and would not be captured by the bund.
- Catchment Area 2 with a catchment area of 44000m² referenced to sediment basin 1. The information provided indicates it is a sediment basin with a depth of 0.3m and that it is a bund in cell around cell 10. This structure is a bund and not a formalised and appropriately designed and constructed sediment basin. At the time of inspection there was no formalised and appropriately constructed sediment basin at this location. As per above a bund would not be considered an appropriately designed sediment basin. In addition, it is evident that a trench exists along the western boundary of the property that intercepts much of the water claimed to report to this bund, and diverts it to sediment basin 3.
- Catchment Area 3 with a catchment area of 27400m² referenced to sediment basin 2. It was evident during the inspection, and confirmed by Earthpro staff during the inspection that sediment basin 2 is located in a high point of the premises, and as it is elevated does not capture the full catchment area stated in the Earthpro response. The information provided by Earthpro that this basin does not accept much overland flow, and has not overtopped in some time is evidence that it is not receiving the full volume of water of the upstream catchment.
- Catchment area 4 with a catchment area of 65150m²

reporting to sediment basin 3. As per above this basin receives more catchment area than detailed in the response, and because of the trench on the western boundary of the property, receives much of the water catchment area 2. When this water is included in the calculations for sizing of basins, sediment basin 3 would appear to be undersized.

- It is unclear whether the bunds Earthpro state captures catchment area 1 or catchment area 2, would discharge to sediment basin 2 or sediment basin 3, or discharge directly offsite when overtopping. These bunds Earthpro claim are sediment basins are not appropriately designed or constructed sediment basins and as such the turbid water cannot be treated and discharged in appropriate timeframes to allow for capture of the next rainfall event. The calculations provided by Earthpro do not incorporate the additional storage requirements for sediment basins 2 or 3 to capture overflow from the bunds, and it would not be considered reasonable and practicable for a bund (inappropriately designed sediment basin) to overtop directly off site.

It is considered that Earthpro have not done everything reasonable and practicable to prevent or minimise environmental harm regarding ESC by:

Not providing appropriate erosion control – at the majority of the premises not even the most basic form of erosion control had been established. SCRC have advised that Earthpro have been offered as much free mulch as they require from the adjacent landfill. It is evident that stockpiles that have established for some time at the premises have not been mulched;

not implementing clean water diversion – no clean water diversion at all had been established and the site received clean water from external to the work site which then becomes contaminated at the premises

not stabilising concentrated flow paths – flow paths are not stabilised and as such generate contaminated water by erosion

not stabilising sediment basin inflow structure – the inflow structure is obviously heavily silted and large volumes of silt around the inflow was evident, and the flow path to the sediment basin is heavily silted

By simply stating they are able to capture a design rainfall event and using a bund as a sediment basin does not consider multiple rainfall events in succession, and does not consider the sites ability to deal with above design rainfall events. Once the bunds and basins were full, as the bunds are not an appropriately designed sediment basin they are not able to be effectively treated and clean water discharged from the site in an appropriate time frame, and as such would then discharge turbid water during the next rainfall event. The culvert where

Assessment Report
Environmental Protection Order (EPO)

	all waters discharge from the premises is heavily silted and it is evident that large volumes of sediment have been transported from this site.
Best practice environmental management	The site visit indicates current management of contaminated soil and sediment and erosion control measures do not meet best practice management
Financial implications	The implementation of best practice management will cost Earthpro significant funds. These measures should have been costed as part of the original tender for the contract and Earthpro should have adequate funds to implement their legal responsibilities
Public interest	It is considered that preventing Pb and Bah from entering the waterways is in the public interest as these contaminants can result in health concerns. Also it is in the public interests to ensure a healthy environment
Site management plan	N/A
Any relevant integrated environmental management (IMS) system or IMS	N/A
Any other matter prescribed under a regulation	

5. Recommended conditions

List any proposed conditions below. In order to ensure conditions are enforceable, they should be SMART; specific, measureable, achievable, relevant and time specific. Refer to the writing effective and enforceable conditions procedural guide using (EM2417) for more information on writing conditions.

To ensure the conditions are reasonable officers are required to provide justification for the inclusion of the condition.

Proposed requirement	Justification
----------------------	---------------

Assessment Report

Environmental Protection Order (EPO)

<p>1. By no later than 1200hrs Tuesday 27 August 2013, Earthpro must stabilise the contaminated soil using an impermeable protective cover to prevent erosion of the contaminated soil.</p>	<p>The contaminated stockpile is exposed to rainfall. Rainfall will cause erosion and sediment transport from the stockpile. The bunds around the stockpile are breached or non-existent. Contaminated storm water runoff will occur off site if the stockpile is not covered appropriately. Covering the stockpile using an impermeable protective cover will stop erosion of the stockpile and discharge of contaminated soil from the site.</p>
<p>2. By 1200hrs Wednesday 28 August 2013 Earthpro must provide written evidence to the department at sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558 to demonstrate it has engaged a suitably qualified professional (SQP), who meets the requirements of Part 4, Section 3 of the department's "Guideline for Contaminated Land Professionals" (http://www.ehp.qld.gov.au/licences-permits/contaminated-land/documents/guideline-contaminated-land-professionals.pdf last accessed 20/08/13).</p> <p>3. By no later than 1200hrs Thursday 26 September 2013 the SQP must:</p> <ol style="list-style-type: none"> Have conducted an investigation to determine the extent of the distribution of the contaminated soil within the constraints of the construction site; and establish if contaminants from the contaminated soil have been transported off site; and develop a management plan to manage the contaminated soil until the final completion of the construction works; and confirm the environmental fate of the Lead (Pb) contaminated soil to landfill. <p>4. By no later than 1200hrs Thursday 26 September 2013 the SQP must provide the</p>	<p>The soil stockpile has been poorly managed and has caused environmental harm as a result of the discharge of contaminated water from the site. The exposed stockpile may also pose a danger to workers at the site from wind generated dust from the stockpile. These requirements have been included to require Earthpro to engage a suitably qualified professional to investigate the extent of contamination from sediment transport from the stockpile, and develop a management plan for ongoing management of the stockpile.</p>

Assessment Report
Environmental Protection Order (EPO)

<p>department with the relevant documents required to demonstrate compliance with requirement 3(a), (b), (c), and (d) to sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558.</p> <p>1.</p>	
<p>5. By no later than 1200hrs Wednesday 28 August 2013 Earthpro must provide written evidence to demonstrate to the department that it has engaged an independent Certified Professional in Erosion and Sediment Control (CPESC) to sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558.</p> <p>6. The CPESC must :</p> <ul style="list-style-type: none"> a. Complete an assessment of the existing erosion and sediment controls in place at the premises, and b. develop an operational ESC management plan that meets best practise requirements. <p>7. By no later than 1200hrs Wednesday 11 September 2013 the independent CPESC must provide the assessment and ESC plan referred to in (6) above to sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558. The assessment and ESC plan must:</p> <ul style="list-style-type: none"> a) Include an assessment, which must be presented as an audit of the existing erosion and sediment controls in place at the premises, including but not limited to clean water diversion, erosion control measures, stockpile stabilisation, stabilised concentrated flow paths, sediment control devices, sediment basin design and sizing calculations, and b) include recommendations and timeframes for corrective actions and/ or onsite modifications required as per best 	<p>The premises has either non existent, or poorly designed, poorly maintained ESC in place that would not be considered best practice. As such Earthpro it is considered that Earthpro have not done everything reasonable and practicable to minimise or prevent environmental harm from the discharge of sediment from the site. These requirements have been include for an appropriate professional to assess the existing controls in place, provide recommendations to bring the site up to best practice ESC, and for ongoing ESC management at the site.</p>

Assessment Report
Environmental Protection Order (EPO)

<p>practice erosion and sediment control guidelines, and to achieve compliance with section 319 of the Act; and</p> <p>c) include ESC measures that must be implemented throughout the program of works until the final completion of the construction works; and</p> <p>d) must include certification by the independent CPESC, that it is true, accurate and complete, to the best knowledge and belief of that person.</p> <p>8. By no later than 1200hrs Thursday 26 September 2013 Earthpro must implement all corrective actions and/or onsite modifications recommended by the independent CPESC in the report identified in requirement 7(b).</p> <p>9. By no later than 1200hrs Monday 30 September 2013 the independent CPESC must provide a 2nd report to the department at sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558. This 2nd report must be presented as an audit of the corrective actions and/ or onsite modifications identified in requirement 8.</p> <p>10. From Monday 30 September 2013 until the final completion of the construction works Earthpro must comply with the erosion and sediment control management plan referred to in requirement 6(b).</p> <p>11. From Monday 30 September 2013 until the final completion of the construction works the CPESC must complete monthly audits against the erosion and sediment control management plan in 6(b).</p> <p>12. The audits required by requirement 11 must determine whether Earthpro has complied with the erosion and sediment control management plan in requirement 6(b). Within 10 business days of each audit the CPESC must submit an audit report to sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558.</p>	
---	--

Assessment Report Environmental Protection Order (EPO)

<p>13. By no later than 1200hrs 30 August 2013 Earthpro must ensure fuel storage and refuelling area is compliant with the relevant Australian standard for storage and handling of flammable and combustible liquids. This standard must be maintained until final completion of the construction works.</p> <p>1.</p>	<p>The fuel storage bund was full of water and there was no apron or spill containment for refuelling areas. The bund did not appear adequate to contain volumes that would be required for the size of the fuel storage tank. In addition as the bund is uncovered during the wet season it would regularly contain water that may then be contaminated and require appropriate management as a regulated waste. This requirement has been included to ensure the fuel storage activities are in accordance with appropriate standards.</p>
<INSERT Proposed requirement>	<INSERT Justification>

6. Natural justice

Any information provided by the affected person is to be documented and considered.

- ☒ The person has been notified of the department's decision.

12 August 2013 Roy Davis (Company Director) and, Murshedul Alam – Site Contract Administrator were notified of EHP by email of the grounds and EHPs intent to issue an EPO and given till 1700 15 August 2013 to provide a response on the matter.

- ☒ The person has been provided with the opportunity to put their side of the story forward.

In the email referred to above Earthpro were provided with an opportunity to respond to the concerns raised by the department. The department has considered the information provided by Earthpro in the standard criteria checklist above.

- ☒ The decision-maker and environmental service officer are free from bias or the perception of bias.

7. Recommendation

Officers are requirement to make a recommendation in relation to the issue of an EPO.

A site inspection of the Caloundra landfill, new cell construction site on 7 August 2013 identified that Earthpro Pty Ltd are unable to demonstrate they are implementing all reasonable and practicable measures to demonstrate they are operating in accordance with their General Environmental Duty under Section 319 of the Environmental Protection Act 1994. It is recommended that an EPO be issued to ensure Earthpro engage appropriate professionals to improve environmental management practices at the site to [prevent or minimize environmental harm from the activity.

Assessment Report
Environmental Protection Order (EPO)

sch4p4(6) Personal information	
Signature	Signature

Date: 21/8/13

Melanie Scanes

Date:

Ben Sale

Ewan Bell

sch4p4(6) Personal information

8. Approval

The relevant delegate is required to make a decision and sign and date below.

sch4p4(6) Personal information	
	Signature

Date: 21/8/13

Ben Sale

Manager – Sunshine Coast and Gympie

Delegate of the Chief Executive

Department of Environment and Heritage Protection

Environmental Protection Act 1994

< >

<

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.

Earthpro Pty Ltd
ACN: 077 375 207
C/- Richard Ings Pty Ltd
Bermuda Point
Suite 1303, 1 Lake Orr Drive
VARSITY LAKES QLD 4227
Attn: Director, Roy Davis

Your reference:

Our reference: CA28969

21 August 2013

Dear Mr Davis

Take notice: that under the provisions of the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is served on you by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Heritage Protection (the department).

The EPO is issued in respect to the activities of Earthpro Pty Ltd (Earthpro) at Bells Creek on land described as at Lot 101 on Plan SP232333, 171 Pierce Avenue Bells Creek (the premises).

A. Grounds

This EPO is issued on the following grounds:

- Secure compliance with the general environmental duty provision of the Act.

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

- On 7 August 2013 the department attended at the premises with Sunshine Coast Regional Council (SCRC) officers. The department and SCRC officers carried out an inspection of the premises with Earthpro representatives.
- During the inspection the department observed a large stockpile of soil that was identified as soil extracted from Lot 101 SP232333, which is registered on the Environmental Management Register (EMR). The soil had been subject to a contamination investigation and found to have Lead (Pb) contamination levels that pose a potential risk to human and environmental health.

- The Lead (Pb) contaminated soil (the contaminated soil) stockpile was observed to be exposed to the environment. The bunding and containment around the contaminated soil was poorly maintained, broken, and in places non-existent. Evidence indicated the bunding had been breached at multiple locations. The contaminated soil stockpile had evidence of rill erosion across the surface. It was evident from the inspection, and confirmed by Earthpro staff present during the inspection, that runoff from the contaminated soil that breached the bunding, did not report to any appropriate retention basin and discharged directly to stormwater drains leading to a wetland adjoining the Pumicestone Passage.
- Earthpro staff advised that the contaminated soil was placed on suitable impermeable barrier, but that the contaminated soil was not fully contained on the impermeable barrier.
- In regards to Erosion and Sediment Control (ESC) measures implemented on the premises the department observed the following key points that do not meet the requirements of best practise ESC;
 - No effective clean water diversion in place.
 - Soil stockpiles not stabilised and actively eroding.
 - Limited erosion control measures in place.
 - Sediment fences not installed appropriately.
 - Concentrated flow paths not effectively stabilised.
 - No effective staging of works to minimise sediment release to waters.
 - No stabilisation of sediment basin inflow structure.
 - Sediment basin has never been de-silted, and had not been constructed as per the recommended design.
 - The culvert where all waters discharge from the premises is heavily silted and it is evident that large volumes of sediment have been transported from this site.
- In relation to the designated diesel fuelling area the following observations were made:
 - The fuelling area was bunded and was observed to contain a large volume of water.
 - The bunded fuelling area was observed to be uncovered, appeared to be inadequately sized, and inadequately maintained to contain a spill.
 - No apron or spill containment was observed for the vehicle refuelling area.
- On the basis of these observations the department has reasonable grounds to believe the fuelling area does not meet the requirements of the relevant Australian Standard.

B. Requirements

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

1. By no later than 1200hrs Tuesday 27 August 2013, Earthpro must stabilise the contaminated soil using an impermeable protective cover to prevent erosion of the contaminated soil.
2. By 1200hrs Wednesday 28 August 2013 Earthpro must provide written evidence to the department at sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558 to demonstrate it has engaged a suitably qualified professional (SQP), who meets the requirements of Part 4, Section 3 of the department's "Guideline for Contaminated Land Professionals" (<http://www.ehp.qld.gov.au/licences-permits/contaminated-land/documents/guideline-contaminated-land-professionals.pdf> last accessed 20/08/13).

3. By no later than 1200hrs Thursday 26 September 2013 the SQP must:
 - a. Have conducted an investigation to determine the extent of the distribution of the contaminated soil within the constraints of the construction site; and
 - b. establish if contaminants from the contaminated soil have been transported off site; and
 - c. develop a management plan to manage the contaminated soil until the final completion of the construction works; and
 - d. confirm the environmental fate of the Lead (Pb) contaminated soil to landfill.
4. By no later than 1200hrs Thursday 26 September 2013 the SQP must provide the department with the relevant documents required to demonstrate compliance with requirement 3(a), (b), (c), and (d) to sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558.
5. By no later than 1200hrs Wednesday 28 August 2013 Earthpro must provide written evidence to demonstrate to the department that it has engaged an independent Certified Professional in Erosion and Sediment Control (CPESC) to sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558.
6. The CPESC must :
 - a. Complete an assessment of the existing erosion and sediment controls in place at the premises; and
 - b. develop an operational ESC management plan that meets best practise requirements.
7. By no later than 1200hrs Wednesday 11 September 2013 the independent CPESC must provide the assessment and ESC plan referred to in (6) above to sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558. The assessment and ESC plan must:
 - a) Include an assessment, which must be presented as an audit of the existing erosion and sediment controls in place at the premises, including but not limited to clean water diversion, erosion control measures, stockpile stabilisation, stabilised concentrated flow paths, sediment control devices, sediment basin design and sizing calculations, and
 - b) include recommendations and timeframes for corrective actions and/ or onsite modifications required as per best practice erosion and sediment control guidelines, and to achieve compliance with section 319 of the Act; and
 - c) include ESC measures that must be implemented throughout the program of works until the final completion of the construction works; and
 - d) must include certification by the independent CPESC, that it is true, accurate and complete, to the best knowledge and belief of that person.
8. By no later than 1200hrs Thursday 26 September 2013 Earthpro must implement all corrective actions and/or onsite modifications recommended by the independent CPESC in the report identified in requirement 7(b).
9. By no later than 1200hrs Monday 30 September 2013 the independent CPESC must provide a 2nd report to the department at sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558. This 2nd report must be presented as an audit of the corrective actions and/ or onsite modifications identified in requirement 8.

10. From Monday 30 September 2013 until the final completion of the construction works Earthpro must comply with the erosion and sediment control management plan referred to in requirement 6(b).
11. From Monday 30 September 2013 until the final completion of the construction works the CPESC must complete monthly audits against the erosion and sediment control management plan in 6(b).
12. The audits required by requirement 11 must determine whether Earthpro has complied with the erosion and sediment control management plan in requirement 6(b). Within 10 business days of each audit the CPESC must submit an audit report to sunshinecoast.esr@ehp.qld.gov.au or PO Box 362 MAROOCHYDORE, QLD 4558.
13. By no later than 1200hrs 30 August 2013 Earthpro must ensure fuel storage and refuelling area is compliant with the relevant Australian standard for storage and handling of flammable and combustible liquids. This standard must be maintained until final completion of the construction works.

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 is 2,000 penalty units, totalling \$220,000 or 2 years imprisonment.
2. The maximum penalty for a corporation is 10,000 penalty units, totalling \$1,100,000.

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

1. The maximum penalty for an individual is 50 penalty units, totalling \$5,500.
2. The maximum penalty for a corporation is 250 penalty units, totalling \$27,500.

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 \$5,500.
4. The maximum penalty for a corporation is 250 penalty units, totalling \$27,500.

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:

Notice
Environmental Protection Order

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 (EM709).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 (EM1866). 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 Ewan Bell on telephone number 5459 6128

sch4p4(6) Personal information

Signature

21/08/13

Date

Ben Sale
Manager – Sunshine Coast and Gympie
Delegate of the Chief Executive
Department of Environment and Heritage Protection
Environmental Protection Act 1994

Enquiries:

Department of Environment and Heritage
Protection
12 First Ave, Maroochydore
PO Box 362, Maroochydore QLD 4558
Ph: (07) 5459 6132
Email: sunshinecoast.esr@ehp.qld.gov.au

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>.

Scanes Melanie

From: m.alam@earthpro.com.au
Sent: Thursday, 15 August 2013 11:36 AM
To: ESR - Sunshine Coast
Cc: roy@earthpro.com.au
Subject: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra
Attachments: ResponseLetter.pdf

Good Morning,

Please find attached response letter as per your request regarding ESC issue on Lot 101 on Plan SP232333.

Regards

Murshedul Alam
Site Contract Administrator
EarthPro Pty Ltd
Mobile 0444 444 444 (6) Personal information

From: Bell Ewan [mailto:Ewan.Bell@ehp.qld.gov.au]
Sent: Tuesday, 13 August 2013 10:14 AM
To: roy@earthpro.com.au
Subject: FW: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra

Hi Roy

Further to our discussion yesterday the purpose of providing a natural justice period is for Earthpro to provide EHP with existing operational policies and management procedures to demonstrate compliance with The Act. EHP can then consider this type of information in the decision making process. The purpose of the natural justice period is not to provide the opportunity to engage further consultants.

As such, the period for Earthpro to provide any information remains at 1700hrs 15 August 2013.

I tried to call you earlier to discuss this with you but you were not available. Please contact me if you would like to discuss any of the above.

Regards

Ewan Bell
Principal Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6128 Fax: (07) 5459 6190
ewan.bell@ehp.qld.gov.au
www.ehp.qld.gov.au

From: Bell Ewan
Sent: Monday, 12 August 2013 1:11 PM
To: 'roy@earthpro.com.au'
Subject: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra

Dear Mr Davis

I refer to the site 171 Pierce Avenue Bells Creek, Lot 101 on plan SP232333 for which Earthpro Pty Ltd is contracted by Sunshine Coast Regional Council (SCRC) to conduct works to construct an extension of the current landfill. On the 7 August 2013 EHP officers Ewan Bell and Melanie Scanes conducted an inspection at the site with council staff Debbie Spann and Michael Blakeney and Earthpro staff Lance Carey, Murshedul Alam and George Mumford. The inspection was brought about by concerns raised by SCRC in relation to Earthpro Pty Ltd not conducting operations onsite using all reasonable and practicable measures in regard to management of contaminated soil and erosion and sediment control.

During the inspection the department observed a stockpile known to be contaminated soil, exposed to the environment with evidence of rill erosion across the stockpile surface. Bunding surrounding the stockpile was poorly constructed, poorly maintained, in some places non-existent, and evidence indicated that the bunding had been breached at multiple locations. In addition, it was confirmed during the inspection that stormwater run-off from this stockpile did not report to any form of retention basin, and discharged directly off-site. EHP was advised that the contaminated soil was placed on a suitable impermeable barrier but the volume of soil now extended beyond the extent of the impermeable barrier.

In the course of the inspection EHP officers made observations of the erosion and sediment control measures at the site. EHP officers are of the opinion that all reasonable and practicable measures have not been implemented to demonstrate that Earthpro Pty Ltd are operating in accordance with the general environmental duty obligations under the *Environmental Protection Act 1994* (the Act). EHP officers observed that effective clean water drains had not been established and maintained, concentrated flow paths were poorly maintained, sediment fences not properly installed, large volumes of soil and soil stockpiles exposed with no effective erosion protection measures, and no clarity around sediment basin sizing for catchment area reporting to the basin.

EHP officers also observed diesel fuel and chemical storage area bund to be near full of contaminated water and poorly constructed, and no spillage containment for refuelling areas.

EHP propose to issue Earthpro Pty Ltd an Environmental Protection Order (EPO) under s358 of the Act to secure compliance with the general environmental duty to address the above mentioned issues.

Prior to deciding to issue an EPO, EHP now provide Earthpro Pty Ltd a period of natural justice to provide the department with any information relating the above. Any information provided by Earthpro Pty Ltd must be received at EHP at sunshinecoast.esr@ehp.qld.gov.au or PO Box 362, MAROOCHYDORE QLD 4558 by 1700hrs 15 August 2013.

For your information I have attached a link to the Act, and a copy of EHP's enforcement guidelines. Please note sections 358 and 361 of the Act relating to issuing an EPO and offence not to comply with the order.

Please contact me if you would like to discuss any of the matters raised in this email.

<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/EnvProtA94.pdf>

Regards

Ewan Bell

Principal Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6128 Fax: (07) 5459 6190
ewan.bell@ehp.qld.gov.au
www.ehp.qld.gov.au

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2013.0.3392 / Virus Database: 3211/6573 - Release Date: 08/12/13

RTI DL RELEASE - EHP

To	From
Ewan Bell	Roy Davis
Principal Environmental Officer Department of Environment and Heritage Protection (DEHP) PO Box 362 MAROOCYDORE, QLD 4558 Tel: (07) 5459 6128 Fax: (07) 5459 6190	Managing Director Earthpro Pty Ltd Lot 23 Heinemann Road, Redland Bay PO Box 1954 CLEVELAND DC 4163 Tel: (07) 3829 1577, Fax: (07) 3829 1477
Subject: Environmental Protection Order – Lot 101 on Plan SP232333, Pierce Avenue Caloundra	

Dear Mr Bell,

I refer to your email, sent on 12th August 2013, regarding your inspection findings to the site 171 Pierce Avenue Bells Creek, Lot 101 on plan SP232333. We acknowledge that the inspection was conducted by two DEHP representatives, including yourself and Melanie Scanes, after Sunshine Coast Regional Council (SCRC) raised concern issues regarding Erosion and Sediment Control (ESC) as well as management of contaminated soil. We also noted that the Project Superintendent Michael Blakeney, SCRC representative Debbie Spann, three Earthpro site personnel Lance Carey, Murshedul Alam and George Mumford was present during your inspection on 7th of August 2013.

We understand that you raised concern specifically in below mentioned items:

- Management of contaminated soil particularly erosion across the stockpile surface, run-off from the stockpile and bund around the stockpile.
- ESC measure to the site including management of clean water diversion drain, stockpile erosion and clarification regarding the sediment basin size to store water from the catchment area.
- Storage area of chemical and diesel fuel.

I would like to respond the above mentioned items below. In addition to it I also would like to point out the water discharge methodology Earthpro followed in this project so far.

Management of contaminated soil

There is approximately 16,075.3 (Refer Appendix C for volume confirmation) cubic metre of contaminated soil stockpiled in the south eastern part of the site. Appendix A indicates the location of stockpile. The stockpile area is approximately 5,220 square metres (i.e. 87 m long x 60 m wide). This contaminated soil is excavated from the site which will be stored in mono cell in Cell 9. This contaminated soil will be covered in three layers of lining materials (i.e. HDPE, Geotextile and GCL) before placing leachate drainage aggregate.

Photo 1, 2 and 3 shows the retention basins for the contaminated stockpile area.



Photo 1: Southern part of contaminated stockpile retention basin



Photo 2: Southern part of contaminated stockpile retention basin



Photo 3: South eastern part of contaminated stockpile retention basin

Methodology to calculate the detention basin volume and rainfall event:

An onsite measuring wheel and tape have been used to calculate the area, as well as the depth, of the detention basins. It is assumed the detention basin need to have a capacity to store 40.6 mm rainfall event before discharge it to the spillway. Table 1 summarise the required capacity of the retention basin against actual capacity on site.

Table 1: Contaminated stockpile retention basin capacity volume

Item	Required Volume	Actual Volume	Comment
Retention Basin of contaminated stockpile	87m x 60m x .0406m = 211.9 cubic metre	348.5 m3	Actual volume > Required volume

We believe no contaminated water discharge occurred during a maximum of 40.6 mm rainfall event. During Michael Capper's, of SCRC's environment program officer, inspection on 2nd of July 2013 it is evident that no contaminated water or turbid water leaving offsite after substantial rainfall event (Refer to Appendix D). The discharge of stockpile run-off occurred in the event of rainfall event in excess of 40.6 mm rain.

Earthpro conducted water test from the contaminated retention basin on 31st of January 2013 (Refer to Appendix B for test result) and forwarded to the SCRC environment representative. It can also be noted that no concern has been raised regarding the contamination content in the water, contaminated stockpile management or cross contamination due to stockpile from the SCRC so far.

We regularly monitor the bund arrangement around of the contaminated stockpile. Currently we are installing the bund where it was disturbed due to dump truck movement. We also regularly stabilise the stockpile area to minimise the erosion of the stockpile (Refer to Appendix where SCRC representative make comment regarding stabilising of stockpile).

We also would like to mention that Earthpro requested several time to SCRC to change the contaminated stockpile area to the northern side of the site to minimise the risk of cross contamination and better management. Earthpro also requested SCRC to extend the stockpile area. These requests have been rejected so far. SCRC also aware that the impermeable layer area under the stockpile has exceeded the stockpile area but have not gave us any direction regarding this issue. SCRC initially approved the maximum stockpile height of 2m. Recognising the extra impermeable layer is required, if maximum stockpile height is 2m, Earthpro requested SCRC to lift the stockpile height. SCRC finally approved maximum stockpile height of 6m after continuous request from Earthpro.

ESC management

Please refer to Appendix A regarding current ESC plan for the site. Table 2 summarise the catchment area and sediment basin volume capacity of the site.

Table 2: Catchment area and sediment basin volume capacity.

Item	Volume	Sed. Basin capacity	Comment
Catch. Area 1	27,300 x 0.0406 = 1108.38 m3	More than 1200 m3	Bund to form temporary sed. basin before completion of final drain
Catch. Area 2	44,000 x 0.0406 = 1,786.5 m3	Reference Sed. Basin 1. 100 m long x 70 m wide x 0.3 m deep = 2,100 m3	Bund in cell around Cell 10
Catch. Area 3	27,400 x 0.0406 =1,112.44 m3	Reference Sed. Basin 2 Capacity = 1,174 m3	Refer Appendix C for sediment basin capacity
Catch. Area 4	65,150 x 0.0406 =2,645.09 m3	Reference Sed. Basin 3 Capacity = 2,724 m3	Refer Appendix C For sediment basin capacity

Catch. Area 5	69,300 m2	N/A	Water diverted by Hydromulched Eastern diversion drain
---------------	-----------	-----	---

Note: The catchment area is calculated by scaling from the plan. This area is approximate only.

From Table 2 it is apparent that all the sediment basin capacity is adequate for the rainfall event of 40.6mm. We would also like to mention that SCRC's inspection, on 2nd of July 2013 (refer to Appendix D), did not find any discharge of turbid water offsite. We acknowledge that offsite clean water flows undiverted in some place due to site constraint. We made flow paths to catch this water to the sediment basins and discharge it once it meets required pH and suspended solids level as per DERM requirement.

We also regularly stabilised the stockpiles if we believe these stockpiles are not planned to use in next couple of weeks. We also are currently rectifying the sediment fence around the stockpile areas.

Storage area of chemical and diesel fuel

We are currently working to conform the bund is sufficient to contain at least 100% of the largest storage tank as per DERM Permit number: SPDE03088111.

Water flocculation and clay capping

We clay capped southern part of the site to stop leachate ingress from Cell 8 (refer to Photo 4).



Photo 4: Clay capping to stop leachate ingress

We do flocculation before discharging water offsite. Photo 5 indicates the successful flocculation in all the sediment basins. We regularly record and photographed the water quality before pump the water offsite. This record is available onsite and can be forwarded if DEHP would like to investigate further.

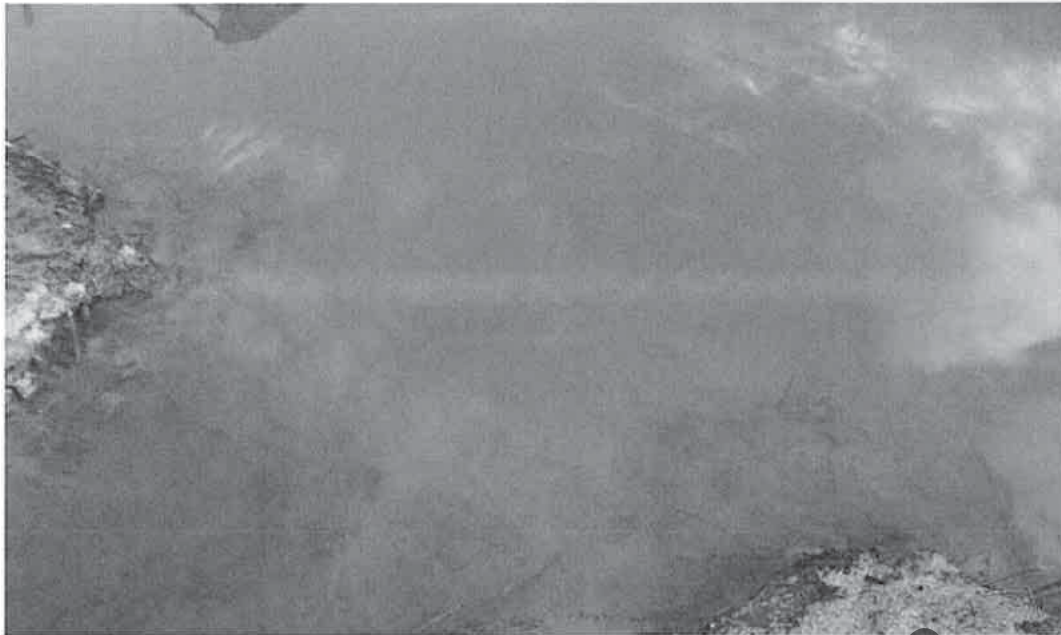


Photo 5: Successful water flocculation in sediment basins

Leachate Pumping from Cell 8 to water discharge outlet

We noticed Leachate been pumped from Cell 8 to the same outlet where we discharge water. Photo 6 and 7 indicates the leachate been pumped regularly from Cell 8 to offsite. We will provide the video evidence if DEHP would like to investigate it further.



Photo 6: Hose to pump leachate from Cell 8 to the outlet



Photo 7: Leachate pumping offsite from Cell 8

We would like to mention that Earthpro is making all reasonable and practicable effort to conform ESC requirement. The site inspection, after substantial rainfall event, by Michael Capper (refer Appendix D) confirms that although the site does not utilise the typical suite of ESC management techniques, however it was compliant on the day of the inspection due to total capture approach to Water Quality.

We would like you to consider above facts before making any decision regarding issuing of Environmental Protection Order.

Regards

Date

Roy Davis

15th August 2013

APPENDIX A

RTI DL RELEASE - EHP

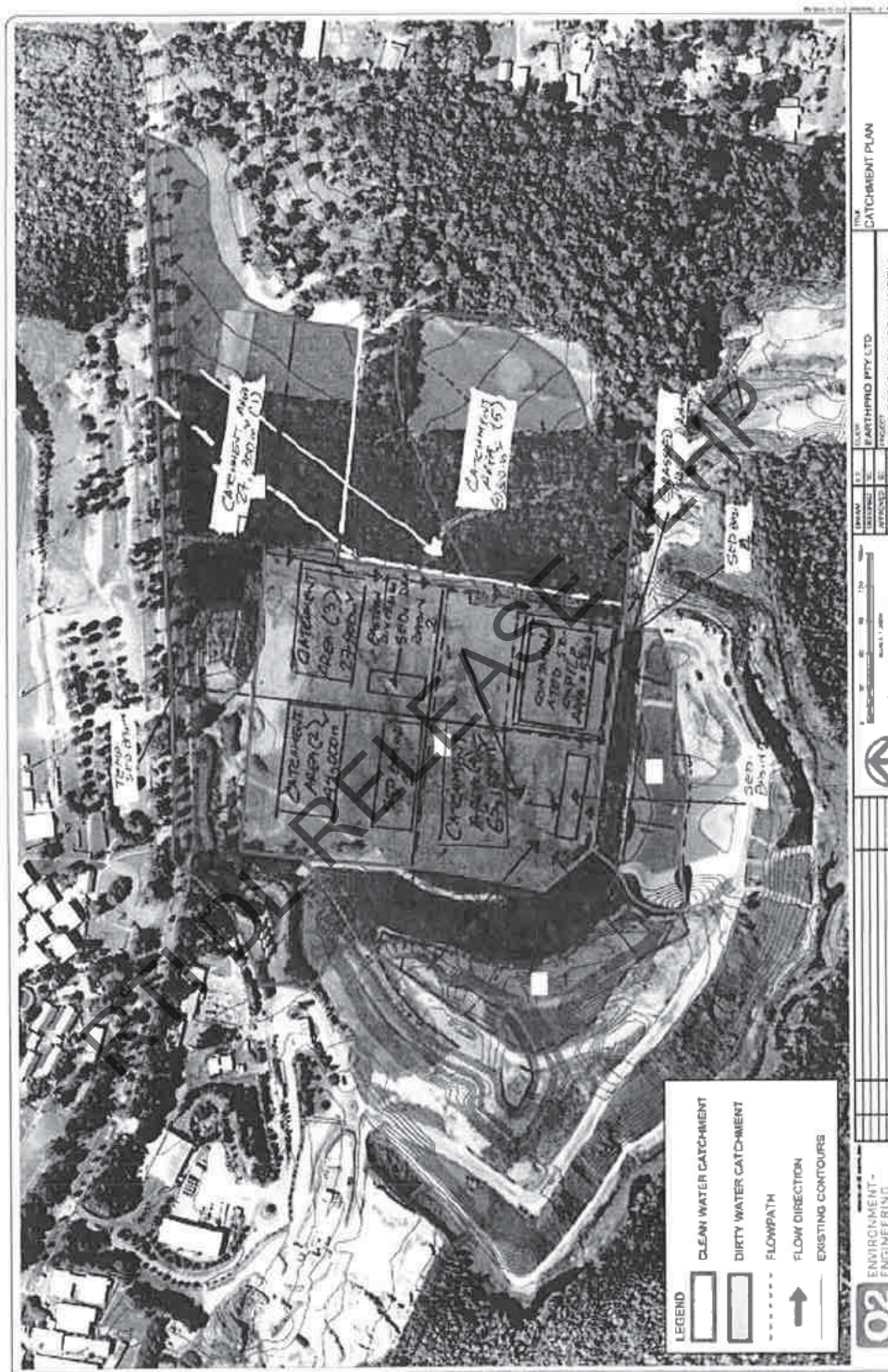


Figure 1: Rainfall catchment area and location of Contaminated stockpile area

APPENDIX B

RTI DL RELEASE - EHP



Unitywater

Unitywater Laboratory - Moreton Bay

67 Weier Rd, Morayfield

P.O. Box 953 Caboolture Qld 4510

Phone: (07) 5420 0720

Fax: (07) 5420 0716

E-mail: labstaff@unitywater.com

Final Report

ISSUE DATE: 31/01/13

REPORT NUMBER: UMB130265 - 00

REGISTRATION DETAILS

JOB DESCRIPTION: Earthpro

JOB REFERENCE: UMB130265

REGISTRATION DATE: 31/01/2013

SAMPLE DATE: 30/01/2013

CUSTOMER DETAILS

NAME:

ADDRESS:

Report Authorisation:

This document has been electronically signed by the approver indicated below.

Electronic signing has been carried out in compliance with procedures specified in QD07 and CQ03.

Approver Category

Nicholas Heeney

Chemical

This report supersedes any previous report(s) with this reference. Results apply to the sample(s) as submitted.

Analyte	NATA	Method	LOR	Units	EarthPro 30/01/2013 09:00
Copper	-	TM50	0.001	mg/L	<0.01
Iron	-	TM50	0.01	mg/L	0.85
Nickel	-	TM50	0.001	mg/L	0.001
Lead	-	TM50	0.001	mg/L	0.02
Zinc	-	TM50	0.01	mg/L	0.05

Attachment/s:

NATA Accreditation:

- NATA accreditation is not held for the test.

USC* Lab analysis conducted at Unitywater Sunshine Coast Laboratory (No NATA Accreditation)

E External Laboratory (refer to attachment/s).

Abbreviations

LOR: Limit of Reporting; NT: Not tested; ND: Not detected; NS: No sample; NA: Not assigned, test not requested; NR: Not Reported; EST: estimated count

Bold: Result is outside acceptance limits.

The laboratory welcomes your feedback on our performance. Please send your comments to bob.sheedy@unitywater.com

APPENDIX C

RTI DL RELEASE - EHP

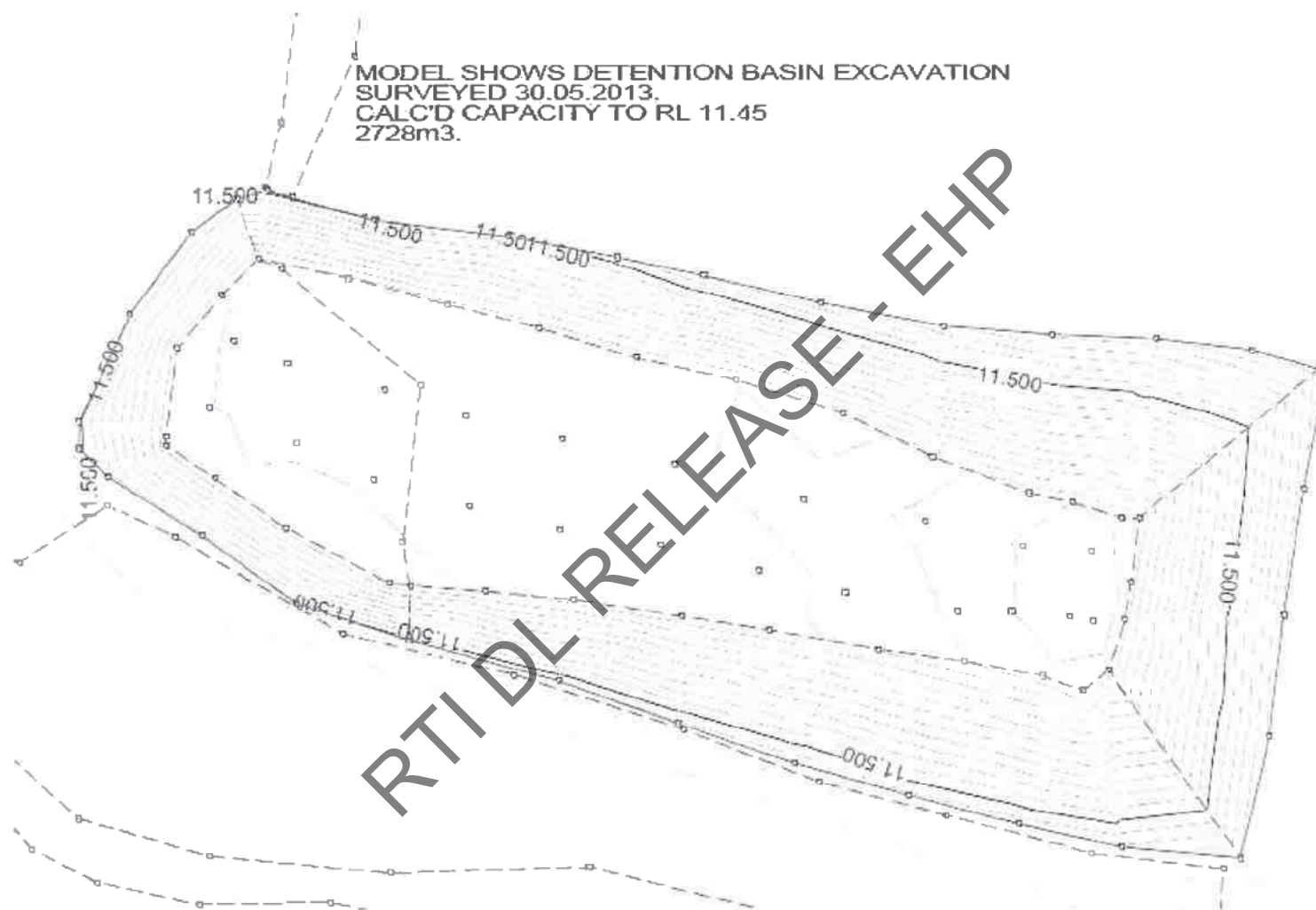


Figure 4: Survey plan of sediment basin 3

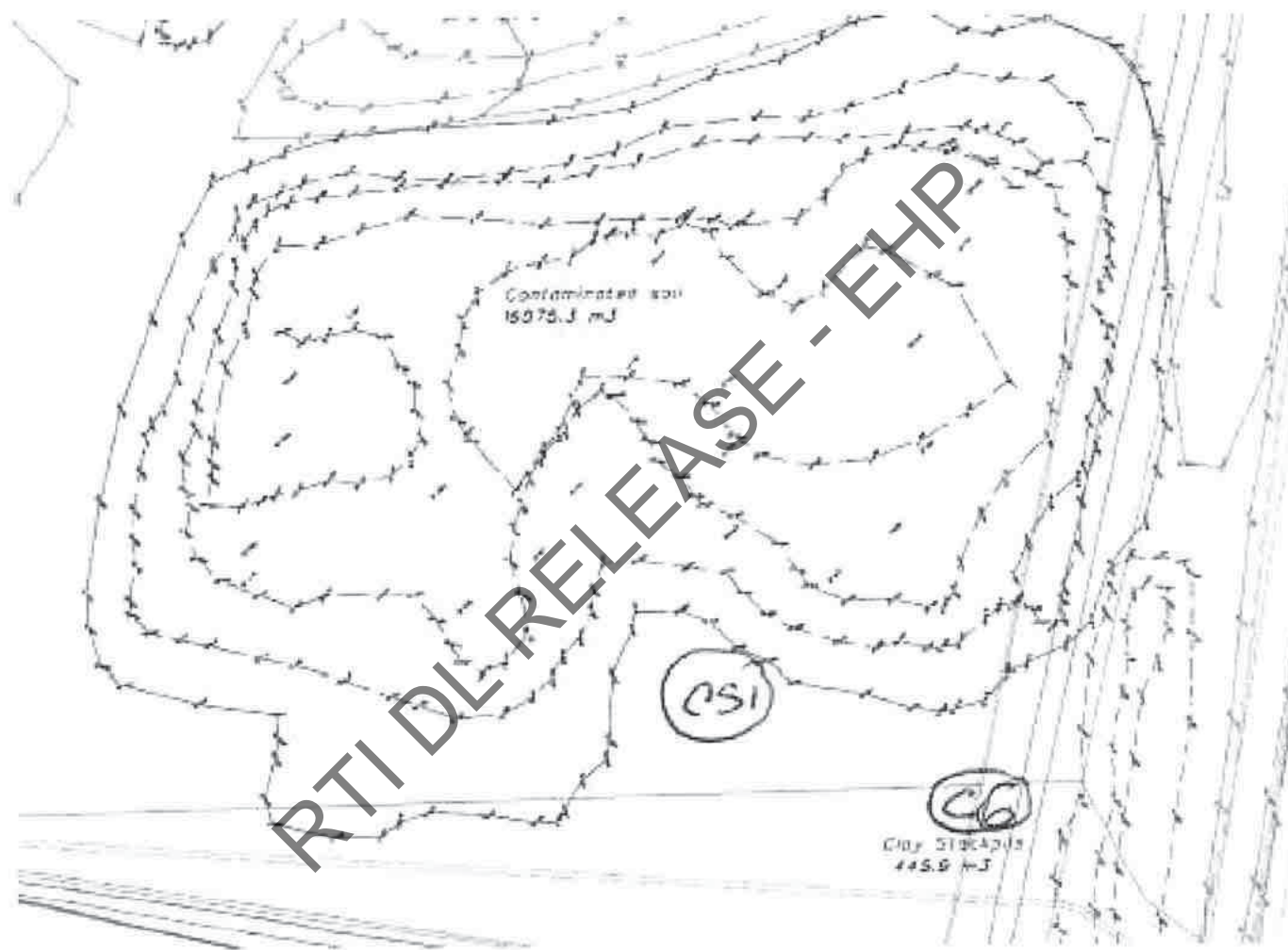


Figure 4: Contamination soil stockpile volume

APPENDIX D

RTI DL RELEASE - EHP

From: Michael Capper <Michael.Capper@sunshinecoast.qld.gov.au>
Sent: Monday, 15 July 2013 1:22 PM
To: Dave.Barrett@ghd.com
Cc: 'mab@bmce.com.au'; Debbie Spann; Leon Rowlands; 'm.alam@earthpro.com.au'; 'roy@earthpro.com.au'; Steve Pollard; Penny Houston
Subject: Second Inspection - Pierce Avenue - Waste Facility Cell Construction - Erosion Prevention and Sediment Control Audit

Dear All,

As per the commitment below, a second inspection of the Pierce Avenue waste facility cell construction area was undertaken by Council's Hydraulic and Water Quality Unit. The inspection followed substantial rainfall and was conducted for the purpose of viewing the performance of erosion prevention and sediment capture management techniques as applied by Earth Pro Contractors. The inspection was conducted in the presence of Earth Pro personnel on 02.07.2013.

The site was assessed again under three broad E&SC disciplines;

1. Erosion prevention,
2. Concentrated stormwater flow paths, and
3. Sediment capture.

Findings/recommendations

- The inspection again revealed that erosion protection was limited across the site with the entire work area disturbed at the time of the inspection. Construction drawings required a staged methodology to be employed to reduce this exposure.

To meet best practice and reduce pressure on sediment capture areas, future construction methodology should focus on completing earthworks zones to facilitate progressive and permanent stability rather than this holistic approach.
- The site entrance had been serviced and modified to best practice standards. Further review will be required if traffic numbers via this entrance increase. Regular monitoring and maintenance will also be required to ensure this device continues to perform as required.
- Several dirty water concentrated flow paths had been installed across the site to direct water and prevent batter erosion. These unlined flow paths were functioning but will require regular monitoring and maintenance to ensure their functionality continues.
- Offsite clean water flows remain undiverted and still enter the site in multiple locations. These flows must be treated as part of the dirty water capture system. Any opportunity to divert clean water flows around or cleanly through the site should be utilised.
- Stockpiled material had been mechanically worked to increase batter stability with most piles utilising an appropriately placed sediment fence. Material proposed to be stockpiled for extended periods should be temporarily stabilised to meet best practice.

- There was no evidence of a contaminated water release from the earthworks area during the most recent rainfall event. The current topography sees both the construction area and sediment basins hold contaminated water ready for chemical treatment.
- Earth Pro representatives acknowledged that all contained water will be batch treated to meet the discharge requirements using calcium chloride before discharge off site. Event based and post treatment monitoring was discussed with the contractor who committed to sending a brief summary report including WQ data and photos to the Hydraulics and Water Unit of this batch treatment and any future treatment.

The site does not utilise the typical suite of E&SC management techniques, however it was compliant on the day of the inspection because of the total capture approach to WQ. It is noted that this technique, although compliant with the environmental legislative requirements, will be causing considerable delays. As previously mentioned, any opportunity to divert clean water flow around or cleanly through the site should be explored. As filling progresses and capacity for water storage is lost, a transition into these more typical E&SC management techniques will also be required. Again the importance of progressive stabilisation needs to be reiterated.

No immediate action is required by the Hydraulics and Water Quality Unit. The site will be added to our general site reinspection circulation.

Any further details required, please contact me directly on the number listed below

Regards,

MICHAEL CAPPER | ENVIRONMENT PROGRAM OFFICER

Hydraulics and Water Quality Unit | Engineering and Environment Assessment Branch
Sunshine Coast Regional Council

(07) 5475 9904 | M (6) Personal information | (M611)
michael.capper@sunshinecoast.qld.gov.au
Locked Bag 72, Sunshine Coast Mail Centre Q 4560
www.sunshinecoast.qld.gov.au

From: Michael Capper

Sent: Wednesday, 19 June 2013 4:35 PM

To: 'Dave.Barrett@ghd.com'

Cc: 'mab@bmce.com.au'; Debbie Spann; Leon Rowlands (Leon.Rowlands@sunshinecoast.qld.gov.au); 'm.alam@earthpro.com.au'; roy@earthpro.com.au'; Steve Pollard; Penny Houston

Subject: Pierce Avenue - Waste Facility Cell Construction - Erosion Prevention and Sediment Control Audit

Dear All,

As you are aware, an Audit for the purpose of assessing E&SC compliance against the requirements of the EP Act was conducted on 18.06.2013 at the above site by Council's Hydraulic and Water Quality Unit. The Inspection was conducted in the company of Earth Pro representative Lance Carey. The following highlights issues of non-compliance that must be addressed within two weeks from the date of this email or prior to rainfall where practical. I take this opportunity to remind all parties that this audit is independent of any requirements set by the contractual arrangements between SCRC and Earth Pro. It should also be noted that those in possession of and responsible for the environmental management of the site, need to be able to demonstrate that all reasonable and practical measures have been taken to prevent or limit water contamination and fulfilled their General Environmental Duty. Please find list of concerns below.

Erosion Prevention

- The site had little in the way of erosion protection. Preventing the movement of soil rather than capturing it demonstrates best practice. Areas that are not being actively worked (greater than 2 weeks of no construction activity) should be either permanently or temporary stabilised.

- The site has a large number of eroded stockpiles which require stabilisation.
- Site works had not been staged with all worked pads exposed to erosive forces. Either temporarily stabilise areas that are not being actively worked or progressively complete and stabilise work areas where possible.

Concentrated Stormwater flows

- Clean water diversion was not being successfully implemented with all clean water flows eventually entering the construction area. Sediment basins must be sized to capture and treat these extra flows to meet best practice. Any opportunity to reduce water entering the site or controlling clean water flow through the site must be utilised where possible.
- Large exposed pads need to drain to an appropriately sized sediment basin. Drains should be installed to minimise sheet and prevent rill erosion across work areas and must be lined to minimise erosion within the concentrated flow path.

Sediment Capture

- Sediment basins need to be appropriately sized for the entire catchment they receive.
- Sediment basins should passively receive contaminated water flows via an engineered entry and discharge via an engineered exit to an area that will not cause suspension of contaminants. Currently basins are perched above the work areas.
- Captured contaminated water must be treated to meet the required standards. At the time of the inspection water had been actively released from the two onsite basins. A flocculation product was noted, however water quality outside of the required WQ criteria was observed at the outlet to the site suggesting that the management of water treatment onsite had failed to meet the required standards.
- The site entry was not compliant and was likely to allow sediment to be carried onto Pierce Ave. Maintenance of this entry should be undertaken to reduce sediment transport onto the road.

The site had an E&SC plan which was prepared by a suitably qualified person. It was noted that the plan did not reflect the current state of work on the site and that an updated E&SC plan was therefore required. It is recommended, to prevent escalation, that this new information be sent by Earth Pro and implemented within the two week time frame, as described above. Please do not hesitate to contact me via email or mobile phone if you wish to discuss the requirements of this email in more detail.

Regards,

MICHAEL CAPPER | ENVIRONMENT PROGRAM OFFICER

Hydraulics and Water Quality Unit | Engineering and Environment Assessment Branch
Sunshine Coast Regional Council

(07) 5475 9904 ext 4 (6) Personal Information 1)
michael.capper@sunshinecoast.qld.gov.au
Locked Bag 72, Sunshine Coast Mail Centre Q 4560
www.sunshinecoast.qld.gov.au



To find out more about the Sunshine Coast Council, visit your local office at Caloundra, Maroochydhore, Nambour or Tewantin or visit us online at www.sunshinecoast.qld.gov.au. If correspondence includes personal information, please refer to [Council's Privacy Policy](#)

This email and any attachments are confidential and only for the use of the addressee. If you have received this email in error you are requested to notify the sender by return email or contact council on 07 5475 7272, and are prohibited from forwarding, printing, copying or using it in anyway, in whole or part. Please note that some council staff utilise mobile devices, which may result in information being transmitted overseas prior to delivery of any communication to the device. In sending an email to Council you are agreeing that the content of your email may be transmitted overseas. Any views expressed in this email are the author's, except where the email makes it clear otherwise. The unauthorised publication of an email and any attachments generated for the official functions of council is strictly prohibited. Please note that council is subject to the Right to Information Act 2009 (Qld) and Information Privacy Act 2009 (Qld).



Compliance Activity Details Report

Compliance Activity Ref: CA28969

Priority/Sensitive: N

Client

Ref	Name	Address	Phone	Mobile	Fax	Email
675163	Sunshine Coast Regional Council	C/- Mark Rigby & Associates PO Box 480 ROBINA QLD 4226		sch4p4(6) Personal information		mrigby@mraenvir onmental.com.au

Activity Location

Name	Risk Level	Address
Pierce Avenue, Bells Creek	3 Moderate	171 Pierce Ave BELLS CREEK QLD 4551

Program Type: Environment

Compliance Program: 2013-14/Environment/SouthernRegion/General Inspections/Environmental Services

Status: Under compliance action

Info Entered: 09/AUG/13

Project Manager: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Subject: EPO Earthpro

Enforcement Measure

Type	Ref	Issued/Received Date	Status
PIN	PIN5791	25/NOV/13	Issued
PIN	PIN5792	25/NOV/13	Withdrawn
PIN	PIN5793	25/NOV/13	Withdrawn
PIN	PIN5794	27/NOV/13	Issued
PIN	PIN5795	27/NOV/13	Issued
Statutory Order	STAT811	21/AUG/13	Active

Running Sheet Summary

Accrued Time: 196 hrs 45 mins

Date Commenced	Due Date	Action Type	Officer Involved	Outcome	Date Completed
31/AUG/13		Email Received	SCANES, Melanie	Action Required - show cause notice	
06/SEP/13		Compliance notice	SCANES, Melanie	Action Required - awaiting response	
25/NOV/13		Enforcement Measure	SCANES, Melanie	Action Required - awaiting PIN payment	
27/NOV/13		PIN - withdrawn	SCANES, Melanie	Enf Measure - PIN	
27/NOV/13		Enforcement Measure	SCANES, Melanie	Action Required - awaiting PIN payment	
26/SEP/13		Email Received	SCANES, Melanie	Action Required - further investigation	
30/SEP/13		Email Received	SCANES, Melanie	Action Required - progressing towards compliance	
10/OCT/13		Email Received	SCANES, Melanie	Action Required - progressing towards compliance	
10/OCT/13		Email Received	SCANES, Melanie	Action Required - further investigation	
11/OCT/13		Email Received	SCANES, Melanie	Action Required - further investigation	
11/OCT/13		Other	SCANES, Melanie	Action Required - progressing towards compliance	
17/OCT/13		Email Received	SCANES, Melanie	Action Required - further investigation	
17/OCT/13		Email Received	SCANES, Melanie	Action Required - awaiting response	
17/OCT/13		Email Received	SCANES, Melanie	Action Required - progressing towards compliance	
24/OCT/13	24/OCT/13	Telephone Call	SCANES, Melanie	Action Required - further investigation	24/OCT/13
24/OCT/13	24/OCT/13	Telephone Call	SCANES, Melanie	Action Required - awaiting response	24/OCT/13
24/OCT/13		Telephone Call	SCANES, Melanie	Action Required - awaiting response	
24/OCT/13	25/OCT/13	Telephone Call	SCANES, Melanie	Action Required - awaiting response	
06/SEP/13		Email Received	SCANES, Melanie	Action Required - progressing towards compliance	
28/OCT/13		Letter - received	SCANES, Melanie	Action Required - further investigation	
31/OCT/13		Site Inspection - other	SCANES, Melanie	Action Required - further investigation	
31/OCT/13		Email Received	SCANES, Melanie	Action Required - further investigation	
21/AUG/13		Enforcement Measure	SCANES, Melanie	Enf Measure - EPO	



Compliance Activity Details Report

Running Sheet Summary

Date Commenced	Due Date	Action Type	Officer Involved	Outcome	Date Completed
22/AUG/13		Telephone Call	SCANES, Melanie	NFA - enquiry answered	
07/AUG/13		Frontline complaint handling	SCANES, Melanie	Action Required - enforcement measure	
15/AUG/13		Email Received	SCANES, Melanie	Action Required - progressing towards compliance	
20/SEP/13		Meeting	SCANES, Melanie	Action Required - progressing towards compliance	
24/OCT/13		Telephone Call	SCANES, Melanie	Action Required - awaiting response	
24/OCT/13		Telephone Call	SCANES, Melanie	Action Required - awaiting response	
12/SEP/13		Email Received	SCANES, Melanie	Action Required - progressing towards compliance	
01/NOV/13		Email Received	SCANES, Melanie	Action Required - further investigation	
06/NOV/13		Email Sent	SCANES, Melanie	Action Required - awaiting response	
11/NOV/13		Email Received	SCANES, Melanie	Action Required - further investigation	
27/AUG/13		Site Inspection - other	SCANES, Melanie	Action Required - progressing towards compliance	
28/AUG/13		Email Received	SCANES, Melanie	Action Required - progressing towards compliance	
12/AUG/13	15/AUG/13	Enforcement Measure	SCANES, Melanie	Action Required - awaiting response	

Related Compliance Activity

Ref	Type	Information Entered	Client	Activity Location
CA26705	Southern Region Compliance Program	09/AUG/13	Sunshine Coast Regional Council	Pierce Avenue, Bells Creek
CA29222	Environment	09/AUG/13	Sunshine Coast Regional Council	Pierce Avenue, Bells Creek
CA29605	Environment	09/AUG/13	Sunshine Coast Regional Council	Pierce Avenue, Bells Creek
CA29822	Southern Region Compliance Program	09/AUG/13	Sunshine Coast Regional Council	Pierce Avenue, Bells Creek

Related Permits

Ref	Type	Client	Location	Issued Date	Status
CSAP02733411	Requests for Advice - MOA DPIF DNRW	Sunshine Coast Regional Council	Pierce Avenue, Bells Creek		Withdrawn
ENRE00850208	Registration - suitability report not required	Reeve, Garry	Pierce Avenue, Bells Creek		Superseded
ENRE00850208	Registration - suitability report not required	Reeve, Garry	Pierce Avenue, Bells Creek		Superseded - Greentape
ENRE00850208	Registration - suitability report not required	Sunshine Coast Regional Council	Pierce Avenue, Bells Creek		Superseded
ENRE00850208	Registration - suitability report not required	Sunshine Coast Regional Council	Pierce Avenue, Bells Creek		Superseded - Greentape
EPPR00978713	Environmental Authority (Site Specific)	Reeve, Garry	Pierce Avenue, Bells Creek		Assessment
EPPR00978713	Environmental Authority (Site Specific)	Reeve, Garry	Pierce Avenue, Bells Creek		Current
EPPR00978713	Environmental Authority (Site Specific)	Sunshine Coast Regional Council	Pierce Avenue, Bells Creek		Assessment
EPPR00978713	Environmental Authority (Site Specific)	Sunshine Coast Regional Council	Pierce Avenue, Bells Creek		Current
SPDE03088111	Development Approval for a MCU involving an ERA.	Rigby, Mark	Pierce Avenue, Bells Creek		Current
SPDE03088111	Development Approval for a MCU involving an ERA.	Sunshine Coast Regional Council	Pierce Avenue, Bells Creek		Current
SPDL03088211	Development Approval for a MCU involving contaminated land.	Sunshine Coast Regional Council	Pierce Avenue, Bells Creek		Current



Running Sheet Summary

Compliance Activity Ref: CA28969

Client						
Ref	Name	Address	Phone	Mobile	Fax	Email
675163	Sunshine Coast Regional Council	C/- Mark Rigby & Associates PO Box 480 ROBINA QLD 4226		sch4p4(6) Personal information		mrigby@mraenvironmental.com.au

Activity Location		
Name	Risk Level	Address
Pierce Avenue, Bells Creek	3 Moderate	171 Pierce Ave BELLS CREEK QLD 4551

Source Ref: CA28969

Action Source Ref:

Date Commenced: 07/AUG/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Frontline complaint handling

Inspection Type: Reactive - initial

Enforcement Measure Type:

Referral To:

Action: Debbie Spann of council rang to request EHP visit site as they had been notified that Earthpro were releasing from a sediment basin and the release may not be in accordance with licence. On arrival the release had ceased. EHP officers Ewan Bell and Melanie Scanes inspected the site.

Time Spent Hours: 8

Time Spent Minutes:

Outcome: Action Required - enforcement measure

Outcome Description: Review of finding observed that contaminated soil is not being appropriately managed and erosion and sediment control measures are very poorly constructed and managed. Considering serving EPO.

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 12/AUG/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Enforcement Measure

Inspection Type:

Enforcement Measure Type: Warning

Referral To:

Action: Earthpro sent via email from Ewan Bell a Natural Justice notification for an imminent issuing of an EPO. Based on Contaminated soil poor management, ESC poor management and fuel storage poor management

Time Spent Hours: 30

Time Spent Minutes:

Outcome: Action Required - awaiting response

Outcome Description: Given to 1700hrs Thursday 15 August to provide a response

Due Date: 15/AUG/13



Running Sheet Summary

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 15/AUG/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Email Received

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Response to natural justice period recieved from Earthpro via email. Filed in Keeper

Time Spent Hours:

Time Spent Minutes: 30

Outcome: Action Required - progressing towards compliance

Outcome Description: Review natural justice response and decide on whether to issue EPO

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 21/AUG/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Enforcement Measure

Inspection Type:

Enforcement Measure Type: Statutory Order

Referral To:

Action: EPO sent to Earthpro regarding contaminated land mgt, ESC and Fuel storage.

Time Spent Hours: 45

Time Spent Minutes:

Outcome: Enf Measure - EPO

Outcome Description: Monitor compliance

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 22/AUG/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast



Running Sheet Summary

Action Type: Telephone Call

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Debbie Spann of SCRC rang - Project Manager of cell 9 construction works. Asked about the use of as a cover of the contaminated soil. Ewan advised me he had approved a request from Earthpro to use mulch. She thought it wasn't suitable as it added to the volume of the final product to be sealed in the cell and will prevent proper compaction of the soil. MS advised that we wanted the contaminated soil covered ASAP. This was acceptable as a stabilisation measure. Her concerns were more operational and needed to be directed to Earthpro directly. Earthpro need to engage a contaminated lands professional in the next week. This person should advise on the best management to seal the material in a cell onsite.

Time Spent Hours: 30

Time Spent Minutes:

Outcome: NFA - enquiry answered

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 27/AUG/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Site Inspection - other

Inspection Type: Proactive - followup

Enforcement Measure Type:

Referral To:

Action: Site Inspection conducted to review compliance with EPO Requirement 1. Attended by Melanie Scanes and Rickie Huckle. Met with Roy Davis and Alam Murshedul of Earthpro. Inspection report completed

Time Spent Hours: 8

Time Spent Minutes:

Outcome: Action Required - progressing towards compliance

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 28/AUG/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Email Received

Inspection Type:

Enforcement Measure Type:

Referral To:



Running Sheet Summary

Action: Email recived advising of appointment of ESC and CL consultants. No qualifications were received on either consultant. Advised Earthpro of further requirements to comply with Requirement 2 and 5.

Time Spent Hours:

Time Spent Minutes: 45

Outcome: Action Required - progressing towards compliance

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 31/AUG/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Email Received

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Email received stating Contour have been engaged for ESC works and that Brett Thomson is their office is a CPESC Lic 4374.

Time Spent Hours:

Time Spent Minutes:

Outcome: Action Required - show cause notice

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 06/SEP/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Compliance notice

Inspection Type:

Enforcement Measure Type: Statutory Order

Referral To:

Action: Earthpro sent by Mail and email a Show Cause Notice advising they have breached Requirement 2 of EPO - have not provided written evidence that the person engaged for CL investigation is a SQP.

Time Spent Hours: 3

Time Spent Minutes:

Outcome: Action Required - awaiting response

Outcome Description:

Due Date:



Running Sheet Summary

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 06/SEP/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Email Received

Inspection Type:

Enforcement Measure Type: Statutory Order

Referral To:

Action: In response to Show Cause Notice Earthpro and Duke Environmental provided a Stat Dec for SQP in CL

Time Spent Hours:

Time Spent Minutes: 30

Outcome: Action Required - progressing towards compliance

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 12/SEP/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Email Received

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Requirement 7 of EPO (ESC assessment and corrective actions) due 1200hrs 110913. Reminder email sent to Roy Davis and Murshel Alam at 8.30am. Report did not arrive by 1200 hrs. Murshel called at 3.30pm followed by Roy Davis at 4.00. Advising Contour had a fire drill and that is why it is late. The report arrived by email at 6.30pm in the ESR email box. Also requested advice on the fuel storage and if it is compliant with the appropriate standard. Requested by 120913.

Time Spent Hours: 1

Time Spent Minutes:

Outcome: Action Required - progressing towards compliance

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 20/SEP/13

Running Sheet Summary

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Meeting

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Meeting held in EHP offices, v attended by representatives of EHP, Earthpro, Contour and Duke Environmental to discuss EPO complex interrelated issues of ESC and CL.

Time Spent Hours: 6

Time Spent Minutes:

Outcome: Action Required - progressing towards compliance

Outcome Description: Send letter to Earthpro advising of expectations from EHP or meeting

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 26/SEP/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Email Received

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: EHP provided by Duk Environmental of testing results to decide on best fate of water in sediment basin. A request was sent by EHP to DTISDIA to request technical advice in relation to a release.

Time Spent Hours: 1

Time Spent Minutes:

Outcome: Action Required - further investigation

Outcome Description: Awaiting advice and info to assess validity of ss science behind release

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 30/SEP/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Email Received

Inspection Type:

Enforcement Measure Type:

Referral To:

Running Sheet Summary

Action: Email containing Req 9 audit of EPO CA 28969

Time Spent Hours: 1

Time Spent Minutes:

Outcome: Action Required - progressing towards compliance

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 10/OCT/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Email Received

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Received email from Duke environmental identifying a need to release from southern sediment dam as dam is reaching capacity. Asked Duke to provide environmental plan and risk management strategy.

Time Spent Hours: 1

Time Spent Minutes:

Outcome: Action Required - progressing towards compliance

Outcome Description: ongoing

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 10/OCT/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Email Received

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Requested technical advice from DSTIDIA regarding a release from sediment dam. Advice from Neil Tripodi received.

Time Spent Hours: 1

Time Spent Minutes:

Outcome: Action Required - further investigation

Outcome Description:

Due Date:



Running Sheet Summary

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 11/OCT/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Other

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Discussions held between Paul Butcher, Ben Sale and Melanie Scanes regarding the justification for a release from the sediment basin. All agreed the SQP failed to give info on how environmental risk was addressed and managed demonstrating they are meeting their general environmental duty. The request was based on operational consideration and this is not a suitable reason.

Time Spent Hours: 2

Time Spent Minutes:

Outcome: Action Required - progressing towards compliance

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 11/OCT/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Email Received

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Email received from Earthpro regarding a release to water from southern sediment da. Review of letters revealed request was for operational reasons and SQP failed to support a release with suitable environmental risk management plan. EHP advised an operational release is not appropriate

Time Spent Hours: 2

Time Spent Minutes:

Outcome: Action Required - further investigation

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 17/OCT/13



Running Sheet Summary

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Email Received

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Email recived from Duke Environmental with management pan for a relese attached. This plan was considered to meet the need to demionstrate their general environmental duty.

Time Spent Hours: 1

Time Spent Minutes:

Outcome: Action Required - progressing towards compliance

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 17/OCT/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Email Received

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Email recieved from Duke Environmental advising of additional testing results. Asking is a release suitable.

Time Spent Hours: 30

Time Spent Minutes:

Outcome: Action Required - further investigation

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 17/OCT/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Email Received

Inspection Type:

Enforcement Measure Type:

Referral To:



Running Sheet Summary

Action: Request sent to DSTIDIA to request review of new data, email response received from Neil Tripodi advising also of what might be a suitable management plan for the release. MS then spoke to Duke Environmental (Paula Duke) and discussed that for a release they need to provide a management identifying the risk, the mitigation and onsite management plan. She stated she would provide one

Time Spent Hours: 1

Time Spent Minutes:

Outcome: Action Required - awaiting response

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 24/OCT/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Telephone Call

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: At 11.26am and Rang Penny bac she didnt answer so I left msg for her to call me back. She promptly called me back and I asked if she or someone else could have a look to see if Earthpro had turned off the water pump for the sediment dam. She said she would walk over and have a look and call me back. In a few minutes she called me back and stated she could not hear the pump and thought it had been turned of. I thanked her and ended the call.

Time Spent Hours:

Time Spent Minutes: 15

Outcome: Action Required - awaiting response

Outcome Description: Awaiting reponse from Lance regarding investigation

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 24/OCT/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Telephone Call

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Murshed from Earthpro rang. He asked, we have conducted the release in accordance with the management plan, what do you want me to report. We have done nothing wrong. I said have you spoken to Lance he saif yes. Did Lance advise of a release. He didnt anser the question. I advised lance has advised a release has occurred. I have been provided with photograph of a release occurring. Earthpro need to provide a report of the event that occurred, how it occurred and what is being done in repsonse to that release. I said I would like that report tomorrow, under your duty to notify you can have 48hrs from becoming aware of the incident.



Running Sheet Summary

Time Spent Hours:

Time Spent Minutes: 30

Outcome: Action Required - awaiting response

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 24/OCT/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Telephone Call

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: MS rang Roy Davies of Earthpro to advise him that after discussions with Alex Patissiar(SCRC) Due to the clean water drain currently being reconstructed there can be no further release down stream unless there are discussions with council. The different contractors need to coordinate. I also reminded Roy of his environmental duty to notify. I email Roy and Murshed the DTN factsheet from EHP. I requested a report be provided preferably tomorrow on the release identified onsite.

Time Spent Hours:

Time Spent Minutes: 30

Outcome: Action Required - awaiting response

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 24/OCT/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Telephone Call

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Lance rang back at 11.31. He advised that while he was away from the pump someone had moved the hose in the dam and in doing so disturbed the bottom sediment. He said some dirty water had been released. He doesn't know why anyone moved the hose he is in the process of looking into that. We had a discussion and in that he said the dam down to 1m at the shallow end and he needed to start using a smaller hose. Since this disturbance he may not be able to release any more water and the remaining water will need to be pumped and taken away. He wanted to get all the water out of the sed dam before possible rain tomorrow. I said this seems reasonable. I requested he conduct a full investigation into how the sediment laden release occurred, what will be put in place to stop it happening again and provide it to myself by email tomorrow. He said he would do that.

Time Spent Hours:

Time Spent Minutes: 30



Running Sheet Summary

Outcome: Action Required - awaiting response

Outcome Description: Awaiting email on investigation into non compliant release.

Due Date: 25/OCT/13

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 24/OCT/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Telephone Call

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Telephone call recieved from Penny Houston, officer of SCRC. Sge stated she was at Caloundra Landfill and had recieved advice that silty water was leaving the site and possibly from Halls construction. She investigated and found it to be from the Earthpro site. She stated it had been releasing for a while and they had not observed anyone around the dam on Earthpro site monitoring the release. She advised she had advised Michael Blakeney, the superintendent, and he was going to contact Earthpro to request the pump be turned off. I advised I will investigate the allegation.

Time Spent Hours:

Time Spent Minutes: 15

Outcome: Action Required - further investigation

Outcome Description: MS to call Earthpro

Due Date: 24/OCT/13

Date Completed: 24/OCT/13

Source Ref: CA28969

Action Source Ref:

Date Commenced: 24/OCT/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Telephone Call

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: I tried to call Murshed and Roy Davies both were not answering their mobile phs> I then called the Earthpro office. Advised that they were in a meeting requested if I could contact someone on the caloundra site, I was given Lances mobile no. I spoke to Lance and advised him of the allegation. He stated he was monitoring every 1/2 and about half an hour ago the NTU was 19. I advised him to turn the pump off and conduct an investigation and report back to myself on the outcome. The call was made at approximately 11.11am.

Time Spent Hours:

Time Spent Minutes: 15

Outcome: Action Required - awaiting response

Outcome Description: Lance to report back when investigated

Due Date: 24/OCT/13



Running Sheet Summary

Date Completed: 24/OCT/13

Source Ref: CA28969

Action Source Ref:

Date Commenced: 28/OCT/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Letter - received

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Investigation into release received from earthpro in the form of letter

Time Spent Hours:

Time Spent Minutes: 30

Outcome: Action Required - further investigation

Outcome Description: Consider response in regard to possible PIN

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 31/OCT/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Site Inspection - other

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Attended Earthpro site for Monthly audit of ESC with Contour staff and Earthpro

Time Spent Hours: 6

Time Spent Minutes:

Outcome: Action Required - further investigation

Outcome Description: Photos and report to be compiled

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 31/OCT/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Running Sheet Summary

Action Type: Email Received
Inspection Type:
Enforcement Measure Type:
Referral To:
Action: Report for contaminated Soil mgt provided by Duke Environmental
Time Spent Hours:
Time Spent Minutes: 30
Outcome: Action Required - further investigation
Outcome Description: Review
Due Date:
Date Completed:

Source Ref: CA28969
Action Source Ref:
Date Commenced: 01/NOV/13
Officer Involved: SCANES, Melanie
Responsible Office: ES-RSD-SER-Sunshine Coast
Action Type: Email Received
Inspection Type:
Enforcement Measure Type:
Referral To:
Action: Email recieved from council. advising Earthpro were placing wet sediment from base of sed basin spread accross ground to dry. Council claimed this location is not suitable location as has been validated. Earthpro repliied by email stating this was a suitable area as contaminated soil was below site.
Time Spent Hours:
Time Spent Minutes: 15
Outcome: Action Required - further investigation
Outcome Description:
Due Date:
Date Completed:

Source Ref: CA28969
Action Source Ref:
Date Commenced: 06/NOV/13
Officer Involved: SCANES, Melanie
Responsible Office: ES-RSD-SER-Sunshine Coast
Action Type: Email Sent
Inspection Type:
Enforcement Measure Type:
Referral To:
Action: Email sent to Roy Davies and Murshed Alam to advise that they need to demosntrate their environmental duty regarding the placement of contaminated soil in a suitable place. Response requested by Friday 1.00pm.

Running Sheet Summary

Time Spent Hours:

Time Spent Minutes:

Outcome: Action Required - awaiting response

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 11/NOV/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Email Received

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: Email recieved from Earthpro answering the request. Earthpro requested two extensions in time and were granted these.

Time Spent Hours:

Time Spent Minutes: 30

Outcome: Action Required - further investigation

Outcome Description:

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 25/NOV/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Enforcement Measure

Inspection Type:

Enforcement Measure Type: PIN

Referral To:

Action: 3 PINs issued to Earthpro - put in mail today,

Time Spent Hours: 6

Time Spent Minutes:

Outcome: Action Required - awaiting PIN payment

Outcome Description:

Due Date:

Date Completed:



Running Sheet Summary

Source Ref: CA28969

Action Source Ref:

Date Commenced: 27/NOV/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: PIN - withdrawn

Inspection Type:

Enforcement Measure Type:

Referral To:

Action: 2 PINs withdrawn

Time Spent Hours: 3

Time Spent Minutes:

Outcome: Enf Measure - PIN

Outcome Description: reissue PINs

Due Date:

Date Completed:

Source Ref: CA28969

Action Source Ref:

Date Commenced: 27/NOV/13

Officer Involved: SCANES, Melanie

Responsible Office: ES-RSD-SER-Sunshine Coast

Action Type: Enforcement Measure

Inspection Type:

Enforcement Measure Type: PIN

Referral To:

Action: 2 PINs reissued, put in mail today

Time Spent Hours: 2

Time Spent Minutes:

Outcome: Action Required - awaiting PIN payment

Outcome Description:

Due Date:

Date Completed:

Bell Ewan

From: Bell Ewan
Sent: Friday, 8 November 2013 4:35 PM
To: 'm.alam@earthpro.com.au'; Sale Ben
Cc: roy@earthpro.com.au; Scanes Melanie
Subject: RE: Contaminated Soil Management

Hi Murshedul

Thanks for your emails. As per previous emails, EHP have requested information from Earthpro relating to the decision to place the sediment from Cell 9 sediment basin in that area, to demonstrate that Earthpro have taken all reasonable and practicable measures to prevent or minimise environmental harm.

Given that an EPO has been issued to Earthpro at this site relating to contaminated soil management, EHP would have expected that Earthpro would have clear and accurate documentation available to support the decision to place this material in that location; and that Earthpro would not need to engage with consultants after the decision had been made, to provide the supporting evidence for the decision.

At this stage EHP is prepared to provide further time for Earthpro to provide the requested information. As per your request EHP provide until 1000 on 11 November 2013.

Regards

Ewan Bell

Principal Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6128 Fax: (07) 5459 6190
ewan.bell@ehp.qld.gov.au
www.ehp.qld.gov.au



From: m.alam@earthpro.com.au [mailto:m.alam@earthpro.com.au]
Sent: Friday, 8 November 2013 11:32 AM
To: Sale Ben
Cc: Bell Ewan; roy@earthpro.com.au; Scanes Melanie; Simpson Kara (EHP)
Subject: RE: Contaminated Soil Management

Hi Ben,

We would like to submit our response by 10 am Monday 11th November 2013.

sch4p4(6) Personal information
attend the meeting with Duke environmental and Contour Consulting Engineers.

Roy is not available this week to

Thanks for your understanding.

Regards

Murshedul Alam
Site Contract Administrator
EarthPro Pty Ltd
Mobile: 0414 444 444 (6) Personal information

From: Sale Ben [<mailto:Ben.Sale@ehp.qld.gov.au>]
Sent: Friday, 8 November 2013 9:17 AM
To: m.alam@earthpro.com.au
Cc: Bell Ewan; roy@earthpro.com.au; Scanes Melanie; Simpson Kara (EHP)
Subject: RE: Contaminated Soil Management

Hi Mushed

Thanks for the email.

I am ok with extending the time as requested – new deadline is 1500hrs today.

Regards

Ben

Ben Sale
Manager (Sunshine Coast & Gympie)
Environmental Services & Regulation | Southern Region

Ph: 07 5459 6136 | **Fax:** 07 5459 6190 | **Mobile:** 0414 444 444 (6) Personal information

Department of Environment and Heritage Protection
P.O Box 362, Maroochydore, QLD 4558



From: m.alam@earthpro.com.au [<mailto:m.alam@earthpro.com.au>]
Sent: Friday, 8 November 2013 9:03 AM
To: Scanes Melanie
Cc: Sale Ben; Bell Ewan; roy@earthpro.com.au
Subject: RE: Contaminated Soil Management

Hi Melanie and Ben,

We would like to respond your below mentioned email by 3:00 pm today due to unavailability of Duke Environmental and Contour Consulting Engineer for a meeting for last couple of days.

We would appreciate if you can extend the time limit by 2 hours to adequately respond your enquiry. Thank you for your understanding.

Regards

Murshedul Alam
Site Contract Administrator
EarthPro Pty Ltd
Mobile 04(6) Personal information

From: Scanes Melanie [<mailto:Melanie.Scanes@ehp.qld.gov.au>]
Sent: Wednesday, 6 November 2013 4:30 PM
To: roy@earthpro.com.au; m.alam@earthpro.com.au
Cc: Sale Ben; Bell Ewan
Subject: Contaminated Soil Management

Roy and Murshed

The department reiterates that as the primary contractor responsible for the management of the construction site Earthpro must demonstrate it is operating in a manner that meets its general environmental duty under section 319 of the *Environmental Protection Act 1994* (EP Act). The EPO requires that Earthpro engage suitably qualified professionals to develop plans and guide you in the implementation of the civil works while discharging your environmental obligation. The movement and placement of the sediment from the Cell 9 sediment basin in the location described is not included within the contaminated soil management plan developed by Duke Environmental.

The placement of this material is not part of the CPESC plan submitted and EHP was not notified by Contour Consulting (your ESC expert) or Earthpro while EHP was onsite last Wednesday, that the soil would be placed in this location. While it was known this material would be wet, Earthpro advised the department that the material would be placed directly into the contaminated soil pile which is being managed under an environmental management strategy developed by Earthpro's SQP (Duke Environmental).

The department requests that by 1300hrs Friday 8 November Earthpro provide the department with supporting evidence to demonstrate that the decision was made in consultation with its consultants (as required by the EPO) including the validation of the deposition area and how the process fits in to the current management strategy for the construction site.

The department would like to take this opportunity to highlight the following sections of the EP Act:

480 False or misleading documents

(1) A person must not give to the administering authority or an authorised person a document containing information that the person knows, or ought reasonably to know, is false or misleading in a material particular.
Maximum penalty—1665 penalty units or 2 years imprisonment.

(2) Subsection (1) does not apply to a person who, when giving the document—

(a) informs the administering authority or authorised person of the extent to which the document is false or misleading; and

(b) gives the correct information to the administering authority or authorised person if the person has, or can reasonably obtain, the correct information.

(3) It is enough for a complaint for an offence against subsection (1) to state the person knew, or ought reasonably to have known, the document was false or misleading, without specifying which of the following applies—

(a) the person knew it was false;

(b) the person knew it was misleading;

(c) the person ought reasonably to have known it was false;

(d) the person ought reasonably to have known it was misleading.

480A Incomplete documents

(1) This section applies to a person who is required under this Act to give a document to the administering authority or an authorised person.

(2) The person must not give to the administering authority or authorised person a document the person knows, or ought reasonably to know, contains incomplete information in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

(3) Subsection (2) does not apply to a person who, when giving the document—

(a) informs the administering authority or authorised person of the extent to which the document is incomplete; and

(b) gives the complete information to the administering authority or authorised person if the person has, or can reasonably obtain, the information.

(4) It is enough for a complaint for an offence against subsection

(2) to state the person knew, or ought reasonably to have known, the document was incomplete, without specifying whether the person knew it was incomplete or whether the person ought reasonably to have known it was incomplete.

481 False or misleading information

(1) A person must not—

(a) state anything to an authorised person that the person knows is false or misleading in a material particular; or

(b) omit from a statement made to an authorised person anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

The department will review the information provided to assess whether the intent of EPO requirements is currently being met and whether any additional enforcement action needs to be taken.

Regards

Melanie Scanes

Senior Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6154 Fax: (07) 5459 6190
melanie.scanes@ehp.qld.gov.au
www.ehp.qld.gov.au

<https://report-littering-dumping.ehp.qld.gov.au/>

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

Bell Ewan

From: Bell Ewan
Sent: Monday, 12 August 2013 1:11 PM
To: 'roy@earthpro.com.au'
Subject: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra
Attachments: enforcement-guidelines.pdf

Dear Mr Davis

I refer to the site 171 Pierce Avenue Bells Creek, Lot 101 on plan SP232333 for which Earthpro Pty Ltd is contracted by Sunshine Coast Regional Council (SCRC) to conduct works to construct an extension of the current landfill. On the 7 August 2013 EHP officers Ewan Bell and Melanie Scanes conducted an inspection at the site with council staff Debbie Spann and Michael Blakeney and Earthpro staff Lance Carey, Murshedul Alam and George Mumford. The inspection was brought about by concerns raised by SCRC in relation to Earthpro Pty Ltd not conducting operations onsite using all reasonable and practicable measures in regard to management of contaminated soil and erosion and sediment control.

During the inspection the department observed a stockpile known to be contaminated soil, exposed to the environment with evidence of rill erosion across the stockpile surface. Bunding surrounding the stockpile was poorly constructed, poorly maintained, in some places non-existent, and evidence indicated that the bunding had been breached at multiple locations. In addition, it was confirmed during the inspection that stormwater run-off from this stockpile did not report to any form of retention basin, and discharged directly off-site. EHP was advised that the contaminated soil was placed on a suitable impermeable barrier but the volume of soil now extended beyond the extent of the impermeable barrier.

In the course of the inspection EHP officers made observations of the erosion and sediment control measures at the site. EHP officers are of the opinion that all reasonable and practicable measures have not been implemented to demonstrate that Earthpro Pty Ltd are operating in accordance with the general environmental duty obligations under the *Environmental Protection Act 1994* (the Act). EHP officers observed that effective clean water drains had not been established and maintained, concentrated flow paths were poorly maintained, sediment fences not properly installed, large volumes of soil and soil stockpiles exposed with no effective erosion protection measures, and no clarity around sediment basin sizing for catchment area reporting to the basin.

EHP officers also observed diesel fuel and chemical storage area bund to be near full of contaminated water and poorly constructed, and no spillage containment for refuelling areas.

EHP propose to issue Earthpro Pty Ltd an Environmental Protection Order (EPO) under s358 of the Act to secure compliance with the general environmental duty to address the above mentioned issues.

Prior to deciding to issue an EPO, EHP now provide Earthpro Pty Ltd a period of natural justice to provide the department with any information relating the above. Any information provided by Earthpro Pty Ltd must be received at EHP at sunshinecoast.esr@ehp.qld.gov.au or PO Box 362, MAROOCHYDORE QLD 4558 by 1700hrs 15 August 2013.

For your information I have attached a link to the Act, and a copy of EHP's enforcement guidelines. Please note sections 358 and 361 of the Act relating to issuing an EPO and offence not to comply with the order.

Please contact me if you would like to discuss any of the matters raised in this email.

<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/EnvProtA94.pdf>

Regards

Ewan Bell

Principal Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6128 Fax: (07) 5459 6190
ewan.bell@ehp.qld.gov.au
www.ehp.qld.gov.au

RTI DL RELEASE - EHP

Bell Ewan

From: Bell Ewan
Sent: Wednesday, 21 August 2013 4:25 PM
To: roy@earthpro.com.au
Subject: FW: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra
Attachments: Earthpro EPO CA28969 21.08.2013.pdf

Hi Roy

In regard to previous advice the department has now decided to issue Earthpro Pty Ltd an EPO for the activities at Lot 101 SP232333. Please find attached the EPO, a copy of the review and appeal provisions, and a copy of the departments enforcement guidelines.

This information has also been sent via registered mail to the ASIC current registered office, as per the service of documents provisions in *Acts Interpretation Act 1954*.

Please contact me if you would like to discuss this matter further.

Regards

Ewan Bell

Principal Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6128 Fax: (07) 5459 6190
ewan.bell@ehp.qld.gov.au
www.ehp.qld.gov.au

From: Bell Ewan
Sent: Monday, 12 August 2013 1:11 PM
To: 'roy@earthpro.com.au'
Subject: Environmental Protection Order - Lot 101 on Plan SP232333, Pierce Avenue Caloundra

Dear Mr Davis

I refer to the site 171 Pierce Avenue Bells Creek, Lot 101 on plan SP232333 for which Earthpro Pty Ltd is contracted by Sunshine Coast Regional Council (SCRC) to conduct works to construct an extension of the current landfill. On the 7 August 2013 EHP officers Ewan Bell and Melanie Scanes conducted an inspection at the site with council staff Debbie Spann and Michael Blakeney and Earthpro staff Lance Carey, Murshedul Alam and George Mumford. The inspection was brought about by concerns raised by SCRC in relation to Earthpro Pty Ltd not conducting operations onsite using all reasonable and practicable measures in regard to management of contaminated soil and erosion and sediment control.

During the inspection the department observed a stockpile known to be contaminated soil, exposed to the environment with evidence of rill erosion across the stockpile surface. Bunding surrounding the stockpile was poorly constructed, poorly maintained, in some places non-existent, and evidence indicated that the bunding had been breached at multiple locations. In addition, it was confirmed during the inspection that stormwater run-off from this stockpile did not report to any form of retention basin, and discharged directly off-site. EHP was advised that the contaminated soil was placed on a suitable impermeable barrier but the volume of soil now extended beyond the extent of the impermeable barrier.

In the course of the inspection EHP officers made observations of the erosion and sediment control measures at the site. EHP officers are of the opinion that all reasonable and practicable measures have not been implemented to demonstrate that Earthpro Pty Ltd are operating in accordance with the general environmental duty obligations under the *Environmental Protection Act 1994* (the Act). EHP officers observed that effective clean water drains had not been established and maintained, concentrated flow paths were poorly maintained, sediment fences not properly installed, large volumes of soil and soil stockpiles exposed with no effective erosion protection measures, and no clarity around sediment basin sizing for catchment area reporting to the basin.

EHP officers also observed diesel fuel and chemical storage area bund to be near full of contaminated water and poorly constructed, and no spillage containment for refuelling areas.

EHP propose to issue Earthpro Pty Ltd an Environmental Protection Order (EPO) under s358 of the Act to secure compliance with the general environmental duty to address the above mentioned issues.

Prior to deciding to issue an EPO, EHP now provide Earthpro Pty Ltd a period of natural justice to provide the department with any information relating the above. Any information provided by Earthpro Pty Ltd must be received at EHP at sunshinecoast.esr@ehp.qld.gov.au or PO Box 362, MAROOCHYDORE QLD 4558 by 1700hrs 15 August 2013.

For your information I have attached a link to the Act, and a copy of EHP's enforcement guidelines. Please note sections 358 and 361 of the Act relating to issuing an EPO and offence not to comply with the order.

Please contact me if you would like to discuss any of the matters raised in this email.

<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/EnvProtA94.pdf>

Regards

Ewan Bell

Principal Environmental Officer
Environmental Services and Regulation, Southern Region
Department of Environment and Heritage Protection
PO Box 362 MAROOCHYDORE, QLD 4558
Telephone: (07) 5459 6128 Fax: (07) 5459 6190
ewan.bell@ehp.qld.gov.au
www.ehp.qld.gov.au