



Mine operator fined for not ensuring safety and health management system was implemented

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On 8 August 2023, in the Mackay Industrial Magistrates Court, a mine operator pleaded guilty to failing to discharge a safety and health obligation by failing to ensure that the site senior executive at the mine developed and implemented a safety health management system for all persons at the mine.

The mine operator was fined \$70,000 by Industrial Magistrate Hartigan. The mine operator was also ordered to pay \$110,000 in investigative and prosecution costs. No conviction was recorded.

The facts of the matter were as follows:

- On 26 June 2019, an incident occurred involving the failing of an echelon wall causing the death of an excavator operator working in the area at the time.
- The echelon wall had been blasted 10 days prior, but the hazard associated with the echelon wall had not been noted or acted upon by multiple personnel in the intervening period.
- The investigation that followed revealed that the mine was lacking a Ground Control Management P
- The failure was not alleged to be a cause of the excavator operator's death.
- However, the investigation that commenced as a result of the death revealed that a GCMP was necessary to provide for better management of the blast design processes of the mine, better management of the pre-split line in the echelon wall prior to the blast, better implementation of geotechnical inspections, better communication of the potential for geotechnical hazards to exist, better use of Trigger Action Response Plans (TARPs) and classification of the level associated with the hazard and better development of a hazard mitigation plan.
- Ultimately, the opinion of experts engaged to consider the mine's Safety and Health Management System (SHMS) was that the system in place was sufficient to have avoided the incident had it been followed.
- However, the Mine had previously been instructed to implement a GCMP and failed to do so.
- The GCMP was in place, was in draft format only and substantially incomplete. It was therefore not implemented at the time, and as a result the mine operator had failed to ensure that the site senior executive at the mine had developed and implemented a safety health management system for all persons at the mine.

During sentencing, Industrial Magistrates Hartigan took into account:

- That the maximum penalty for the charge at sentence was 5,000 penalty units (\$652,750).
- That the mine operator had pleaded guilty which saved the cost of a trial and therefore had utilitarian benefit.
- That it was not a case of inaction - the mine operator had prior interactions with the Mining Inspectorate in the lead up to the offending and some safety systems, namely a Principal Hazard Management Plan, were produced by the mine operator in order to attempt to fulfill its obligation (which had not been met because of the lack of implemented GCMP).
- That, ultimately a GCMP was necessary to provide for better management of the blast design processes of the mine, better management of the pre-split line in the echelon wall prior to the blast, better implementation of geotechnical inspections, better communication of the potential for geotechnical hazards to exist, better use of TARPs and classification of the level associated with the hazard and better development of a hazard mitigation plan.
- However, but for that "gap in the system" the mine operator had an otherwise sophisticated SHMS in place at the time of the incident
- That the case could be distinguished from other cases, primarily on the basis that in the other cases there was either no safety system in place at the relevant time or there was a deliberate decision to not implement a particular safety system.
- That, personal deterrence was of a lesser importance in the case, given that the mine operator had no prior convictions, and had safety systems in place at the relevant time (noting that there was a gap in the system).
- That the mine operator finalised and implemented the GCMP following the offending and had developed other extensive safety controls which were implemented.
- That general deterrence was a relevant consideration, and that the objects of the Coal Mining Safety and Health Act were relevant and were applied to the case.

OWHSP contact: enquiries@owhsp.qld.gov.au

Court Report

General

Industry	Mining and quarrying
Date of offence	26 June 2019
Injury	N/A
Court	Mackay Industrial Magistrates Court
Magistrate or judge	Industrial Magistrate Hartigan
Decision date	08 August 2023

Company

Legislation	Section 42(a) <i>Coal Mining Safety and Health Act</i>
Plea	Guilty
Penalty	\$70,000 fine

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Maximum fine available	\$652,750 fine
Professional and legal costs	\$110,000
Court costs	N/A
In default period	N/A
Time to pay	30 days
Conviction recorded	No

