

ALCOA AUSTRALIA — BREACH OF LICENCE CHARGE

757. Hon GIZ WATSON to the Minister for Environment:

I refer to the fine of \$45 000 handed down by the Perth Magistrates Court on 15 September 2010 to Alcoa Australia due to dust from the mud lakes at its Wagerup refinery blowing across neighbouring properties.

- (1) Why were the charges downgraded from criminal negligence to a breach of licence?
- (2) Who was responsible for downgrading the charges?
- (3) On what basis was the decision made?
- (4) Why was this case adjourned on so many occasions?
- (5) Why were the terms “criminal” and “pollution” dropped from the charge?
- (6) Why was the fine and charge downgraded when Alcoa has been convicted of pollution charges on previous occasions?
- (7) Why did an analysis of the dust not occur?
- (8) What mechanisms are in place to ensure that this does not occur again?

Hon DONNA FARAGHER replied:

I thank the member for some notice of this question.

- (1) After considering legal advice from the State’s Solicitors Office, the Department of Environment and Conservation determined that the allegation of criminal negligence could not be sustained on the available evidence. The charge was amended to “pollution” under section 49(3) of the Environmental Protection Act 1986. The matter was then scheduled for a three-week trial commencing 16 August 2010. After considering further legal advice from the State Solicitor’s Office and in accordance with the department’s enforcement and prosecution policy 2008, the Department of Environment and Conservation agreed to a negotiated outcome and acceptance by Alcoa to a plea of guilty to a charge of breach of licence under section 58(1) of the Environmental Protection Act.
- (2)–(3) The decision by the Department of Environment and Conservation was based on legal advice from the State Solicitor’s Office and in accordance with DEC’s enforcement and prosecution policy.
- (4) I have been advised that the adjournments were for further information to be provided between the parties.
- (5)–(6) See answer (1).
- (7) The dust incident occurred on 14 May 2006; however, the then Department of Environment was not notified of the incident until 15 May 2006. The department did not receive any complaint during the incident on 14 May 2006, and as a result did not have an opportunity to collect samples of evidentiary value.
- (8) Alcoa has since fully upgraded its sprinkler systems on the resident disposal area and undertaken a number of other dust minimisation measures to reduce the potential for future dust incidents.