

that since the offence the First Respondent had put in place procedures to ensure that relevant approvals were sighted and that supervisors would be contacted should the nature of a contract change on site. Further, Counsel submitted that a conviction would seriously affect the First Respondent's business.

Ultimately, the Court found that it was appropriate in the circumstances to record convictions against the Respondents as they had completely abdicated their supervisory responsibility in allowing Mr Steinert to direct their employees. The First and Second Respondents were also fined \$2,500 and \$1,500 respectively.

South Australian Environment Resource and Development Court

Circelli v Agnidla Pty Ltd (ACN 007891009) [2008] SAERDC 34

By Thomas Ivey – Norman Waterhouse

The Defendant operated a turkey processing plant and was charged on complaint with three offences for contravention of conditions of an Environmental Authorisation ("the Licence") pursuant to the *Environment Protection Act 1993* ("the Act"). Condition 2 of the Licence provided that "*the Licensee must not allow poultry processing effluent to drain onto surrounding land or waters*". Condition 6 of the Licence obliged the Licensee to keep monthly records of the amount of wastewater generated and disposed of at the premises as well as the amount disposed of "to sewer". Wastewater was disposed of on site by irrigating a woodlot. Following a complaint from an adjacent neighbour, authorised officers of the EPA discovered that, through a combination of human error and a faulty pipe coupling, the adjacent property had been flooded with filtered wastewater. Further, the officers observed that wastewater was being disposed of via two pipes that lacked flow meters, hence breaching Condition 6. The Defendant pleaded guilty to the offences, however Counsel for the Defendant submitted that the Court should exercise its discretion pursuant to the Act to not record a conviction against the Defendant as the corporate body had recently been bought by Inghams and no "environmental harm" had been caused within the meaning of the Act. The Court rejected these submissions, largely as the corporate structure and management of the Defendant had remained the same after the buy-out. The Court fined the Defendant \$36,000 and ordered that the Defendant pay a victims of crime levy of \$140.

Winkworth v Fischer [2008] SAERDC 33

By Thomas Ivey – Norman Waterhouse

The Defendant owned land adjacent to the Bremer River, a semi-permanent watercourse to the east of Adelaide. A notice of prohibition had been issued pursuant to Section 132 of the *Natural Resources Management Act 2004* ("the Act") prohibiting the abstraction of water from the Bremer River. Further, the Defendant did not have the benefit of an exemption to take water pursuant to Section 132 6)(b) of the Act. Following complaints, authorised officers observed the Defendant taking water on five separate occasions. The water was being taken to irrigate a 10ha lucerne crop on the Defendant's land. However, the pump that was being used to take the water was situated on an easement that was in favour of the Defendant for water supply purposes. The easement ran across a neighbouring property. No permission had been given by the landowner for the pump to be placed in the easement. The Defendant did not appear, nor were submissions made on his behalf. As the offence was blatant, no mitigating circumstances had been raised, and no contrition shown by the Defendant, the court imposed a fine of \$18,000. The maximum penalty for such an offence was \$25,000. The Court made further ex parte orders requiring the Defendant to permanently disconnect and remove the pump from the easement and the Defendant's land, and restraining the Defendant from placing another pump on the easement or the subject land.