

IN THE PROVINCIAL COURT OF ALBERTA

CRIMINAL DIVISION

BETWEEN:

HER MAJESTY THE QUEEN

- and -

CARGILL LIMITED

STATEMENT OF AGREED FACTS

**CHARGES**

Cargill Limited stands charged that:

**Count 1**

*On or between the 11th day of April, 2012 and the 23rd day of April 2012, both dates inclusive, at or near High River, in the Province of Alberta, did contravene a term or condition of an approval; to wit, Approval No. 683-03-00, Condition 2.1.1 which states:*

*The approval holder shall immediately report to the Director by telephone any contravention of the terms and conditions of this approval at 1-780-422-4505*

*and did thereby commit an offence contrary to section 227(e) of the Environmental Protection and Enhancement Act.*

Cargill Limited ("Cargill") is a wholly owned subsidiary of a large multinational corporation and operates a beef processing facility near High River, Alberta. Wastewater from the Cargill High River facility is treated before it is discharged to Frank Lake, a small waterbody which receives wastewater from Cargill and other sources.

The wastewater contains, among other substances, phosphorus which has the potential to cause environmental harm by creating conditions that deplete oxygen required to support aquatic life.

Cargill was the holder of an approval issued by Alberta Environment, now known as Environment and Sustainable Resource Development (ESRD) for the operation of the High River facility. This approval contained conditions which limited the total

phosphorus in Cargill's treated wastewater to a maximum daily average of less than or equal to 40 kg/day with a daily maximum of less than or equal to 80 kg/day.

Cargill was also required by its approval to monitor total phosphorus in treated wastewater through laboratory analysis of "grab" and "composite" samples. The approval defined a "grab" sample as a representative sample collected in less than 30 minutes and a "composite" sample as a refrigerated sample consisting of a minimum of 24 hourly representative samples. Cargill used a sampling device in its effluent stream to automatically collect composite samples. A wastewater operator would then take the composite sample from the sampling device, ensure that it was refrigerated and send it to an external laboratory for analysis.

Condition 2.1.1 of its approval required Cargill to report approval contraventions:

*2.1.1 The approval holder shall immediately report to the Director by telephone any contravention of the terms and conditions of this approval at 1-780-422-4505.*

Approval Condition 2.1.2 required Cargill to submit a written report within 7 days of a report submitted pursuant to condition 2.1.1.

From July 2011 to April 2012, Cargill conducted a wastewater treatment study project led by an employee. This study was required by the approval and its primary purpose was to improve the efficiency of the phosphorus removal process by minimizing the phosphorus in the wastewater while also determining the most efficient use of alum and caustic to treat the waste water prior to discharge.

The responsible Cargill employee was well qualified to conduct this project. He experimented with alum dosing in Cargill's industrial wastewater to reduce phosphorus in the wastewater. He was familiar with Cargill's approval and was authorized to experiment subject to maintaining compliance with Cargill's approval.

In February and March of 2012, the employee tampered with three composite treated wastewater samples by injecting additional alum directly into the samples before they were sent to the external laboratory for analysis. This tampering had the effect of making the total phosphorus in Cargill's treated wastewater appear artificially low. The tampering meant that the samples were no longer authentic "composite" samples as required by the approval and was therefore a contravention of the monitoring requirements in the approval.

On April 11, 2012, the employee responsible for the project was confronted by other Cargill employees and their manager and admitted to tampering with March composite samples. On April 16, 2012, the employee admitted to tampering with the February sample and resigned.

On April 16, 2012, a Cargill manager reported by telephone to ESRD's environmental reporting line that there were "potential errors" in data provided in the Cargill's March 2012 wastewater report.

On April 23rd, 2012, Cargill followed up its initial report with a letter to ESRD which stated that on three separate sampling days, wastewater samples were tampered with (treated/diluted) before being sent for analysis to an external lab. The letter was comprehensive in its description of the tampering.

The monthly averages, utilizing the samples analyzed by Cargill's internal laboratory, showed that for the month of February 2012, an average of about 40.2 kg/day of phosphorus was released in wastewater and for March 2012, about 40.7kg/day was released. There is no evidence that the exceedence of the approval limits for phosphorus was significant or that it resulted in any measureable environmental harm.

AGREED TO THIS 15th DAY OF August, 2014

*for*   
Martin Ignasiak  
Counsel and Agent for  
Cargill Limited

  
Peter Roginski  
Crown Prosecutor