

Occupational Health and Safety Act 2004  
**IMPROVEMENT NOTICE**



WorkSafe Victoria is a division of  
 the Victorian WorkCover Authority

This notice is issued under section 111 of the Occupational Health and Safety Act 2004. This notice requires the person (which can mean a body corporate) to whom it is issued to remedy a contravention of the Act or its Regulations. Section 115(2) places obligations on the person to whom an improvement notice is issued. If that person is an employee, he or she must give a copy of the notice to the employer. Otherwise, and for an employer given a copy of a notice issued to an employee, the person must

- \* bring the notice to the attention of all persons whose work is affected by the notice,
- \* give a copy to each health and safety representative who represents employees whose work is affected by the notice; and
- \* display a copy of the notice in a prominent place at or near the workplace or part of the workplace where the affected work is being performed.

**Issued by:** *Kevin Shepard Hayes* an Inspector appointed under the Occupational Health and Safety Act 2004.

**Signature:** \_\_\_\_\_

**Date of Issue:** 21/06/2012

**Notice issued to:** AUSTRALIAN POWER PARTNERS B V & OTHERS

**Tenement No:** MIN5004

BRODBRIBB ROAD  
 HAZELWOOD 3840

**ABN:** 40924759557

**Notice given to:** *Luc Dietvorst*

**Service method:** *Left for a person*

**Provision of this Act and / or the Regulations that is being contravened:** I reasonably believe that AUSTRALIAN POWER PARTNERS B V & OTHERS is in contravention of Section 21(1) and 21(2)(a) of the Occupational Health and Safety Act 2004

**Basis for this belief:** AUSTRALIAN POWER PARTNERS B V & OTHERS is a partnership that is listed as AUSTRALIAN POWER PARTNERS B V & CISL (HAZELWOOD) PTY LIMITED & HAZELWOOD INVESTMENT COMPANY PTY LIMITED & HAZELWOOD PACIFIC PTY LTD & NATIONAL POWER AUSTRALIA INVESTMENTS LIMITED under the ABN 40924759557, also trading as IPR-GDF SUEZ HAZELWOOD.

There is a failure to provide and maintain a safe system of work associated with the use fire fighting equipment on Dredger 10.

I observed at this workplace, risks to employee health and safety from a failure to provide a system for ensuring that the fire fighting equipment (hose reels and tank) located on Dredger 10 is available for use and serviceable in the event of a fire emergency.

During my visit to Dredger 10 a management representative tested two hose reels located near and adjacent to the electrical switchroom. The representative turned on the valves and hose reels, no water was present. Management later informed me that the water tank located on Dredger 10 had been emptied sometime earlier and no water was available for fighting fires.

Management also informed me that tank levels are checked on a monthly basis, a 'wet test' - hose operation is carried out every six months. It appears that the current method of ensuring that water is available and hoses are operational is not sufficient to ensure that the fire fighting equipment (hose reels and tank) located on Dredger 10 is available and in a serviceable condition in the event of a fire emergency.

If a fire was to occur on Dredger 10 whilst employees are performing duties and the fire fighting equipment was not serviceable, the fire has the potential to cause an incident that would pose a significant risk of causing serious burn injuries or fatality.

A failure to provide a system that ensures that the fire fighting equipment on Dredger 10 remains in a serviceable condition and is available for use when required, may lead an escalation of a fire, thus exposing employees to a risk of serious burn injuries or fatality.

**Directions as to the measures to be taken to remedy the contravention:**

AUSTRALIAN POWER PARTNERS' B V & OTHERS must provide and maintain a safe system of work associated with the use fire fighting equipment on Dredger 10.

One means of compliance (but not limited to): is to develop and implement a system that ensures that the fire fighting equipment on Dredger 10 is maintained, available and in a serviceable condition at all times.

Guidance is available from CFA, [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au) and industry

**Interim directions or conditions on the carrying on of an activity(s) to which this notice relates:**

A daily inspection of the water tank levels on Dredger 10 is to be carried out and recorded ensuring that the water tank remains at maximum capacity.

**This contravention must be remedied by 03/12/2012.**

See Review and Offence provisions below

**Internal Review**

As the person to whom this improvement notice has been issued, you or another eligible person can apply to WorkSafe Victoria (WorkSafe) for internal review of the reviewable decision to issue an improvement notice. Your application must be in the approved form and must be received by WorkSafe's Internal Review Unit within 14 days after the day on which the decision first came to your notice or came to the eligible person's notice. WorkSafe may however allow a longer period of time within which the application has to be lodged in appropriate cases. The applicant may also request a stay of the operation of the reviewable decision pending the outcome of the internal review. The request for a stay must accompany the

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- \* bring the notice to the attention of all persons whose work is affected by the notice,
- \* give a copy to each health and safety representative who represents employees whose work is affected by the notice, and
- \* display a copy of the notice in a prominent place at or near the workplace or part of the workplace where the affected work is being performed.

**Issued by:** *Kevin Shepard Hayes*, an Inspector appointed under the Occupational Health and Safety Act 2004.

**Signature:** \_\_\_\_\_

**Date of Issue:** 21/06/2012

**Notice issued to:** AUSTRALIAN POWER PARTNERS B V & OTHERS

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**Notice given to:** *Luc Dietvorst*

**Service method:** *Left for a person*

**Provision of this Act and / or the Regulations that is being contravened:** I reasonably believe that AUSTRALIAN POWER PARTNERS B V & OTHERS is in contravention of Section 21(1) and 21(2)(a) of the Occupational Health and Safety Act 2004 because AUSTRALIAN POWER PARTNERS B V & OTHERS is in contravention of Regulation 5.3.23 of the Occupational Health and Safety Regulations 2007

**Basis for this belief:** AUSTRALIAN POWER PARTNERS B V & OTHERS is a partnership that is listed as AUSTRALIAN POWER PARTNERS B V & CISL (HAZELWOOD) PTY LIMITED & HAZELWOOD INVESTMENT COMPANY PTY LIMITED & HAZELWOOD PACIFIC PTY LTD & NATIONAL POWER AUSTRALIA INVESTMENTS LIMITED under the ABN 40924759557, also trading as IPR-GDF SUEZ HAZELWOOD.

During my visit, I observed a document titled "International Power Hazelwood - Report for Major Mining Hazards Assessment, Interim Submission" dated December 2009 that states on page 19 (under the heading) "Further Work" - "Risk assessments are to be carried out for each of the scenarios for the MMHs illustrating that risk has been reduced to as low as reasonably practicable". AUSTRALIAN POWER PARTNERS B V & OTHERS Management informed me that the assessments as stated in the above mentioned document have not

been finished.

In addition, a large Mine Fire occurred at this site in 2006 and in January 2012 Dredger 11 sustained major damage due to a fire, both fires had the potential to cause an incident that would cause, or pose a significant risk of causing, more than one death.

I observed documentation (System Control Descriptions) that contains information relating to control measures as documented in the Safety Assessment 'Bow-Tie' diagram "Mine Fires". I observed that this documentation is incomplete and unfinished.

As a result of the above mentioned enquiries and observations, I reasonably believe that the Safety Assessment for the identified Major Mining Hazard "Mine Fires" has not been conducted as per Occupational Health and Safety Regulations 2007 5.3.23.

If a mine fire was to occur whilst employees are performing duties within the mine, the fire has the potential to cause an incident that would pose a significant risk of causing, more than one death due asphyxiation or burns.

A failure to assess the risks associated with the Major Mining Hazard "Mine Fires" and to conduct a comprehensive and systematic Safety Assessment in accordance with regulation 5.3.23, may lead to hazards and failure scenarios not being identified and risk control measures not being implemented, thus exposing employees to a mine fire. A mine fire has the potential to result in multiple fatalities.

**Directions as to the measures to be taken to remedy the contravention:**

AUSTRALIAN POWER PARTNERS B V & OTHERS must conduct a comprehensive and systematic Safety Assessment in order to assess the risks associated with the Major Mining Hazard - "Mine Fires".

One method of achieving compliance is, but is not limited to, complete the investigation and analysis of this Major Mining Hazard in order to provide AUSTRALIAN POWER PARTNERS B V & OTHERS with a detailed understanding of all aspects of risks to health or safety associated with "Mine Fires".

Guidance is available from Industry and publications.

**This contravention must be remedied by 01/10/2012.**

See Review and Offence provisions below.

#### Internal Review

As the person to whom this improvement notice has been issued, you or another eligible person can apply to WorkSafe Victoria (WorkSafe) for internal review of the reviewable decision to issue an improvement notice. Your application must be in the approved form and must be received by WorkSafe's Internal Review Unit within 14 days after the day on which the decision first came to your notice or came to the eligible person's notice. WorkSafe may however allow a longer period of time within which the application has to be lodged in appropriate cases. The applicant may also request a stay of the operation of the reviewable decision pending the outcome of the internal review. The request for a stay must accompany the application for internal review. WorkSafe must make a decision to grant a stay with or without conditions or not to grant a stay and communicate that decision within 24 hours of receipt of the request for a stay. If no decision is made WorkSafe is considered to have granted a stay. If no request for a stay is made the operation of this improvement notice remains in force. The application for internal review must be made to

the Internal Review Unit, WorkSafe Victoria, Ground Floor, 222 Exhibition Street, Melbourne 3000. An inspector must not give written certification that the activity or matters to which the notice relates have been remedied whilst there is an internal review pending

You can contact the Internal Review Unit on telephone (03) 8663 5450, fax (03) 8663 5451 or by email at [internalreviewunit@worksafe.vic.gov.au](mailto:internalreviewunit@worksafe.vic.gov.au)

If you have lodged an application for internal review and you do not receive a decision within the required time frame (which is taken to be a decision to affirm the reviewable decision) or you receive a decision that you are not happy with you can apply to Victorian Civil and Administrative Tribunal for external review within 14 days of the date the decision or non-decision came to the attention of the applicant. Applicants seeking external review must be an eligible person

#### **Offence**

A person to whom an improvement notice is issued and who does not comply with the improvement notice shall be guilty of an indictable offence against the Act. In the case of a natural person, the indictable offence carries a penalty of not more than \$61,070. In the case of a body corporate, the indictable offence carries a penalty of not more than \$305,350.

The issue, variation or cancellation of this notice does not affect any proceedings for an offence against this Act or the regulations in connection with any matter in respect of which the notice was issued.

**COMPLIANCE WITH THIS NOTICE DOES NOT indicate that the person to whom it is issued complies with all health and safety requirements, NOR does it affect the continuing obligation to ensure workplace health and safety.**