

WR12 – Continuation: Ability as an operator

Further details of Environment Agency (EA) vs Ward Recycling Ltd.

The above case was heard at Newcastle Crown Court on 10 August 2018. It is to be noted that the EA prosecutor indicated in the Magistrates Court that this case was suitable to be dealt with in the Magistrates Court. The case was not sent to the Crown Court by the Magistrates, but due to Ward Recycling Ltd electing a Crown Court trial.

Ward Recycling Ltd pleaded guilty to one offence under section 34(5) of the Environmental Protection Act 1990 regarding the content of waste transfer notes (WTN) notably that Ward Recycling Ltd's waste transfer notes failed to contain all of the descriptive requirements as stipulated by Regulation 35 of the Waste (England and Wales) Regulations 2011. The two specific errors were:

- (a) an incorrect SIC Code (with the notes incorrectly stating the SIC Code for the producer rather than the Company); and
- (b) an incorrect permit number (the Company did however have an appropriate environmental permit).

These errors arose as a result of administrative errors by staff at Ward Recycling Ltd preparing the documents. These were deemed to be minor deficiencies which posed no risk to the environment or to persons, and the Company derived no economic benefit from the errors. The errors were as follows:

Defence mitigation was presented to the Court that this was a first offence despite having operated under a EA permit for

16 years and that individual waste transfer notes were supplemented by a correct season ticket and valid weighbridge information for each of the offence waste loads. Furthermore, the company has no other environmental or other convictions, nor had it previously received any warnings or cautions from the EA. It was reiterated that this was not a case of Ward Recycling Ltd having failed to follow advice provided by Agency officers in relation to this issue. Furthermore, Ward Recycling Ltd fully co-operated with the Agency's investigation and attended an interview under caution at the earliest opportunity without legal representation present.

The judge explicitly stated during sentencing that the incorrect SIC Code and permit number did not affect the integrity of the duty of care system and the season ticket and weighbridge information negated the deficiency in the waste transfer note. Notwithstanding the errors, the origin of the waste and its nature are sufficiently detailed such that it is possible to follow the trail of the waste from the producer to the recipient site, so the purpose of the waste transfer notes was met.

Ward Recycling Limited was fined £4,500 and ordered to pay a proportion of prosecution costs amounting to £3,000. Total sum £7,500.

Following the court case, Ward Recycling Ltd were contacted by the EA regarding a review of whether they continued to be suitable to hold a waste carriers registration. For the reasons set out above, the Agency decided that the company did remain suitable to hold this registration and conforms to the consideration of the same 'fit and proper operator' requirements that apply with regards to the determination of an environmental permit.