



# Southland Regional Council V Taha Asia Pacific Ltd, Mark Egginton & Crawford Enterprises Ltd

A humorous look at a serious circus – Aluminum dross dumping

Presented by Aurora Grant

Officer in Charge – Aurora Grant



# Thursday 17 July 2014 – Initial complaint

- Complaint received regarding Aluminium Dross being dumped in a gravel pit
- Officers respond and discover two large piles of unknown material at Crawfords Gravel pit – Coalpit Road, Edendale





# The material



# Surface and Ground water concerns



- Quarry manager instructed NOT to touch material



# Initial investigation – What is Dross?

- Hazardous material - reacts with water to release a flammable and noxious gas
- Hazardous to human health and listed ecotoxin
- Refined by Taha for use in fertilizer
- Ouvea less hazardous but still dangerous
- What product were we dealing with?



**ECOTOXIC**

# Initial investigation – offenders?

1. Taha Asia  
Pacific

2. Taha Fertiliser Ltd



3. Crawford  
Enterprises Ltd

4. Mark Anthony Egginton

# Initial investigation – What now?

No resource consents in place for the dumping; not allowed by regional plan rules



Decision made to apply for Interim Enforcement order



Exparte order issued by an Environment Court judge  
under S314 RMA



Affidavit of Aurora and Enforcement Order application  
submitted to EC seeking :

- No further material to be deposited
- Material to be left as is
- Tests to be carried out on material
- Ascertain best method to neutralize it / deal with it
- Taha to disclose the location of other sites in Southland where the material is deposited.

# Initial investigation – What now?

Information received that quarry workers had been hospitalized due to exposure to product – Victim impact statements taken



Public Health South informed; concern from ES for neighboring properties

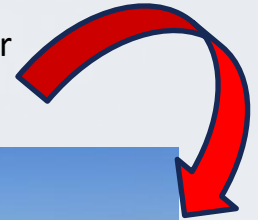


Taha assures ES that the product is “inert and harmless” – insists product is the ‘lesser of two evils’ Ouvea product.



Struggle to find unbiased info on Ouvea

(Google search return for “Ouvea”)





# Second site inspection – 29 July 2014

- ES officers and Hazmat guys from ICC
- Entry to site under informed consent opposed to search warrant
- Purpose – obtain more information and evidence
- Piles of materials changed significantly
- Samples of surface water collected = Key evidence for later





# Surface water contamination



# Enforcement Order granted – 4 August 2014



- Judge JE Borthwick grants an Ex Parte Interim Enforcement Order after only considering the interests of one side only under S 320(2) RMA
- Judge Borthwick considered it:  
*“likely that members of the public have been, and remain exposed to, a dangerous material. Persons who have been exposed to the material report suffering deleterious health effects”*  
  
*“likely there will be an adverse effect on the environment if contaminants emanating from the material are to enter groundwater or surface water”*



# Surface water sample results

- Concentrations of heavy metals exceed ANZECC values for the protection of aquatic ecosystems
- Confirmation that metals and Ammoniacal Nitrogen had leached from the stockpiles

pH = 9.8

Boron by a factor of 40%

Vanadium by a factor of 410

TAN by a factor of 1700%

Aluminum by a factor of 310%

Copper by a factor of 820%

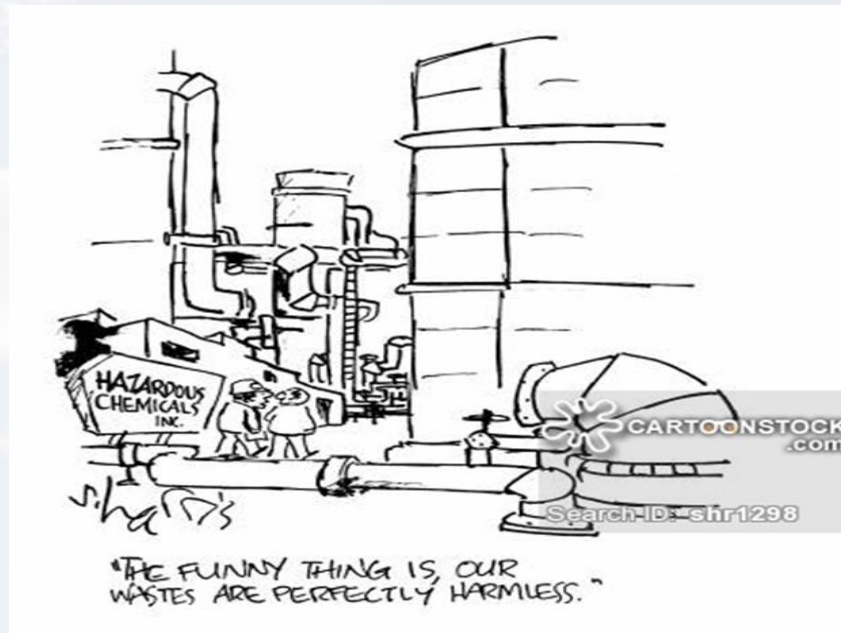
Nickel by a factor of 9%

Fluoride by a factor of 2700%



# 25 August 2014 – disclosure of material

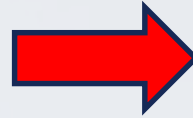
- Taha discloses locations in Southland where Ouvea is stored or deposited
- 5 sites identified totaling 32,000 Tonnes of material
- All storage facilities - Taha stated that there had been **No further deposits** of the material in Southland other than the Quarry.



# Battle of the experts

12 September 2014 ES received a site investigation report from LEI:

- The material was refined aluminum dross - AKA Ouvea
- Risk to groundwater quality
- Risk to surface water quality
- Potential health and safety risks associated with the material
- Recommendation to remove the material



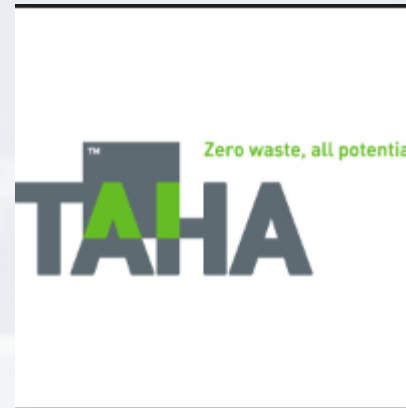
Enter the first of  
Taha's experts

- Taha immediately commissioned Jacobs to “critically appraise” the LEI report and evidence collected by ES – found that:
- Contaminated surface water ‘wasn’t a big deal’ – no need to compare with ANZECC guidelines
- Recommendation to process on site and re-use



# Enforcement consideration

- Invitations to interview = “Lawyering up”, declined interviews.
- All parties hesitant to discuss offences
- Managing director a domineering personality..... Contradicting advice and information
- Decision made to prosecute



# Way forward Oct – Nov 2014

- Many meetings with ES, Taha, Jacobs, Crawfords & representative lawyers
- Testing Bores put down on site & monitoring programme set up
- Desire to leave material onsite and attempt to make product inert
- Science experiment? = one pile of unblended material removed back to Tiwai
- Parties apply for an extension to court imposed timeframes to allow for extra testing
- Judge not impressed – refused to extend deadlines



# Bores





# Product removal Nov 2014 – Feb 2015

- Removal of remaining material to AB Lime is arranged – to be removed completely by Feb 2015
- 26 Nov 2014 Groundwater samples taken from Bores on site by Jacobs show contamination of groundwater onsite – Neighboring bores still unaffected.
- Total of 13,000 Tonnes of material removed to AB Lime by 27 Feb 2015 as per second Enforcement Order
- Total cost to date = \$1.2 million
- Crawfords gravel pit listed as HAIL site



# Court proceedings

- 8 December 2014 - summons for parties are served
  - 2x Charges Taha Asia Pacific Ltd
  - 2X Charges Crawford Enterprises Ltd
  - 2x Charges Mark Egginton



15(1)(c) – *No person may discharge any contaminant from any industrial or trade premises into air*


15(1)(d)- *No person may discharge any contaminant from any industrial or trade premises onto or into land*

- Second permanent Enforcement Order put in place in Feb 2015 to cover removal of product, ongoing monitoring and ES investigation costs

# Court proceedings

- Affidavits from defendants lodged with the court
- Taha later applies to court to have Mark Egginton's affidavit withdrawn from their evidence due to "inaccuracies"
- Many delays in getting to sentencing
- Crawfords initially indicate a Not guilty plea

# Feb 2015 – second location revealed

- Taha asks for a meeting with ES
  - Mark Egginton has been removed from company
  - Used for a trial
  - Approx 1km of track, 6m wide x 40cm deep – only the one area
- 
- Stability of company discussed
  - More material dumped on farm track in 2012
  - Company apparently “unaware” and it was Mark’s fault



# Second location investigation

- Site investigation
  - Officers were shown a 1km area of track
- Contaminated land specialist report – confirmed material
- Witness statement with land owner



- Breach of enforcement order
- More charges prepped
- Threats that the company would fold

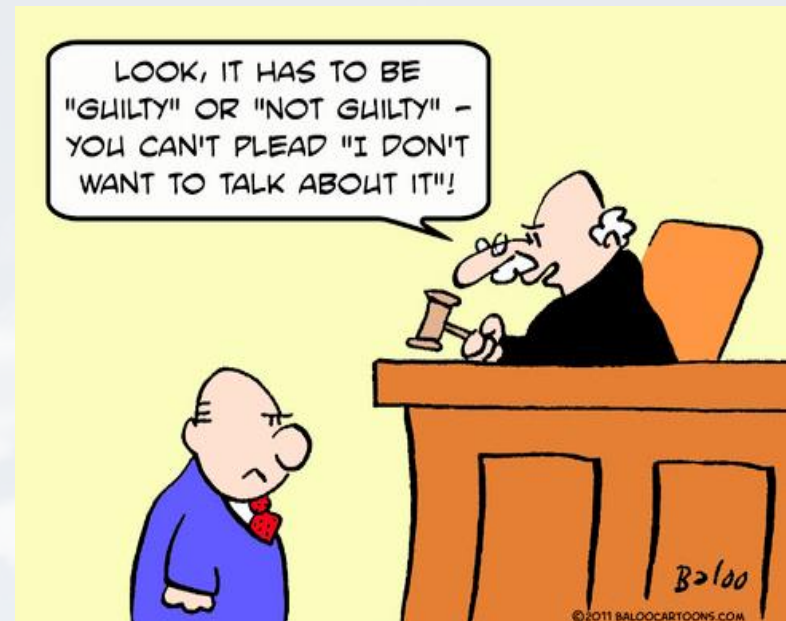
# But wait.... There's more!

- May 2015  
phone call from  
property owner  
.... “Its actually  
all over my  
property”
- Another site  
investigation



# Court proceedings

- Breach of original enforcement order identified
- Another 2 x charges each for both Taha Asia Pacific & Mark Egginton
- Victims identified = case automatically diverted through the restorative justice process
- Very time consuming
- Many delays during the court process





# Victims & RJ process

- Edendale site – 2x neighboring properties with downstream bores
  - 2 x quarry workers hospitalized with health issues
- Awarua site – land owner
- Victims and company took part in several restorative Justice Conference' – ES excluded from this process.
- Outcome from conference = ~ company apologized
  - ~ Further testing promised (didn't eventuate)
  - ~ Alternative water supply set up



# Media coverage

## Edendale Taha premix hearing starts

Taha sentencing 'Taha probe continues

Home »

By Allison

The Regi

Last updated 17:02, July 14 2015

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Former Taha manager Mark  
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## Dangerous aluminium dross dumped near Edendale

BRIDGET RAILTON

Last updated 05:00 12/08/2014

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Health & Safety www.constructhealth.co.nz  
Helping Define & Manage Safety Specialising in Safety Management

Environment Southland and Public Health South will join fur  
Mataura residents and other organisations in voicing their  
concerns over an application for the continued storage of  
hazardous substances in the town

any Ouvea Premix stored at Crawford Enterprises in Coalpit Winton.  
remix is a byproduct of the aluminium production process ar  
representative Simon King said the company intended to comp  
remove the material.

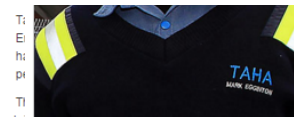
King said 738 tonnes of Ouvea Premix remained at the site.

However, the total weight of the material still to be transported was much greater because the premix had been mixed with gravel.

King said he was unable to comment on how the premix came to be mixed with gravel because of legal reasons. However, after apologising to two workers who received hospital treatment after being exposed to the product last year, Taha managing director Mark Egginton said the company had misinterpreted advice on how to handle the

An Invercargill-based fertiliser company has been ordered by the Environment Court to stop dumping a noxious contaminant that has led to at least two people needing hospital treatment.

Taha Asia Pacific and Taha Fertilizer Industries Ltd have been served interim enforcement orders by the Environment Court after it was found they dumped aluminium dross at Crawford Enterprises on Coalpit Rd, near Edendale.



ROBYN EDIE/FAIRFAX NZ

SERIOUSNESS UNDERSTOOD: Taha Asia Pacific managing director Mark Egginton said the company was working quickly and professionally to comply with orders

dumping the noxious contaminant.

Taha managing director Mark Egginton said in a statement the company was working quickly and professionally to comply with orders, and understood the seriousness of the situation.

"We would like to apologise to the workers affected by this material and acknowledge that we had misinterpreted advice on how the material could be safely used," he said.

"However, I want to make it clear that the safety of staff and the environment is the priority of the company. The charges relate to the material being spread on tracks.

Bernadette Farnan remanded both parties to appear again in court. Egginton's appearance was excused. On Friday, he pleaded guilty to three charges of discharging contaminants in Coal Pit Rd, Edendale, last year.

## Widespread concern over safety

BLAKE FODEN

Last updated 11:24, May 8 2015



The Regi

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Taha Asia Pacific has removed the last of a potentially hazardous material it had stored at a site in following an Environment Court ruling last month.

to appear in court over hazardous material

AND BLAKE FODEN  
April 6 2015



over dross



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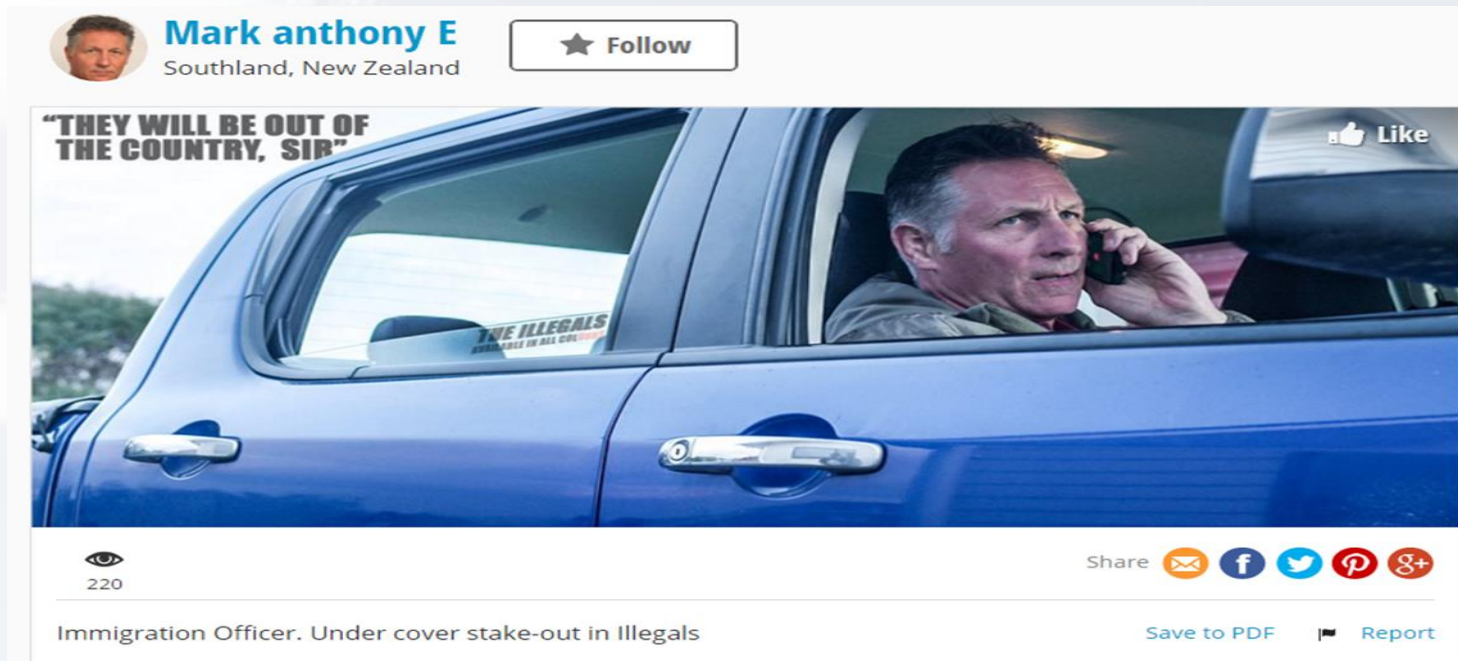
nix



Te Tairāwhiti

# Court Outcome

- 3 Offenders all sentenced on separate dates.
- **Mark Egginton** - 5 Charges sentenced on 29<sup>th</sup> July 2015 (Guilty plea)
- **Penalty** – convicted and sentenced to 100hrs community work, then deported.
- Community work imposed as “no financial means to pay fines”
- Had funds been available a total fine of \$81,000 would have been imposed





# Court Outcome

- **Taha Asia Pacific Limited** – 4 charges sentenced on 8 September 2015 (guilty plea)
- **Penalty** – Convicted and fined \$103,000 (\$26,000 per charge)
- No enforcement order requiring the removal of the material from the Awarua property
- A reparation order for \$1000 for each of the hospitalized quarry workers was made

# Court outcome

- **Crawford Enterprises Limited** – 2 charges, sentenced on 18 November 2015 (eventual guilty plea)
- **Penalty** - Convicted and fined \$59,400 (\$29,700)



**That's all folks!**  
**This is the closing slide.**