

## ONTARIO SENTENCING UPDATE

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On November 1, Maple Leaf Foods Inc. carrying on business as Rothsay was fined a total of \$682,500 after pleading guilty to charges under the *Environmental Protection Act* ("EPA"), Ontario Regulation 347 and the *Ontario Water Resources Act* ("OWRA").

Rothsay recycles animal and poultry by-products, including bones, trim, fat and offal into a broad range of commercial tallow and protein products, at its Hamilton plant. On numerous dates during 2001, 2003 and 2004, odours emanating from various sources at the company led to complainants reporting nausea, loss of appetite, loss of sleep, terminated social events and inability to enjoy outdoor property.

On three occasions the company failed to provide to the Ministry of the Environment shipping manifests for the transportation of wastes generated at its plant, as required by Ontario Regulation 347. In addition, it further failed to comply with its Certificate of Approval, Provincial Officer's Orders and Orders of the Environmental Review Tribunal in a number of respects relating to storm water studies, lagoon decommissioning, liquid levels in lagoons, sampling and analysis of effluent, and maintenance of effluent quality. Inspections by the Ministry and public complaints resulted in investigations by the Ministry's Investigations and Enforcement Branch, which lead to charges being laid against the company.

Rothsay pleaded guilty to a total of 18 counts:

- Odour causing adverse effects, in 2001, 2003 and 2004;
- Failing to return Copy 1 of the Ontario Regulation 347 Manifest to the Ministry (3 counts);
- Failing to submit a storm water study;
- Failing to comply with a Provincial Officer's Order to decommission wastewater lagoons;
- Failing to maintain minimum freeboard in the lagoons (3 counts);
- Failing to analyze for required parameters;
- Failing to take a grab sample at the clearwell;
- Discharging effluent containing Excessive Total Suspended Solids;
- Discharging effluent containing Excessive Unionized Ammonia (3 counts);
- Discharging effluent containing Excessive Total Residual Chlorine in Effluent; and
- Discharging effluent containing Excessive Biochemical Oxygen Demand (2 counts).

The company was fined \$450,000 for the odour emissions charge and \$232,500 for the remaining 17 charges totaling \$682,500, plus the 25 *per cent* victim fine surcharge.

As we reported in the June edition of *EnviroNotes!*, Bill 133 amended the EPA's and OWRA's sentencing provisions applicable to offences like these by expanding the level of fines available on the more minor offences, incorporating minimum fines for the more serious offences and increasing jail time for individuals, all of which are applicable to offences committed after June 9, 2005.