

## **First person sentenced to prison under the RMA, twice!**

The business manager of Cash for Scrap Ltd, Mr William Conway, has had his appeal against conviction and sentence dismissed by the Court of Appeal and is now facing a second term of imprisonment under the Resource Management Act 1991 (RMA). Mr Conway is the first person to be sent to prison twice for RMA offending. This time Mr Conway must serve a sentence of six and a half months. His partner, Ms Down (sole director of Cash for Scrap Ltd) received a sentence of 250 hours community work.

In 2009, after a long jury trial, Mr Conway and Ms Down were convicted by the District Court under the RMA for allowing oil, heavy metals and other toxins to discharge into the ground that may have entered waterways and also for contravening an enforcement order. Some of the offending involved puncturing the fuel tanks of cars accepted for scrap and letting the contents pour out onto the ground.

Judge Harland found that Mr Conway's offending was deliberate, on-going, and was aggravated by the fact that Court orders were breached. The Judge also found Mr Conway's offending particularly serious because he knew his legal obligations given that he had already been convicted and sentenced to imprisonment for similar offending.

In 2001 Mr Conway (business manager), Cash for Scrap Ltd (business operator) and Millennium Investments Ltd (landowner) pleaded guilty to charges of discharging contaminants onto land in circumstances that may have resulted in the contaminant entering water, failure to comply with abatement notices and failure to comply with enforcement orders issued by the Environment Court. A tributary of Tamaki Estuary, identified as a sensitive area in the regional plan and a wildlife habitat of significant conservation value, was affected. In 2004, Mr Conway was sentenced to three months imprisonment, Cash for Scrap Ltd was fined \$25,000 and Millennium Investments Ltd was fined \$15,000. All three sentences were unsuccessfully appealed to the Court of Appeal. Mr Conway served six weeks of the 3 month prison term.

In his latest Court of Appeal case Mr Conway asserted that there was insufficient evidence to support the conviction and that the sentence was manifestly excessive. The Court of Appeal dismissed Mr Conway's appeal on all grounds. The Court pointed to the aggravating factors that Mr Conway had started offending again within about eight months of being released from prison for his earlier offending, the offending spanned about eight months and he breached enforcement orders made by the Environment Court – effectively a contempt of court. The six month prison sentence, which was double that imposed in 2004, was not considered manifestly excessive.

Mr Conway must now surrender himself into custody this Friday or face a warrant for his arrest being issued.

This case serves as a warning to recidivist offenders under the RMA – imprisonment can be, and is, imposed if the offending merits it.