CASE STUDY 1

Environment Protection Authority v Truegain Pty Limited

Defendant: Truegain Pty Limited

Prosecutor: NSW Environment Protection Authority

Date of offence: 17 December 2001

Location of offence: Rutherford

Plea: Guilty

Offence: s120 *Protection of the Environment Operations Act 1997*, water pollution

Description:

The eastern boundary of the premises runs adjacent to a stormwater channel that leads to Stony Creek.

What happened?

Truegain Pty Limited receives, stores and processes waste oils and oily water emulsions and produces recycled petroleum-based products at its premises in Rutherford. As part of this operation the company operates a wastewater treatment plant on its premises. This plant is located within a bunded area. The bund comprises four concrete walls and at the time of the incident the floor of the bunded area comprised two concrete slabs. The main slab was 150mm thick and the second slab, an apron slab, was 100mm thick. The two floor slabs were joined by an epoxy expansion joint, traversing the floor of the bund.

A stormwater drain runs along the eastern boundary of the property. A steep embankment (of around 5 meters) separates the bunded area from the stormwater drain.

On 17 December 2001 liquid escaped from the bund via a separation in the epoxy expansion joint between the two floor slabs. Some liquid, a black oily liquid comprising waste oils and wastewater, entered the stormwater drain and could be observed 110 meters downstream. It is estimated that between 30 and 110 litres of liquid escaped.

The separation of the epoxy joint was caused by a weak area of sub-material under the floor of the bund. The weak area caused the 100mm slab to sink and fall towards the stormwater drain by around 25mm. This movement caused the expansion joint to open, breaking the integrity of the bund and allowing the liquids to escape.

On the same day the defendant shut down the wastewater treatment plant, reported the incident to the EPA and removed contaminated soil, water and vegetation from the stormwater drain. Within 2 weeks the defendant had commenced construction of new bunds onto the main concrete slab.

What did the judge consider?

In favour of the defendant the judge found that:

- Actual harm to the environment was likely to be inconsequential apart from some staining of the soil and vegetation on the embankment and in the drain.
- Since the incident the defendant has taken the following steps:

- made physical changes to the bund
- increased the frequency of boundary inspections to monthly
- employed a full-time occupational health and safety and environmental officer
- prepared and implemented a new Occupational Health and Safety and Environmental site project plan (including staff training)
- established a neighbourhood complaint system.

- The defendant pleaded guilty early and cooperated with the investigation.

In favour of the prosecutor the judge found that:

- Pollution occurred.

Outcomes

- Truegain Pty Limited was convicted of the offence
- Truegain Pty Limited fined $7,500
- Truegain Pty Limited to Pay the prosecutor's costs.

CASE STUDY 2 – EPA v ECOLAB PTY LTD

Defendant: Ecolab Pty Limited

Prosecutor: NSW Environment Protection Authority

Date of offence: 6 June 2001

Location of offence: Castle Hill, Sydney

Plea: Guilty

Offence: s 120 *Protection of the Environment Operations Act 1997*, pollute waters

Description:

The factory is located in Castle Hill, with stormwater drains leading to an unnamed Creek which leads to Cattai Creek.

What happened?

Ecolab Pty Limited operated a factory and warehouse at its premises in Castle Hill, manufacturing soap and detergent products. At 12.30pm on 6 June 2001 a contractor delivered drums of chemicals by truck. The chemicals were being unloaded from the truck by forklift. During unloading, a 1,000 litre tank of 12.5% bleach (sodium hypochlorite) had its protruding valve torn off due to an impact. This caused the tank to rupture and between 500 and 600 litres of the bleach flowed from the tank and into the stormwater drain before the tank was maneuvered into a position to prevent further leakage.

The bleach traveled via the stormwater drainage pipes to the unnamed Creek near Salsibury Road in Castle Hill. During investigations it was revealed that the spill resulted in chlorine concentrations in the creek of up to 266,000 times the acceptable limit.

When the incident occurred, employees on the site informed site managers and once the Operations Manager arrived on site he advised staff to place 'Drysorb' bags into the stormwater drains. 'Drysorb' bags were also taken to the creek and used to form a dam approximately 10 metres downstream of the stormwater outlet pipes in an attempt to contain the bleach in the upper section of the creek. The spill was reported to the EPA and Ecolab staff were advised to arrange for a liquid waste management company to provide a vacuum tanker. Local council officers also attended the creek and observed that the bleach was escaping from the damn. A second damn was constructed downstream of the first and during the day of the incident and the following day, vacuum tankers were used to pump water from the creek.

On 8 June 2001 (2 days after the incident) an EPA officer observed that bleach levels in the creek were still high and arranged for NSW Fire Brigade to add sodium thiosulphate to the creek to neutralise the bleach. After this was done the bleach concentration was lowered to acceptable levels.

During previous site inspections, Environment Protection Authority officers had advised Ecolab that the drains in the concrete driveway area (that is used for delivery and dispatch) led to stormwater and that a pollution event could easily occur at the site. Two methods were suggested for reducing the risk of pollution: constructing bunding around the outdoor storage, delivery and dispatch areas or conduct all storage, loading and unloading activities indoors where bunding already existed. Neither of these suggestions was acted upon.

What did the judge consider?

In favour of the defendant the judge found that:

- The defendant entered an early guilty plea and cooperated fully with the investigation.
- The defendant expressed contrition and remorse.
- No prior convictions had been recorded.
- Since the incident the defendant had put in place measures to prevent a repeat including: loading and unloading only being conducted within the bunded warehouse area, chemical tanks no longer having protruding valves.

In favour of the prosecutor the judge found that:

- The defendant had been forewarned, by EPA staff, of the risk of pollutants escaping to stormwater and provided with two options for reducing that risk and therefore the incident was easily foreseeable.
- The staff that were present when the spill occurred where not aware of the procedure to be followed in the event of a spill.

Outcomes

- Ecolab convicted of the offence and fined $30,000
- Ecolab required to pay EPA costs of $12,000
- Ecolab paid $23,585 in managing the spill.

CASE STUDY 3

– Environment Protection Authority v Warringah Golf Club

– Environment Protection Authority v Craig Coggins

Defendant 1: Warringah Golf Club

Defendant 2: Craig Coggins

Prosecutor: NSW Environment Protection Authority

Date of offence: 12 February 2001

Location of offence: Brookvale

Plea 1: Not guilty **Plea 2:** Guilty

Offence: s116 *Protection of the Environment Operations Act 1997*

Description:

Warringah Golf Club is located in adjacent to Brookvale Creek which flows to Manly Lagoon.

What happened?

On Friday 9 February 2001 a grounds person noticed that an insect pest which was suspected to be the Argentine Stem Weevil was causing damage to the fifth green on the golf course. To treat such infestations the Club kept various pesticides, including Gusathion, in its workshop area which is located on the golf course in close proximity to Brookvale Creek.

On Friday 9 February 2001 a spray unit, attached to a tractor, was filled with water and Gusathion added. However, despite attempts over several days to spray the greens, the spray unit failed to work properly and failed completely on Monday 12 February 2001.

The unit was driven to the workshop and parked on a concrete slab in the workshop area to enable repairs to be effected. Two employees and the Course Superintendent, Craig Coggins, attempted to rectify the fault and after unsuccessful calls to the manufacturer the Course Superintendent decided that it was necessary to disconnect one of the hose lines and to drain the tanks to determine the location of the blockage. Accordingly the Course Superintendent instructed one of the employees to remove the hose line - this caused the chemical solution to flow across the concrete slab.

To remove the chemical solution from the concrete slab the Course Superintendent hosed the liquid from the slab. The chemical solution then moved along a depression in the ground adjacent to the concrete slab until it met a grated stormwater drain which led directly into the Brookvale Creek. The chemical solution entered the drain and the creek and ultimately migrated into Manly Lagoon resulting in the destruction of marine life and birds.

The discharge of the chemical solution resulted in a large fish kill in Manly Lagoon on Tuesday 13th February 2001 the death of more than 10,000 fish including bream, snapper, mullet, Australian Bass, herring, trevally, and eels. Not less than 4.16 tonnes of dead fish and eels were collected by Manly Council and Warringah Council and were disposed of at the Belrose Waste Management Centre. It is estimated that at least 12 species of fish within the Lagoon perished. In addition, dead and dying ducks, cormorants, and herons were observed.

The Environment Protection Authority commenced prosecutions against both Warringah Golf Club and Craig Coggins as an individual. Mr Coggins was charged with negligently causing the pesticide to escape in a manner which harmed the environment. The EPA charged the Club, as the occupier of the Golf Course, with negligently contributing, in a material respect, to the conditions which gave rise to Mr Coggin's offence. This did not mean that the Club 'caused' Mr Coggin's offence, rather, it meant that the Club, through its own acts and omissions, created conditions which contributed to his offence. Both Mr Coggins and the Club were charged under section 116, a Tier 1 offence, of the *Protection of the Environment Operations Act 1997*.

Initially Craig Coggins tried to hide the evidence by removing the empty Gusathion containers and providing a false account of how the incident occurred, however, he confessed to the false information within a few days and cooperated with investigators. Warringah Golf Club pleaded not guilty and attempted to blame Craig Coggins.

What did the judges consider?

Warringah Golf Club and Craig Coggins were tried in separate court cases by separate judges. The cases were complex and the following is an amalgamated summary of the judgements.

In favour of the defendant the judges found that:

- Craig Coggins was of excellent character, pleaded guilty to the offence, did not commit the offence with malice or intent and expressed some (limited) contrition.
- The evidence presented showed that there was some recovery in the lagoon after several months.
- Warringah Golf Club had cooperated with the investigation.

In favour of the prosecutor the judges found that:

- Despite the recovery of the Lagoon, the harm caused must be viewed as permanent, because of the death of a wide variety of wildlife.
- The escape of the pesticide and the potential harm were foreseeable, both by Craig Coggins and the Warringah Golf Club.
- Craig Coggins did plead guilty, but only after six months during which time considerable expenses were incurred by the prosecutor.

The Club had been criminally negligent in that, amongst other things:

- Poisonous chemicals, including pesticides, were frequently handled and mixed on a concrete slab in its greenkeepers' workshop area which was adjacent to stormwater pits that lead to Brookvale Creek and that there was no bund or protective device in place to prevent spills escaping.
- Little or no precautions had been taken by the Club to prevent the escape of dangerous substances from the greenkeepers' workshop area.
- There was evidence to suggest that the Club's board of directors considered environmental safeguards to be outside their responsibility and took little or no account of them.

Outcomes

Both offences were proved and Craig Coggins and Warringah Golf Club where convicted of the offences Warringah Golf Club was required to:

- pay a fine of $250,000
- pay the EPA's costs of $190,000
- pay Warringah Council's clean up and investigation costs of $24,270 and Manly Council's clean up costs of $26,230.
- construct a wash bay, a pumped connection to the sewer and a dedicated roofed and bunded chemical filling and emergency storage facility within 12 months
- publish a notice about the offence in its newsletter to members, the wording of which was prescribed by the court and is printed below.

Craig Coggins:

- Was ordered to serve 250 hours of community service
- required to pay $1,236 in disposal costs for the dead fish and birds
- required to pay the EPA's costs
- lost his job at the golf course as a result of the offence, he was reinstated after he won an unfair dismissal claim but resigned, finding it untenable to work there
- incurred $220,000 in legal costs for the defence of this case and his unfair dismissal case – he had to pay these costs himself.

PUBLICATION ORDER WARRINGAH GOLF CLUB CONVICTED OVER FOUR TONNE FISH KILL

On 19 June 2003, the Land and Environment Court of New South Wales found Warringah Golf Club Limited guilty of an offence against the *Protection of the Environment Operations Act 1997*, in that it negligently contributed to the conditions that gave rise to the escape of a pesticide into Brookvale Creek from the Warringah Golf Course.
On 20 June 2003, the same Court convicted the former Course Superintendent of negligently causing the escape of the pesticide on Monday 12 February 2001 in a manner that harmed the environment. The harm included water pollution, leading to the deaths of at least 4.16 tonnes of fish, ducks and geese in Brookvale Creek and Manly Lagoon.

The Club entered a plea of not guilty but the Court found the Club guilty of criminal negligence in that, among other things:

1. poisonous chemicals, including pesticides, were frequently handled and mixed on a concrete slab in its greenkeepers' workshop area
2. the slab was near Brookvale Creek and adjacent to stormwater pits that lead to Brookvale Creek;
3. the slab was not surrounded by a bund or other protective devices;
4. little or no precautions had been taken by the Club to prevent the escape of dangerous substances from the greenkeepers' workshop area; and
5. the escape of the pesticide and the potential harm were foreseeable and it was an accident waiting to happen.

The Club was fined $250,000 and ordered to pay Manly and Warringah Council's clean-up costs incurred as a result of the offence, carry out remedial and preventative works on the Course and to make this notification. This notice is placed by order of the Land and Environment Court.

CASE STUDY 4

– Environment Protection Authority v Illawarra Coke Company Pty Limited

– NSW Land and Environment Court 296 2005

Defendant: Illawara Coke Company Pty Limited

Prosecutor: NSW Environment Protection Authority

Date of offence: 9th August 2003

Location of offence: Coalcliff

Plea: Guilty

Offence: s120 *Protection of the Environment Operations Act 1997*

Description:

Illawara Coke Company Pty Limited operates a coking operation at Coalcliff and holds a licence with the Department of Environment and Climate Change NSW. The premises are located half way up the Illawarra escarpment behind Coalcliff. A small stream called Stoney Creek has its headwaters on top of the escarpment and runs through a large pipe underneath the coke works before forming a small stream and discharging to the ocean at a lagoon at Coalcliff Beach.

What happened?

As part of the coking process, waste oil, stored in tanks on the site, is sprayed onto the coal before it is fed into the coke ovens. On the day of the incident a small valve on an oil sampling pipe was open, allowing the waste oil to drain out of the oil storage tank. It is not known how this valve became open.

There is a water collection pond on the premises, known as Lake Bradley, which collects dirty water from the coke works. Due to the open valve, the waste oil drained into Lake Bradley. The liquid level in Lake Bradley was higher than usual, allowing water to seep into a nearby stormwater drain.

In response to complaints from the public about discoloured water and odour coming from Stoney Creek, an Environment Protection Authority officer went to the Creek and followed the pollutant upstream. The officer followed the pollution to the coke works and found the same discolouration and odour (like creosote or phenol) in Lake Bradley as had been observed in the Creek. Water samples from Stoney Creek, an upstream tributary, the stormwater pipe and Lake Bradley showed the same contaminant materials present in each: phenolic compounds and hydrocarbons in the diesel, kerosene and mineral oil ranges.

The defendant was not aware that the waste oil was contaminated with a substance called tar naphtha which contains phenolic compounds. The defendant was subsequently informed by the oil supplier that the tar naphtha was mixed with a batch of sump oil prior to delivery to the coke works.

It was estimated that between 2.2 and 11 litres of contaminated oil entered the drainage system during the incident.

What did the judge consider?

In favour of the defendant the judge found that:

- Although local residents complained of odours and some aquatic life was killed, the environmental impact was of a short-term nature due to the flushing of the Creek by the defendant.
- The defendant cooperated with investigators and took practical measures immediately to both clean-up and prevent a recurrence.
- The defendant expressed contrition and remorse in relation to the offence, as evidenced by the publishing of apologies in local papers.
- The defendant has identified $4million expenditure program for environmental management.
- The defendant agreed to pay the prosecutor's costs of $20,000.

In favour of the prosecutor the judge found that:

- Although the impact was short-term, neither the potential harm to the environment nor the actual harm to the environment were trivial in nature. Serious consequences could have occurred if people, particularly children, had been playing in the lagoon behind the beach.
- There were practical measures that could have been taken to prevent the incident – these measure were installed after the incident and included: locking the building, removing the valve handle, installation of an impermeable liner in Lake Bradley to prevent seepage.
- The need for the above measures should have been foreseen but the inclusion of tar naphtha in the waste oil could not have been foreseen by the defendant.
- The defendant had been before the court on two previous occasions relating to odours.

Outcomes

- The defendant voluntarily undertook immediate clean-up (tankered out 100,000 litres of water from Lake Bradley) and preventative action (including increased security and reconfiguring the oil spray application process) to the order of $86,800
- The defendant paid the prosecutor's costs of $20,000
- The defendant was convicted of the offence and fined $40,000.

CASE STUDY 5

Environment Protection Authority v Olex Australia Pty Ltd (2005) NSWLEC 475 (31 August 2005)

Defendant: Olex Australia Pty Ltd

Prosecutor: NSW Environment Protection Authority

Date of offence: 27 January 2004

Location of offence: Wetherill Park

Plea: Guilty

Offence: Section 120(1) *Protection of the Environment Operations Act 1997*, polluting waters

Description:

Olex Australia Pty Ltd manufactures copper wire, amongst other products. The factory is located within the Wetherill Park Industrial Estate, through which there is an open concrete drain, known as the Wetherill Park drainage channel. This channel flows into Prospect Creek approximately 1 kilometre from the factory site.

What happened?

A liquid collection pit located in the floor next to the rod breakdown machine filled up with drawing solution. The drawing solution was approximately 90% water and 10% lubricant oil, but was later analysed and also found to contain of copper (800mg/litre).

Once the collection pit was full, the drawing solution overflowed into another pit (for waste collection) which in turn overflowed. This overflow of drawing solution then traveled to a stormwater drain on the premises. The drain led to the Wetherill Park drainage channel.

The company had in place a number of measures to prevent this from happening, all of these measures failed as described below.

1. The first liquid collection pit contained a level sensor which could activate an alarm and pump to transfer the contents to a holding tank. On this day, the sensor did not detect the drawing solution because it was foamy (highly aerated). So presence of the drawing solution in the pit went undetected.
2. The solution then flowed into the adjacent waste collection pit which also had a sensor. This time the sensor detected the solution and sounded an alarm. The sensor was also supposed to activate a pump that would have transferred the solution into a tank. However, the pump failed to operate and so the drawing solution overflowed from the waste pit and entered a drain which led to the stormwater system.
3. An isolation valve was installed in the stormwater drainage system which, when closed, would prevent liquids leaving the site, allowing them to collect in a stormwater pit. The valve was manually operated and was closed when the person responsible returned from a morning tea break and noticed the overflow to stormwater. It is estimated that the valve was closed "some time after" the overflow started.
4. The Maintenance Manager was informed and he immediately checked that the isolation valve was closed. He was not able to observe whether the valve was effective at containing the solution as the pipe downstream of the valve is closed in.

5. The Maintenance Manager together with a Fire Brigade Officer and a Council Officer observed the point where the drain from the factory enters the Wetherill Park drainage channel. They noted that some of the drawing solution had entered the drainage channel and traveled around 150 metres downstream, causing the water to discolour. It was assumed that this liquid had entered the channel before the isolation valve was closed.
6. Staff flushed around 800 litres of water into the pit to move the drawing solution to the closed off stormwater pit so that it could be pumped out.
7. Later in the day staff checked the seal on the isolation valve and found that a piece of blue metal (around 4mm long and wide) had prevented the valve from sealing properly and so solution and flushing water were still being discharged after the valve was closed.
8. The Council Officer issued a Clean-Up Notice on the company. The company then called Collex to the site and around 14,000 litres of water was pumped from the Wetherill Park drainage channel. Another 1000 litres of water and solution was pumped out of the stormwater pit at the factory. The company paid for the liquid to be disposed of.
9. It was found that around 200 litres of drawing solution overflowed into the stormwater pit and that around 100-150 litres of this was recovered. So between 50 and 100 litres escaped to the drainage channel.

What did the judge consider?

In favour of the defendant the judge found that:

- The company had a long and unblemished record in the industry
- The seriousness of the offence was at the lower end of the spectrum
- The defendant pleaded guilty and showed genuine remorse on and contrition
- The defendant reported the incident
- The defendant cooperated with Council and the Prosecutor in the clean up activities and the investigation.

In favour of the prosecutor the judge found that:

- Section 120 is a strict liability offence
- The offence was not trivial in nature
- Despite the separate failures that led to the offence occurring, the escape of the liquid was foreseeable and the individual failures readily avoidable.
- The system in place to prevent liquid escapes was not fail-safe, particularly given the accessibility of the stormwater system to any liquid flows
- A conviction needed to be recorded despite the risk to the defendant's business reputation.
- Although the incident was accidental rather than intentional, there were elements and degrees of negligence.

Outcomes

- Olex Australia Pty Ltd was convicted of the offence
- A penalty of $15,000 was imposed
- Olex Australia Pty Ltd was also required to pay costs of $13,000.

CASE STUDY 6

Environment Protection Authority v Incitec Limited NSWLEC 381 (15 October 2003)

Defendant: Incitec Limited

Prosecutor: Environment Protection Authority

Date of offence: 12 July 2002

Location of offence: Kooragang Island, north arm of Hunter River

Plea: Guilty

Offence: Section 64 *Protection of the Environment Operations Act 1997* – contravene condition of licence

Description:

Incitec owns and operates a chemical manufacturing facility located at Greenleaf Road, Kooragang Island, near Newcastle. It manufactures ammonia, ammonium nitrate, nitric acid and granulated fertilisers at this facility. Incitec, or previous manifestations of that corporation, have manufactured those products and similar products at the premises for in the order of forty years.

What happened?

Incitec Limited held a licence with the Environment Protection Authority which applied to its premises on Kooragang Island. A condition of the licence was the water discharged to the river at a particular location be between pH 6.2 and 9.5 at all times.

During the manufacture of ammonium nitrate an acid heater is used to heat nitric acid. The acid heater contains seventy-six stainless steel tubes through which steam passes to heat the acid. On 12 July 2002, one of the steel tubes ruptured, allowing the acid to escape to the condensate collection tank. This tank was fitted with meters to measure pH and conductivity. The meters were set to trigger both visible and audible alarms if the conductivity became elevated or if the pH fell below 1.

The condensate tank overflows to the waste water treatment system. On the day of the incident, nitric acid flowed out of the condensate tank through to the waste water treatment system. Several collection pits between the condensate tank and the ultimate discharge point in the river were also fitted with pH meters. Including the pH meter in the condensate tank, there were a total of 4 pH meters in collection pits where the acid accumulated as it escaped. All of these pH meters were set to trigger both audible and visible alarms in the control room – where data from the meters could also be read.

At 10.14am on the day of the incident, the conductivity meter in the condensate pit triggered an alarm but the pH meter failed to do so. Two out of three of the other pH monitoring devices mentioned above triggered alarms at 10.27am and 11.06am. Incitec's employees did not become aware of these alarms until 1pm on the day of the incident. This meant that for a two hour period water, with a pH considerably lower than that allowed by the licence, entered the Hunter River before any action was taken.

It was standard practice that employees respond to alarms in the order that they are triggered. On the day of the incident, numerous other alarms that relate to plant and equipment had also been triggered. These were being attended to in the order in which they occurred, rather than by priority. No evidence was

presented to the court to suggest that the other alarms required a more urgent response.

Once it was identified that the condensate tank was low in pH the flow to the plant's wastewater system was stopped. Overall, between 11.06am and 3.28pm the pH of the water that was discharged to the river was between 1.4 and 4.6. It was estimated that approximately 333,000 litres of low pH waste water was released into the river, of which approximately 30,000 litres was the condensate contaminated with nitric acid. This equates to approximately 1,400 litres of nitric acid (approximately 2 tonnes).

The evidence presented to the court demonstrated that the environmental harm likely to have been caused by the discharge would have been localised and short-term in nature, primarily due to the dilution and neutralizing action of the river waters.

What did the judge consider?

In favour of the defendant the judge found that:

- While harm to the river must have occurred, there was no observable harm
- The defendant pleaded guilty early, cooperated with authorities and has expressed genuine regret for the incident

In favour of the prosecutor the judge found that:

- Although no observable harm to the environment occurred, the incident was still serious since it was largely by luck that the tidal influences reduced the impact of the discharge.
- Practical measures could have been taken to prevent the occurrence of the incident – in particular, the defendant had a responsibility not only to ensure that appropriate alarms where in place and operational but to also ensure that mechanisms where in place to ensure alarms were appropriately responded to.
- The incident was foreseeable
- The defendant had two prior convictions, one of little relevance related to air pollution, the other relevant conviction related to discharge of acidic water to the river.

Outcomes

- Incitec Limited was convicted of the offence of contravening a licence condition (that the pH be between 6.2 and 9.5)
- Incitec Limited fined $90,000
- Incitec Limited liable for prosecutor's costs of $20,000
- Incitec Limited was required to publish the notice below in the Financial Review and in the executive summary of its annual report.

PUBLICATION ORDER

INCITEC CONVICTED

DISCHARGE OF ACIDIC WASTEWATER

On 15 October 2003, the Land and Environment Court of New South Wales found Incitec guilty of an offence against the *Protection of the Environment Operations Act 1997*, in that it breached a condition of its environment protection licence by, on 12 July 2002, discharging over a period of approximately four and a half hours, acidic wastewater with a pH ranging between 4.6 and 1.4 into the Hunter River.

The acidic discharge had the potential to cause harm to fish and other aquatic life, however, there was no evidence of actual harm to fish or other aquatic life. The company was fined $90,000 for this offence.

Incitec was ordered to place this notice and to pay the EPA's costs of $20,000.