

Alleged Breach Report

Penalty Infringement Notice

This Alleged Breach Report will assist officers in recording information which supports a decision to issue a Penalty Infringement Notice (PIN) in a circumstance under the State Penalties Enforcement Act 1999 regime. This includes the Environmental Protection Act 1994, Nature Conservation Act 1992, Forestry Act 1959, Recreational Areas Management Act 2006, Marine Parks Act 2004, Waste Recycling and Reduction Act 2011, Chapter 3 of the Water Act 2000 and the Queensland Heritage Act 2000.

Note: For information on writing and management of PIN's please refer to the PIN Manual at <http://steps/steps/reflaunch.cfm?nw=true&ref=2291> or contact infringement.notices@ehp.qld.gov.au

1. Identifying details relating to the PIN

Officer	Joanne Page
Reference details	CA26671
ECOTrack Number if used	CA26671
Licence/Permit number	N/A
File number	SOR117090
Name of alleged offender	Oil Technology Australia Pty Ltd (OTech)
Date of birth	N/A
Address	5-7 Potassium Street, Deception Bay QLD 4508
ACN/ABN	ABN 23 083 333 484
Contact details	(07) 3203 2833 – Raymond Georgey

2. Background details of incident

Please outline any historical information relevant to this incident. This information may assist with the reasoning for the decision, assist in completing a review of the PIN and may be essential should the matter be referred to the Magistrates Court.

Date the department was made aware of the alleged offence	11 December 2012
Date & time of the offence	11 December 2012
Day of the week	Tuesday
Location	6 Potassium Street, Narangba QLD 4504 (Narangba Industrial Estate), Lot 732 on

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	SP241692.
Vehicle/vessel details	N/A
Contact with alleged offender – have you notified them that PINS are being issued?	The offender was issued with a show cause notice relating to the alleged offence and the possibility of issuing a PIN.
Other information	<p>The cause of the fire is unknown, but it is believed to have started in one of the heavy vehicles. The incident resulted in unknown amounts of oil, greases and other contaminants being released from the site and into the stormwater system.</p> <p>This site was also subject to a fire incident in April 2008 which resulted in the business (Tasman Sheepskin Tannery) choosing not to re-open after the fire.</p>

3. Alleged offence details

Please outline what offences are alleged to have been committed. Details include the legislation, section number, penalty units and limitation periods. Note: If there are more than three separate PIN-able offences being considered the matters should form the basis of a complaint and summons and be heard by a Magistrate. PIN offence codes are found at: http://insite2.dnr.qld.gov.au/compliance_coordination/pins.html#offence_codes

No.	Section	Legislation	Penalty Units	Statute Limitation
1	427 – Only registered operators may carry out chapter 4 activities.	<i>Environmental Protection Act 1994</i>	20 Penalty Units	8 Weeks
2	440ZG - Depositing Prescribed Water Contaminants in waters and related matters.	<i>Environmental Protection Act 1994</i>	20 Penalty Units	8 Weeks

4. Elements and supporting evidence

Please outline the elements of each of the offences listed above. Detail what evidence is available to satisfy each and every element of the offence(s), the source, how it is/was obtained and when it will/was obtained.

1. s427 *Environmental Protection Act 1994*

'A person must not carry out a chapter 4 activity, unless the person is a registered operator for the activity or is acting under a registration certificate for the activity.'

2. s440ZG (a) (iii) *Environmental Protection Act 1994*

'A person must not unlawfully deposit a prescribed water contaminant at another place, and in a way, so that the contaminant could reasonably be expected to was to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage.'

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Explanatory Notes for s440ZG *Environmental Protection Act 1994*

The intent of these provisions was to prohibit in certain circumstances the deposit or release of certain things into a roadside gutter, stormwater drain or water, or in a place where they could reasonably be expected to move or be washed into a roadside gutter, stormwater drain or water.

Offence No. 1

Elements	Evidence	Type and Source of evidence	How evidence was obtained
"Time, Date, Place, Person" 11/12/2012, Former Tasman Tannery Site; Lot 732 on SP241692 – 6 Potassium Street, Narangba QLD 4504; Oil Technology Australia Pty Ltd.	ASIC search providing the registered business details for Oil Technology Australia Pty Ltd.	Search Results - Document (PDF) – Electronic and Hard Copy)	Through the following Departmental Unit. intel@derm.qld.gov.au Information is obtained through the ASIC Database
	Smart Map search results showing the correct address, lot and plan and registered owner of the site	Search Results - Document (PDF) – Electronic and Hard Copy)	Through SmartMap Information Service
	Title search results showing, lot and plan and registered owner of the site	Search Results - Document (PDF) – Electronic and Hard Copy)	Through SmartMap Information Service
	11/12/2012 – Details of incident listed in chronological order. Shows the date and time that the incident occurred.	File Note - Department Files (Electronic and Hard Copy)	At the initial incident response on 11/12/2012
"Must" <i>indicating obligation or necessity</i> Source: http://www.macquariedictionary.com.au (11/01/2013)			

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<p>“Carry Out”</p> <p><i>to accomplish or complete and to manage and conduct</i></p> <p>Source: http://www.macquariedictionary.com.au (11/01/2013)</p> <p>OTech were conducting the storage of oil and greases at the site where the incident occurred.</p>	<p>A conversation with OTech on the initial incident response day where OTech stated they were storing finished oil products at the site.</p>	<p>File Note (Electronic and Hard Copy)</p>	<p>At the initial incident response on 11/12/2012</p>
	<p>OTech's response to the initial s451 notice. A summary of the activities being conducted onsite was provided, including the storage of oil products ready for sale.</p>	<p>Letter (Electronic and Hard Copy)</p>	<p>In response to the s451 notice sent 13 December 2012.</p>
	<p>Photographs of the incident. Shows that IBC's and Drums of various sizes were being stored in the building (The drums stored oil and greases and this was confirmed by the owner – OTech)</p>	<p>File Note – Electronic and Hard Copy (Department Files)</p>	<p>At the initial incident response on 11/12/2012</p>
<p>“Chapter 4 Activity”</p> <p>As listed under Schedule 2 of the <i>Environmental Protection Regulation 2008</i></p> <p>The Department was able to determine that at least 55,228 litres of C1 and C2 oil products were being stored by OTech at the incident site.</p> <p>This triggers the threshold under the <i>Environmental Protection Regulation 2008</i> for ERA 8 3(a) – Chemical Storage.</p>	<p>A conversation with OTech on the initial incident response day where OTech stated they were storing finished oil products at the site.</p>	<p>File Note (Electronic and Hard Copy)</p>	<p>At the initial incident response on 11/12/2012</p>
	<p>OTech's response to the s451 notice (see above). A list of contaminants stored at the incident was provided. No site based management plan had been developed for the site nor was the storage of the contaminants complaint with AS:1940:2004. OTech did not believe the site to be an extension of the licenced ERA site as the incident site was only</p>	<p>Letter (Electronic and Hard Copy)</p>	<p>In response to the s451 notice sent 13 December 2012.</p>

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	used for external storage.		
	A new document was provided to the Department by OTech providing clarification regarding the quantities of contaminants stored at the incident site.	Email Attachment (PDF) – Electronic Copy	In response to an email sent requesting clarification regarding the response received for the s451 notice send on 13 December 2012.
	The information provided in the contaminant list was used to locate the individual product MSDS's from OTech's website to determine if the products were classed as C1 or C2 for combustibility.	Documents (PDF) – Electronic Copy	OTech's Website (http://otechaustralia.com.au/home/) Accessed on the internet
	An analysis was conducted using the contaminant list (see above) to determine if the quantities of contaminants stored at the incident site trigger the threshold for ERA 8 3(a).	Document (Excel File) – Electronic Copy	Departmental Analysis conducted by Joanne Page with the information already received (see above)
	Details of ERA 8 3 (a) Chemical Storage under the <i>Environmental Protection Regulation 2008</i> . ERA 8 3(a) – storing the following total quantity of chemicals of class C1 or C2 combustible liquids under AS1940 or dangerous good class 3 under subsection (1) (c) – 10m ³ to 500m ³	Document (PDF) – Electronic Copy Queensland Legislation Website (http://www.legislation.qld.gov.au/OQPChome.htm) (Electronic Copy)	Accessed on the internet

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<p>“Person”</p> <p><i>includes a body of persons, whether incorporated or unincorporated.</i></p> <p>Source: s39 and s309H <i>Environmental Protection Act 1994</i></p> <p><i>any human being or artificial body of people, having right and duties before the law</i></p> <p>Source: http://www.macquariedictionary.com.au (11/01/2013)</p> <p>Oil Technology Australia Pty Ltd is the alleged offender for the offence.</p> <p>Raymond Georgey is listed as the director of Oil Technology Australia Pty Ltd.</p>	<p>ASIC search providing the registered business details for Oil Technology Australia Pty Ltd.</p>	<p>Search Results - Document (PDF) – Electronic and Hard Copy)</p>	<p>Through the following Departmental Unit.</p> <p>intel@derm.qld.gov.au</p> <p>Information is obtained through the ASIC Database</p>
<p>“Registered Operator”</p> <p><i>the holder of a registration certification, for a chapter 4 activity, issued under section 73F and in force</i></p> <p>Source: Schedule 4 <i>Environmental Protection Act 1994</i></p> <p>OTech are not a registered operator for the activity ERA 8, 3(a) on the site known as 6 Potassium St Narangba. (Lot 732 on SP241692).</p>	<p>OTech are a register operator for ERA 56; 7, 2(b) and 7, 5(b) under registration certificate ENRE00580906 for lot 801 on SP138531.</p> <p>This registration certificate does not cover the incident site (Lot 732 on SP241692)</p>	<p>Document (PDF) – Electronic Copy</p>	<p>The registration certificate was obtained from Department Records in ECOTRACK.</p>
<p>“Acting”</p> <p><i>that acts; functioning</i></p> <p>Source: http://www.macquariedictionary.com.au (11/01/2013)</p>			
<p>“Registration Certificate”</p> <p><i>A registration certificate authorises the registered operator to carry out the activities stated in the certificate at the place or places in the certificate</i></p> <p>Source: Section 73F <i>Environmental Protection Act 1994</i></p> <p>No registration certificate exists for OTech to carry out ERA 8 3(a) at 6</p>	<p>OTech are a register operator for ERA 56, 7 2(b) and 7 5 (b) under registration certificate ENRE00580906 for lot 801 on SP138531. This registration certificate does not cover the incident site (Lot 732 on SP241692)</p>	<p>Document (PDF) – Electronic Copy</p>	<p>The registration certificate was obtained from Department Records in ECOTRACK.</p>

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Potassium St Narangba. (Lot 732 on SP241692).			
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Offence No. 2

Elements	Evidence	Type and Source of evidence	How evidence was obtained
"Time, Date, Place, Person" 11/12/2012, Former Tasman Tannery Site; Lot 732 on SP241692 – 6 Potassium Street, Narangba QLD 4504; Oil Technology Australia Pty Ltd	ASIC search providing the registered business details for Oil Technology Australia Pty Ltd.	Search Results - Document (PDF) – Electronic and Hard Copy)	Through the following Departmental Unit. intel@derm.qld.gov.au Information is obtained through the ASIC Database
	Smart Map search results showing the correct address, lot and plan and registered owner of the site	Search Results - Document (PDF) – Electronic and Hard Copy)	Through SmartMap Information Service
	Title search results showing, lot and plan and registered owner of the site	Search Results - Document (PDF) – Electronic and Hard Copy)	Through SmartMap Information Service
	11/12/2012 – Details of incident listed in chronological order. Shows the date and time that the incident occurred.	File Note - Department Files (Electronic and Hard Copy)	At the initial incident response on 11/12/2012

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<p>“Person”</p> <p><i>includes a body of persons, whether incorporated or unincorporated.</i></p> <p>Source: s39 and s309H <i>Environmental Protection Act 1994</i></p> <p><i>any human being or artificial body of people, having right and duties before the law</i></p> <p>Source: http://www.macquariedictionary.com.au (11/01/2013)</p> <p>Oil Technology Australia Pty Ltd is the alleged offender for the offence.</p> <p>Raymond Georgey is listed as the director of Oil Technology Australia Pty Ltd.</p>	<p>ASIC search providing the registered business details for Oil Technology Australia Pty Ltd.</p>	<p>Search Results - Document (PDF) – Electronic and Hard Copy)</p>	<p>Through the following Departmental Unit.</p> <p>intel@derm.qld.gov.au</p> <p>Information is obtained through the ASIC Database</p>
<p>“Unlawfully”</p> <p><i>(adverb)</i></p> <p><i>Unlawful – not lawful; contrary to law; illegal; not sanctioned by law</i></p> <p>Source: http://www.macquariedictionary.com.au (11/01/2013)</p> <p>The release of contaminants is unlawful under section 493A, sub section 2 of the <i>Environmental Protection Act 1994</i>.</p> <p>There is no current development permit for Lot 732 on SP241692.</p>	<p>Details of section 493A of the <i>Environmental Protection Act 1994</i> (see attached).</p>	<p>Document (PDF) – Queensland Legislation Website (http://www.legislation.qld.gov.au/OQPChome.htm) (Electronic Copy)</p>	<p>Accessed on the internet</p>
	<p>A search of Council records indicates that the only DA approved since 2009 was for the Telstra tower behind the main tannery building</p> <p>DA/25921/2011/DA Material Change of Use - Development Permit for Telecommunication Facility.</p>	<p>Email (Electronic Copy)</p>	<p>Information provided by Moreton Bay Regional Council Principal Environmental Health Officer Lachlan McCulloch</p>

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	Notice issued by the Department of Environment and Resource Management on 04/03/2010 stating that registration certificate (ENRE00762508) for the old tannery site was surrendered.	Notice (Electronic Copy)	Sourced from the Departments Electronic File for the site.
<p>“Deposit”</p> <p><i>(1) A person deposits a contaminant in waters or at another place if the person—</i></p> <p style="padding-left: 20px;"><i>(a) drops, places or throws the contaminant in the waters or onto the place; or</i></p> <p style="padding-left: 20px;"><i>(b) releases the contaminant, or otherwise causes it to move, into the waters or onto the place.</i></p> <p><i>(2) A person deposits a contaminant at a place if—</i></p> <p style="padding-left: 20px;"><i>(a) the person is an occupier of the place or the contaminant is under the person's control; and</i></p> <p style="padding-left: 20px;"><i>(b) someone deposits the contaminant at the place in a way mentioned in subsection (1); and</i></p> <p style="padding-left: 20px;"><i>(c) the person does not remove the contaminant from the place within a reasonable time after becoming aware that the contaminant has been deposited at the place.</i></p> <p><i>(3) A person deposits earth at a place if the person carries on earthworks or another activity that exposes the earth at the place.</i></p> <p><i>(4) A person deposits earth at a place if—</i></p> <p style="padding-left: 20px;"><i>(a) the person is an occupier of the place; and</i></p> <p style="padding-left: 20px;"><i>(b) someone deposits the earth at the place in a way mentioned in subsection (3); and</i></p> <p style="padding-left: 20px;"><i>(c) the person does not stop the earth being exposed at the place within a reasonable time after becoming aware that the earth has been exposed at the place.</i></p> <p><i>(5) A reference in subsections (2) to (4) to a place does not include waters.</i></p> <p><i>(6) For subsections (1) to (4), none of the subsections limits any of the other</i></p>	A conversation had with OTech on the initial incident response day which states that OTech had an unofficial lease agreement with Peter Moffat.	File Note (Electronic and Hard Copy)	At the initial incident response on 11/12/2012
	Peter Moffat's response to the initial s451 notice stating that OTech used the site for storage.	Fax (Hard Copy)	In response to the s451 notice sent 13 December 2012.
	Peter Moffat's response to the second s451 notice stating that OTech was given access to the rear of the building. Invoices and a bank statement were also provided showing that the lease was on a month by month basis.	Fax (Hard Copy)	In response to s451 notice sent 31 January 2013.
	A letter provided by Peter Moffat in his response to the show cause notice. The letter states that only non-dangerous goods and inert products would be stored onsite, therefore not requiring special facilities and bunds.	Fax and Letter (Hard Copy)	In response to the show cause notice sent 14 January 2013.
	In OTech's response to the show cause response it is stated that over 6 months of the lease the production and dispatch staff saw the	Letter (Hard and Electronic Copy)	In response to the show cause notice sent 14 January 2013.

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<p><i>subsections.</i></p> <p>Source: Section 440ZE <i>Environmental Protection Act 1994</i></p> <p>OTech have deposited the contaminant onto the site without the necessary precaution measures (e.g. site based management plans, bunds etc.) causing the contaminant to reasonably be expected to or have the potential to move into waterways.</p>	<p>need to use the incident site for the storage of additional finished oil stock, which culminated in a greater use of the site for ready-to-use oil products than had been initially intended.</p>		
<p>“Prescribed Water Contaminant”</p> <p><i>earth; or a contaminant prescribed under section 440ZF;</i></p> <p><i>As listed under Schedule 9 of the Environmental Protection Regulation 2008</i></p> <p>Source: Section 440ZD <i>Environmental Protection Act 1994</i> and Schedule 9 <i>Environmental Protection Regulation 2008</i></p> <p>No. 13 under the Schedule 9 <i>Environmental Protection Regulation 2008</i> – oil, including, for example, petroleum or vegetable based oil</p>	<p>A conversation had with OTech on the initial incident response day which states that OTech was storing finished oil products at the site.</p> <p>OTech response to the initial s451 notice. A list of contaminants stored at the incident was provided.</p>	<p>File Note (Electronic and Hard Copy)</p> <p>Letter (Electronic and Hard Copy)</p>	<p>At the initial incident response on 11/12/2012</p> <p>In response to the s451 notice sent 13 December 2012.</p>
<p>“Place”</p> <p><i>means premises, another place on land or a vehicle.</i></p> <p>Source: Section 363F <i>Environmental Protection Act 1994</i></p> <p>Former Tasman Tannery Site;</p> <p>6 Potassium Street, Narangba QLD 4504;</p> <p>Lot 732 on SP241692;</p>	<p>Smart Map search results showing the correct address, lot and plan and registered owner of the site</p> <p>Title search results showing, lot and plan and registered owner of the site</p>	<p>Search Results - Document (PDF) – Electronic and Hard Copy)</p> <p>Search Results - Document (PDF) – Electronic and Hard Copy)</p>	<p>Through SmartMap Information Service</p> <p>Through SmartMap Information Service</p>
<p>“Reasonably”</p> <p><i>agreeable to reason or sound judgement</i></p> <p>Source: http://www.macquariedictionary.com.au (14/01/2013)</p> <p><i>“Reasonably be expected to” is the key</i></p>	<p>OTech response to the initial s451 notice stating no site based management plan had been developed for the site.</p>	<p>Letter (Hard Copy and Electronic)</p>	<p>In response to the s451 notice sent 13 December 2012.</p>

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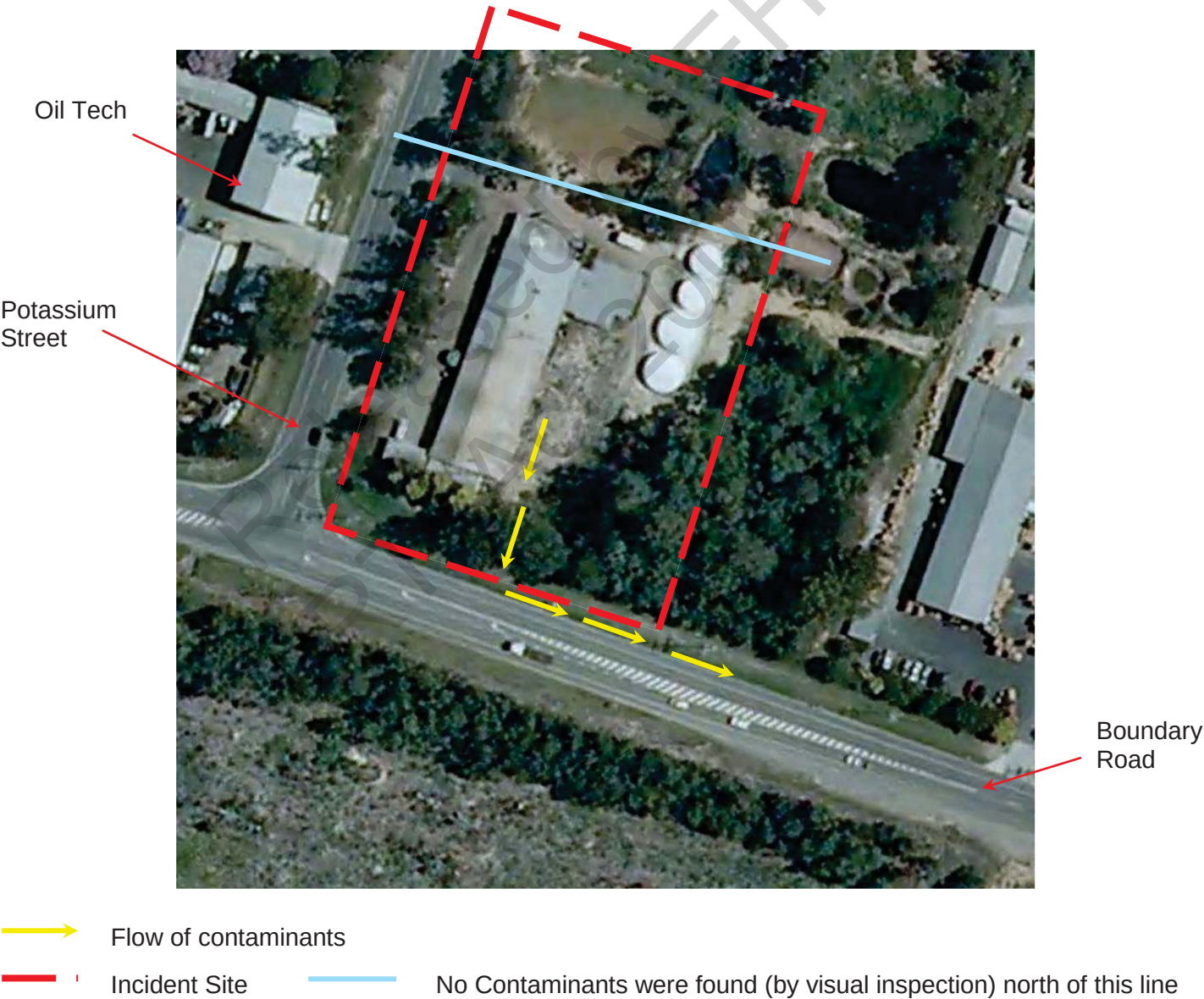
<p><i>element of this contravention, as there is a reasonable expectation that without correct measures in place the contaminants could move into waterways.</i></p> <p>“Wash”</p> <p><i>to carry or bring (up, down, or along) with water or any liquid, or as the water or liquid does</i></p> <p>Source: http://www.macquariedictionary.com.au (14/01/2013)</p>	<p>Peter Moffatt's response to the initial s451 notice stating that no site based management plan (SBMP) was currently employed onsite. A SBMP was used onsite when the former tannery was operational. The response also stated that no SBMP was thought necessary.</p>	<p>Fax (Hard Copy)</p>	<p>In response to the s451 notice sent 13 December 2012.</p>
<p>“Blow”</p> <p><i>to move along, carried by or as by the wind</i></p> <p>Source: http://www.macquariedictionary.com.au (14/01/2013)</p>	<p>A letter (written in 2009) provided by Peter Moffatt in his response to the show cause notice. The letter states that only non-dangerous goods and inert products would be stored onsite, therefore no requiring special facilities and bunds.</p>	<p>Fax and Letter (Hard Copy)</p>	<p>In response to the show cause notice sent 14 January 2013.</p>
<p>“Fall”</p> <p><i>to become less or lower</i></p> <p>Source: http://www.macquariedictionary.com.au (14/01/2013)</p>	<p>OTech's response to the show cause notice stating that OTech changed what was being stored onsite after 6 months. OTech were now storing finished oil stock on site.</p>	<p>Letter (Hard and Electronic Copy)</p>	<p>In response to show cause notice sent 14 January 2013.</p>
<p>“Move”</p> <p><i>to change place or position; pass from one place or situation to another</i></p> <p>Source: http://www.macquariedictionary.com.au</p>	<p>During the initial incident response environmental officers, Joanne Page and Daniel Salomone did not observe and bunding on the incident site.</p>	<p>Environmental officer observations</p>	<p>At the initial incident response on 11/12/2012</p>

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(14/01/2013)	Photos taken by Moreton Bay Regional Council on the initial incident response day showing the inside of the main building. No bunding is evident in the images.	Photos (Electronic Copy)	Provided by Moreton Bay Regional Council, taken during the initial incident response on 11/12/2012.
	Figure 1 below shows the flow path of the contaminants during the incident. This suggests that the contaminants stored onsite would have flowed to the stormwater drain along Boundary Road in the event of an incident, due to the lack of bunding onsite.	Map (Electronic Copy) – Departmental Files	Create by environmental officer Joanne Page based on officer observations and photographs.
	Photographs taken during the initial incident response (11/12/2013) showing that contaminants have reached the stormwater drain along Boundary Road.	Photos (Electronic Copy)	Photos taken by environmental officers, Joanne Page and Daniel Salomone during the initial incident response on 11/12/2012.
“Waters” <i>Queensland waters</i> Source: Schedule 4 <i>Environmental Protection Act 1994</i> “Roadside Gutter” <i>Roadside - the side or border of the road</i> <i>Gutter - a channel at the side (or in the middle) of a road or street, for leading off surface water</i> Source: http://www.macquariedictionary.com.au (14/01/2013)	Figure 1 below shows the location of a stormwater drain along Boundary Road. In the event of a spill contaminants would flow into this drain due to the results of the fire incident on 11/12/2012	Map (Electronic Copy) – Departmental Files	Create by environmental officer Joanne Page based on officer observations and photographs.
	Photographs taken during the initial incident response (11/12/2013) showing the stormwater drain along Boundary Road (including contaminants in the drain)	Photos (Electronic Copy)	Photos taken by environmental officers, Joanne Page and Daniel Salomone during the initial incident response on 11/12/2012.

<p>“Stormwater Drainage”</p> <p><i>a drain, channel, pipe, chamber, structure, outfall or other work used to receive, store, transport or treat stormwater.</i></p> <p>Source: Section 440ZD <i>Environmental Protection Act 1994</i></p>			
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Figure 1 – Map of the Incident Site Showing the Flow of Contaminants During the Fire Incident.



Please note that a stormwater drain runs along Boundary Road following the flow of contaminants indicated above.

5. Alleged offender correspondence

Please detail any correspondence received from the alleged offender, or sent from the department to the alleged offender. Attach copies of any correspondence (including letters, emails, file notes of phone conversations, etc.).

****Please note due to the large amount of correspondence it is unreasonable for each item to be attached to the report. Please contact Joanne Page for a copy of any correspondence.**

Date	Type of Correspondence	Brief description of correspondence	Which alleged offence does the correspondence relate to?	Copy Attached?
11/12/2012	Meeting (File Note and Voice Recording)	The initial incident response. This included meetings with Peter Moffat, OTech, Transpacific as well as discussions with QRFS and QPS. An overview of what occurred, what was being conducted onsite and how clean was going to be conducted.	All	No see ** above
11/12/2012	Letter	A letter sent immediately after the event to Peter Moffat stating his requirements under the general environment duty.	All	No see ** above
12/12/2012	Notice	A clean up notice was issued to Tasman Sheepskin Tannery Pty Ltd (Tasman) to take specified actions to clean-up the site.	All	No see ** above
12/12/2012	Email	Acknowledgement that Peter Moffat has engaged an appropriately qualified person to assist with the clean-up.	All	No see ** above
12/12/2012	Email	Peter Moffat has requested an extension for specific requirements on the clean-up notice.	All	No see ** above
13/12/2012	Notice	Oil Technology Australia Pty Ltd (OTech) provided	All	No see ** above

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		a completed duty to notify form.		
13/12/2012	Email (x2)/Notice/Letter	An amended clean-up notice with new deadlines was issued to Tasman.	All	No see ** above
13/12/2012	Letter/Notice/Email	An s451 notice and cover letter were issued to Tasman and OTech requesting further information regarding the activities onsite.	All	No see ** above
14/12/2012	Meeting (File Note and Voice Recording)	Meeting with OTech and Tasman to issue the s451 notice.	All	No see ** above
17/12/2012	Email	Email to OTech defining a contaminant.	All	No see ** above
17/12/2012	Email	OTech confirmed receipt of email above.	All	No see ** above
18/12/2012	Notice/Letter/Email	An amended clean-up notice was issued with new timeframes.	All	No see ** above
21/12/2012	Email/Report	Email received with an attached report from Tasman's consultant. EHP received the plan of operations.	All	No see ** above
21/12/2012	Letter/Email	OTech's response to s451 notice. A List of contaminants stored onsite was provided.	All	No see ** above
21/12/2012	Email	Email sent to OTech requesting further clarification of the response received from the s451 notice.	All	No see ** above
21/12/2012	Notice	Peter Moffat provided a completed duty to notify form.	All	No see ** above
21/12/2012	Fax	Tasman's response to s451 notice.	All	No see ** above
21/12/2012	Email	OTech confirmed they would provide clarification	All	No see ** above

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		to the s451 response.		
28/12/2012	Email	OTech provide further clarification to the list of contaminants provided for the s451 notice.	All	No see ** above
10/01/2013	Email	EHP confirming they have received the confirmation.	All	No see ** above
11/01/2013	Email	EHP requesting a site meeting with Tasman and their consultant.	All	No see ** above
11/01/2013	Email	Confirmation of the site meeting from Tasman and their consultant.	All	No see ** above
11/01/2013	Email	EHP confirming the site visit time.	All	No see ** above
14/01/2013	Notice/Letter/Email	A show cause notice was issued to OTech and Tasman asking why PIN's should not be issued.	All	No see ** above
15/01/2013	Email	OTech confirming they will provide a response to the show cause notice by the due date.	All	No see ** above
15/01/2013	Letter	OTech's response to the show cause notice.	All	No see ** above
16/01/2013	Meeting (File Note and Voice Recording)	EHP met Tasman and their consultant onsite to discuss what clean-up activities have occurred onsite since the new year.	All	No see ** above
16/02/2013	Phone Call (File Note)	Peter Moffat clarified which contractor would be conducting the clean-up.	All	No see ** above
16/01/2013	Email	EHP confirming receipt of OTech's response to the show cause notice.	All	No see ** above
21/01/2013	Fax	Peter Moffat's response to the show cause notice. Including a letter provided by OTech at the start of the lease arrangements regarding what products	All	No see ** above

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		would be stored onsite.		
22/01/2013	Phone Call (File Note)	EHP called Tasman several times to report a minor contamination incident from the site.	All	No see ** above
24/01/2013	Meeting (File Note and Voice Recording)	OTech discuss the minor contamination incident onsite with EHP officers.	All	No see ** above
24/01/2013	Phone Call (File Note)	EHP contacted Tasman's clean-up contractor to identify what actions have been conducted to clean-up the minor contamination incident.	All	No see ** above
24/01/2013	Email	Photos of minor contamination incident clean-up provided by clean-up contractor.	All	No see ** above
25/01/2013	Phone Call (File Note)	EHP discussing concerns with current measures due to predicted rainfall.	All	No see ** above
27/01/2013	Email	Peter Moffat stating that no contaminants have exited the site over the weekend.	All	No see ** above
28/01/2013	Email	Peter Moffat stating that no contaminants have exited the site over the weekend.	All	No see ** above
29/01/2013	Email	EHP confirming the receipt of Peter Moffat's email.	All	No see ** above
31/01/2013	Notice/Letter/Email	An s451 notice and cover letter were issued to Tasman and OTech requesting further information regarding the activities onsite.	All	No see ** above
31/01/2013	Email	OTech requesting further clarification regarding a penalty unit.	All	No see ** above
31/01/2013	Email	EHP providing a definition	All	No see ** above

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		of a penalty unit.		
1/02/2013	Letter/Email	OTech's response to the s451 notice. Stating Peter Moffat had unrestricted access to the site and accessed the site on several occasions. Real estate listings and monthly invoices were also provided.	All	No see ** above
06/02/2013	Email	EHP confirming the receipt of the s451 notice response.	All	No see ** above
7/02/2013	Email	Peter Moffat requesting an extension on the response to the s451 notice.	All	No see ** above
08/02/2013	Email	EHP confirming an extension of timeframe for the s451 notice to Peter Moffat.	All	No see ** above
13/02/2013	Fax/Email	Tasman's response to the s451 notice. Monthly invoices and bank statements were also provided.	All	No see ** above
18/02/2013	Email	EHP confirming the receipt of the response to the show cause notice.	All	No see ** above
25/02/2013	Phone Call (File Note)	EHP called Peter Moffat to discuss the remaining clean-up actions.	All	No see ** above
26/02/2013	Phone Call (File Note)	Peter Moffat called EHP to discuss concerns over the removal of the television units.	All	No see ** above
01/03/2013	Phone Call (File Note)	EHP called Peter Moffat to inform him that sediment and erosion controls need to be improved onsite.	All	No see ** above

6. Other enforcement options

Please detail what other enforcement options have been considered for this matter.

Have other enforcement options been considered?	Yes
If yes, what are they and the reasons for using/not using them?	<p>Prosecution was considered as an enforcement option however after consulting the enforcement guidelines it was decided that a penalty infringement notice would be issued based on the following reasons:</p> <ul style="list-style-type: none">• All offenders have been honest and have provided the required information when requested.• Environment harm did not occur as a result of the incident. Contaminants were contained to the stormwater drain, the adjacent land and the site itself. No contaminants reached any areas of significant environmental values. Therefore the incident is considered to be minor.• The public were not impacted by the incident. <p>Other enforcement options are not relevant for this incident as it is not current licensed and all activities have ceased operation on site due to the fire.</p>
If no, please advise why no other options have been considered?	N/A

7. Recommendation

The officer is required to make a recommendation in relation to the matter under investigation

Recommendation:

It is recommended that a 2 PIN's be issued for offences relating to sections 427 and 440ZG of the *Environmental Protection Act 1994*. There is substantial evidence indicating that Oil Technology Australia Pty Ltd had not discharged their environmental duty when storing the contaminants at the site and subsequently contravened the aforementioned sections of the *Environmental Protection Act 1994*. Due to the nature of the incident and the particulars of the activities conducted on the site it is considered suitable to issue a PIN as enforcement action at this time (see the section 'Other Enforcement Options' above for further information).

8. Endorsement

The recommending officer and supervisor are required to sign and date below.

Recommending Officer	Supervisory Review
Signature: sch4p4(6) Personal information	Signature: sch4p4(6) Personal information
Print Name: Joanne Page	Print Name: Daniel Salomone
Position: Environmental Officer	Position: Senior Environmental Officer
Date: 1 March 2013	Date: 1 March 2013

9. Approval

The appropriate manager or supervisor is required to make a decision and sign and date below.

Decision for recommendation	Approve
Reasons for decision I approve this decision for the reasons set out above.	
Signature:	Print Name: Leonie Clough
Position: A/Manager	Date: 1 March 2013

Alleged Breach Report

Penalty Infringement Notice

This Alleged Breach Report will assist officers in recording information which supports a decision to issue a Penalty Infringement Notice (PIN) in a circumstance under the State Penalties Enforcement Act 1999 regime. This includes the Environmental Protection Act 1994, Nature Conservation Act 1992, Forestry Act 1959, Recreational Areas Management Act 2006, Marine Parks Act 2004, Waste Recycling and Reduction Act 2011, Chapter 3 of the Water Act 2000 and the Queensland Heritage Act 2000.

Note: For information on writing and management of PIN's please refer to the PIN Manual at <http://steps/steps/reflaunch.cfm?nw=true&ref=2291> or contact infringement.notices@ehp.qld.gov.au

1. Identifying details relating to the PIN

Officer	Joanne Page
Reference details	CA26671
ECOTrack Number if used	CA26671
Licence/Permit number	N/A
File number	SOR117090
Name of alleged offender	Oil Technology Australia Pty Ltd (OTech)
Date of birth	N/A
Address	5-7 Potassium Street, Deception Bay QLD 4508
ACN/ABN	ABN 23 083 333 484
Contact details	(07) 3203 2833 – Raymond Georgey

2. Background details of incident

Please outline any historical information relevant to this incident. This information may assist with the reasoning for the decision, assist in completing a review of the PIN and may be essential should the matter be referred to the Magistrates Court.

Date the department was made aware of the alleged offence	11 December 2012
Date & time of the offence	11 December 2012
Day of the week	Tuesday
Location	6 Potassium Street, Narangba QLD 4504 (Narangba Industrial Estate), Lot 732 on

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	SP241692.
Vehicle/vessel details	N/A
Contact with alleged offender – have you notified them that PINS are being issued?	The offender was issued with a show cause notice relating to the alleged offence and the possibility of issuing a PIN.
Other information	<p>The cause of the fire is unknown, but it is believed to have started in one of the heavy vehicles. The incident resulted in unknown amounts of oil, greases and other contaminants being released from the site and into the stormwater system.</p> <p>This site was also subject to a fire incident in April 2008 which resulted in the business (Tasman Sheepskin Tannery) choosing not to re-open after the fire.</p>

3. Alleged offence details

Please outline what offences are alleged to have been committed. Details include the legislation, section number, penalty units and limitation periods. Note: If there are more than three separate PIN-able offences being considered the matters should form the basis of a complaint and summons and be heard by a Magistrate. PIN offence codes are found at: http://insite2.dnr.qld.gov.au/compliance_coordination/pins.html#offence_codes

No.	Section	Legislation	Penalty Units	Statute Limitation
1	427 – Only registered operators may carry out chapter 4 activities.	<i>Environmental Protection Act 1994</i>	20 Penalty Units	8 Weeks
2	440ZG - Depositing Prescribed Water Contaminants in waters and related matters.	<i>Environmental Protection Act 1994</i>	20 Penalty Units	8 Weeks

4. Elements and supporting evidence

Please outline the elements of each of the offences listed above. Detail what evidence is available to satisfy each and every element of the offence(s), the source, how it is/was obtained and when it will/was obtained.

1. s427 *Environmental Protection Act 1994*

'A person must not carry out a chapter 4 activity, unless the person is a registered operator for the activity or is acting under a registration certificate for the activity.'

2. s440ZG (a) (iii) *Environmental Protection Act 1994*

'A person must not unlawfully deposit a prescribed water contaminant at another place, and in a way, so that the contaminant could reasonably be expected to was to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage.'

Alleged Breach Report Penalty Infringement Notice (PIN)

Explanatory Notes for s440ZG *Environmental Protection Act 1994*

The intent of these provisions was to prohibit in certain circumstances the deposit or release of certain things into a roadside gutter, stormwater drain or water, or in a place where they could reasonably be expected to move or be washed into a roadside gutter, stormwater drain or water.

Offence No. 1

Elements	Evidence	Type and Source of evidence	How evidence was obtained
"Time, Date, Place, Person" 11/12/2012, Former Tasman Tannery Site; Lot 732 on SP241692 – 6 Potassium Street, Narangba QLD 4504; Oil Technology Australia Pty Ltd.	ASIC search providing the registered business details for Oil Technology Australia Pty Ltd.	Search Results - Document (PDF) – Electronic and Hard Copy)	Through the following Departmental Unit. intel@derm.qld.gov.au Information is obtained through the ASIC Database
	Smart Map search results showing the correct address, lot and plan and registered owner of the site	Search Results - Document (PDF) – Electronic and Hard Copy)	Through SmartMap Information Service
	Title search results showing, lot and plan and registered owner of the site	Search Results - Document (PDF) – Electronic and Hard Copy)	Through SmartMap Information Service
	11/12/2012 – Details of incident listed in chronological order. Shows the date and time that the incident occurred.	File Note - Department Files (Electronic and Hard Copy)	At the initial incident response on 11/12/2012
"Must" <i>indicating obligation or necessity</i> Source: http://www.macquariedictionary.com.au (11/01/2013)			

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<p>“Carry Out”</p> <p><i>to accomplish or complete and to manage and conduct</i></p> <p>Source: http://www.macquariedictionary.com.au (11/01/2013)</p> <p>OTech were conducting the storage of oil and greases at the site where the incident occurred.</p>	<p>A conversation with OTech on the initial incident response day where OTech stated they were storing finished oil products at the site.</p>	<p>File Note (Electronic and Hard Copy)</p>	<p>At the initial incident response on 11/12/2012</p>
	<p>OTech’s response to the initial s451 notice. A summary of the activities being conducted onsite was provided, including the storage of oil products ready for sale.</p>	<p>Letter (Electronic and Hard Copy)</p>	<p>In response to the s451 notice sent 13 December 2012.</p>
	<p>Photographs of the incident. Shows that IBC’s and Drums of various sizes were being stored in the building (The drums stored oil and greases and this was confirmed by the owner – OTech)</p>	<p>File Note – Electronic and Hard Copy (Department Files)</p>	<p>At the initial incident response on 11/12/2012</p>
<p>“Chapter 4 Activity”</p> <p>As listed under Schedule 2 of the <i>Environmental Protection Regulation 2008</i></p> <p>The Department was able to determine that at least 55,228 litres of C1 and C2 oil products were being stored by OTech at the incident site.</p> <p>This triggers the threshold under the <i>Environmental Protection Regulation 2008</i> for ERA 8 3(a) – Chemical Storage.</p>	<p>A conversation with OTech on the initial incident response day where OTech stated they were storing finished oil products at the site.</p>	<p>File Note (Electronic and Hard Copy)</p>	<p>At the initial incident response on 11/12/2012</p>
	<p>OTech’s response to the s451 notice (see above). A list of contaminants stored at the incident was provided. No site based management plan had been developed for the site nor was the storage of the contaminants complaint with AS:1940:2004. OTech did not believe the site to be an extension of the licenced ERA site as the incident site was only</p>	<p>Letter (Electronic and Hard Copy)</p>	<p>In response to the s451 notice sent 13 December 2012.</p>

**Alleged Breach Report
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	used for external storage.		
	A new document was provided to the Department by OTech providing clarification regarding the quantities of contaminants stored at the incident site.	Email Attachment (PDF) – Electronic Copy	In response to an email sent requesting clarification regarding the response received for the s451 notice send on 13 December 2012.
	The information provided in the contaminant list was used to locate the individual product MSDS's from OTech's website to determine if the products were classed as C1 or C2 for combustibility.	Documents (PDF) – Electronic Copy	OTech's Website (http://otechaustalia.com.au/home/) Accessed on the internet
	An analysis was conducted using the contaminant list (see above) to determine if the quantities of contaminants stored at the incident site trigger the threshold for ERA 8 3(a).	Document (Excel File) – Electronic Copy	Departmental Analysis conducted by Joanne Page with the information already received (see above)
	Details of ERA 8 3 (a) Chemical Storage under the <i>Environmental Protection Regulation 2008</i> . ERA 8 3(a) – storing the following total quantity of chemicals of class C1 or C2 combustible liquids under AS1940 or dangerous good class 3 under subsection (1) (c) – 10m ³ to 500m ³	Document (PDF) – Electronic Copy Queensland Legislation Website (http://www.legislation.qld.gov.au/OQPChome.htm) (Electronic Copy)	Accessed on the internet

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<p>“Person”</p> <p><i>includes a body of persons, whether incorporated or unincorporated.</i></p> <p>Source: s39 and s309H <i>Environmental Protection Act 1994</i></p> <p><i>any human being or artificial body of people, having right and duties before the law</i></p> <p>Source: http://www.macquariedictionary.com.au (11/01/2013)</p> <p>Oil Technology Australia Pty Ltd is the alleged offender for the offence.</p> <p>Raymond Georgey is listed as the director of Oil Technology Australia Pty Ltd.</p>	<p>ASIC search providing the registered business details for Oil Technology Australia Pty Ltd.</p>	<p>Search Results - Document (PDF) – Electronic and Hard Copy)</p>	<p>Through the following Departmental Unit.</p> <p>intel@derm.qld.gov.au</p> <p>Information is obtained through the ASIC Database</p>
<p>“Registered Operator”</p> <p><i>the holder of a registration certification, for a chapter 4 activity, issued under section 73F and in force</i></p> <p>Source: Schedule 4 <i>Environmental Protection Act 1994</i></p> <p>OTech are not a registered operator for the activity ERA 8, 3(a) on the site known as 6 Potassium St Narangba. (Lot 732 on SP241692).</p>	<p>OTech are a register operator for ERA 56; 7, 2(b) and 7, 5(b) under registration certificate ENRE00580906 for lot 801 on SP138531.</p> <p>This registration certificate does not cover the incident site (Lot 732 on SP241692)</p>	<p>Document (PDF) – Electronic Copy</p>	<p>The registration certificate was obtained from Department Records in ECOTRACK.</p>
<p>“Acting”</p> <p><i>that acts; functioning</i></p> <p>Source: http://www.macquariedictionary.com.au (11/01/2013)</p>			
<p>“Registration Certificate”</p> <p><i>A registration certificate authorises the registered operator to carry out the activities stated in the certificate at the place or places in the certificate</i></p> <p>Source: Section 73F <i>Environmental Protection Act 1994</i></p> <p>No registration certificate exists for OTech to carry out ERA 8 3(a) at 6</p>	<p>OTech are a register operator for ERA 56, 7 2(b) and 7 5 (b) under registration certificate ENRE00580906 for lot 801 on SP138531. This registration certificate does not cover the incident site (Lot 732 on SP241692)</p>	<p>Document (PDF) – Electronic Copy</p>	<p>The registration certificate was obtained from Department Records in ECOTRACK.</p>

Alleged Breach Report
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Potassium St Narangba. (Lot 732 on SP241692).			
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Offence No. 2

Elements	Evidence	Type and Source of evidence	How evidence was obtained
"Time, Date, Place, Person" 11/12/2012, Former Tasman Tannery Site; Lot 732 on SP241692 – 6 Potassium Street, Narangba QLD 4504; Oil Technology Australia Pty Ltd	ASIC search providing the registered business details for Oil Technology Australia Pty Ltd.	Search Results - Document (PDF) – Electronic and Hard Copy)	Through the following Departmental Unit. intel@derm.qld.gov.au Information is obtained through the ASIC Database
	Smart Map search results showing the correct address, lot and plan and registered owner of the site	Search Results - Document (PDF) – Electronic and Hard Copy)	Through SmartMap Information Service
	Title search results showing, lot and plan and registered owner of the site	Search Results - Document (PDF) – Electronic and Hard Copy)	Through SmartMap Information Service
	11/12/2012 – Details of incident listed in chronological order. Shows the date and time that the incident occurred.	File Note - Department Files (Electronic and Hard Copy)	At the initial incident response on 11/12/2012

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<p>“Person”</p> <p><i>includes a body of persons, whether incorporated or unincorporated.</i></p> <p>Source: s39 and s309H <i>Environmental Protection Act 1994</i></p> <p><i>any human being or artificial body of people, having right and duties before the law</i></p> <p>Source: http://www.macquariedictionary.com.au (11/01/2013)</p> <p>Oil Technology Australia Pty Ltd is the alleged offender for the offence.</p> <p>Raymond Georgey is listed as the director of Oil Technology Australia Pty Ltd.</p>	<p>ASIC search providing the registered business details for Oil Technology Australia Pty Ltd.</p>	<p>Search Results - Document (PDF) – Electronic and Hard Copy)</p>	<p>Through the following Departmental Unit.</p> <p>intel@derm.qld.gov.au</p> <p>Information is obtained through the ASIC Database</p>
<p>“Unlawfully”</p> <p><i>(adverb)</i></p> <p><i>Unlawful – not lawful; contrary to law; illegal; not sanctioned by law</i></p> <p>Source: http://www.macquariedictionary.com.au (11/01/2013)</p> <p>The release of contaminants is unlawful under section 493A, sub section 2 of the <i>Environmental Protection Act 1994</i>.</p> <p>There is no current development permit for Lot 732 on SP241692.</p>	<p>Details of section 493A of the <i>Environmental Protection Act 1994</i> (see attached).</p>	<p>Document (PDF) – Queensland Legislation Website (http://www.legislation.qld.gov.au/OQPChome.htm) (Electronic Copy)</p>	<p>Accessed on the internet</p>
	<p>A search of Council records indicates that the only DA approved since 2009 was for the Telstra tower behind the main tannery building</p> <p>DA/25921/2011/DA Material Change of Use - Development Permit for Telecommunication Facility.</p>	<p>Email (Electronic Copy)</p>	<p>Information provided by Moreton Bay Regional Council Principal Environmental Health Officer Lachlan McCulloch</p>

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	Notice issued by the Department of Environment and Resource Management on 04/03/2010 stating that registration certificate (ENRE00762508) for the old tannery site was surrendered.	Notice (Electronic Copy)	Sourced from the Departments Electronic File for the site.
<p>"Deposit"</p> <p>(1) A person deposits a contaminant in waters or at another place if the person—</p> <p>(a) drops, places or throws the contaminant in the waters or onto the place; or</p> <p>(b) releases the contaminant, or otherwise causes it to move, into the waters or onto the place.</p> <p>(2) A person deposits a contaminant at a place if—</p> <p>(a) the person is an occupier of the place or the contaminant is under the person's control; and</p> <p>(b) someone deposits the contaminant at the place in a way mentioned in subsection (1); and</p> <p>(c) the person does not remove the contaminant from the place within a reasonable time after becoming aware that the contaminant has been deposited at the place.</p> <p>(3) A person deposits earth at a place if the person carries on earthworks or another activity that exposes the earth at the place.</p> <p>(4) A person deposits earth at a place if—</p> <p>(a) the person is an occupier of the place; and</p> <p>(b) someone deposits the earth at the place in a way mentioned in subsection (3); and</p> <p>(c) the person does not stop the earth being exposed at the place within a reasonable time after becoming aware that the earth has been exposed at the place.</p> <p>(5) A reference in subsections (2) to (4) to a place does not include waters.</p> <p>(6) For subsections (1) to (4), none of the subsections limits any of the other</p>	A conversation had with OTech on the initial incident response day which states that OTech had an unofficial lease agreement with Peter Moffat.	File Note (Electronic and Hard Copy)	At the initial incident response on 11/12/2012
	Peter Moffat's response to the initial s451 notice stating that OTech used the site for storage.	Fax (Hard Copy)	In response to the s451 notice sent 13 December 2012.
	Peter Moffat's response to the second s451 notice stating that OTech was given access to the rear of the building. Invoices and a bank statement were also provided showing that the lease was on a month by month basis.	Fax (Hard Copy)	In response to s451 notice sent 31 January 2013.
	A letter provided by Peter Moffat in his response to the show cause notice. The letter states that only non-dangerous goods and inert products would be stored onsite, therefore not requiring special facilities and bunds.	Fax and Letter (Hard Copy)	In response to the show cause notice sent 14 January 2013.
	In OTech's response to the show cause response it is stated that over 6 months of the lease the production and dispatch staff saw the	Letter (Hard and Electronic Copy)	In response to the show cause notice sent 14 January 2013.

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<p><i>subsections.</i></p> <p>Source: Section 440ZE <i>Environmental Protection Act 1994</i></p> <p>OTech have deposited the contaminant onto the site without the necessary precaution measures (e.g. site based management plans, bunds etc.) causing the contaminant to reasonably be expected to or have the potential to move into waterways.</p>	<p>need to use the incident site for the storage of additional finished oil stock, which culminated in a greater use of the site for ready-to-use oil products than had been initially intended.</p>		
<p>“Prescribed Water Contaminant”</p> <p><i>earth; or a contaminant prescribed under section 440ZF;</i></p> <p><i>As listed under Schedule 9 of the Environmental Protection Regulation 2008</i></p> <p>Source: Section 440ZD <i>Environmental Protection Act 1994</i> and Schedule 9 <i>Environmental Protection Regulation 2008</i></p> <p>No. 13 under the Schedule 9 <i>Environmental Protection Regulation 2008</i> – oil, including, for example, petroleum or vegetable based oil</p>	<p>A conversation had with OTech on the initial incident response day which states that OTech was storing finished oil products at the site.</p> <p>OTech response to the initial s451 notice. A list of contaminants stored at the incident was provided.</p>	<p>File Note (Electronic and Hard Copy)</p> <p>Letter (Electronic and Hard Copy)</p>	<p>At the initial incident response on 11/12/2012</p> <p>In response to the s451 notice sent 13 December 2012.</p>
<p>“Place”</p> <p><i>means premises, another place on land or a vehicle.</i></p> <p>Source: Section 363F <i>Environmental Protection Act 1994</i></p> <p>Former Tasman Tannery Site;</p> <p>6 Potassium Street, Narangba QLD 4504;</p> <p>Lot 732 on SP241692;</p>	<p>Smart Map search results showing the correct address, lot and plan and registered owner of the site</p> <p>Title search results showing, lot and plan and registered owner of the site</p>	<p>Search Results - Document (PDF) – Electronic and Hard Copy)</p> <p>Search Results - Document (PDF) – Electronic and Hard Copy)</p>	<p>Through SmartMap Information Service</p> <p>Through SmartMap Information Service</p>
<p>“Reasonably”</p> <p><i>agreeable to reason or sound judgement</i></p> <p>Source: http://www.macquariedictionary.com.au (14/01/2013)</p> <p><i>“Reasonably be expected to” is the key</i></p>	<p>OTech response to the initial s451 notice stating no site based management plan had been developed for the site.</p>	<p>Letter (Hard Copy and Electronic)</p>	<p>In response to the s451 notice sent 13 December 2012.</p>

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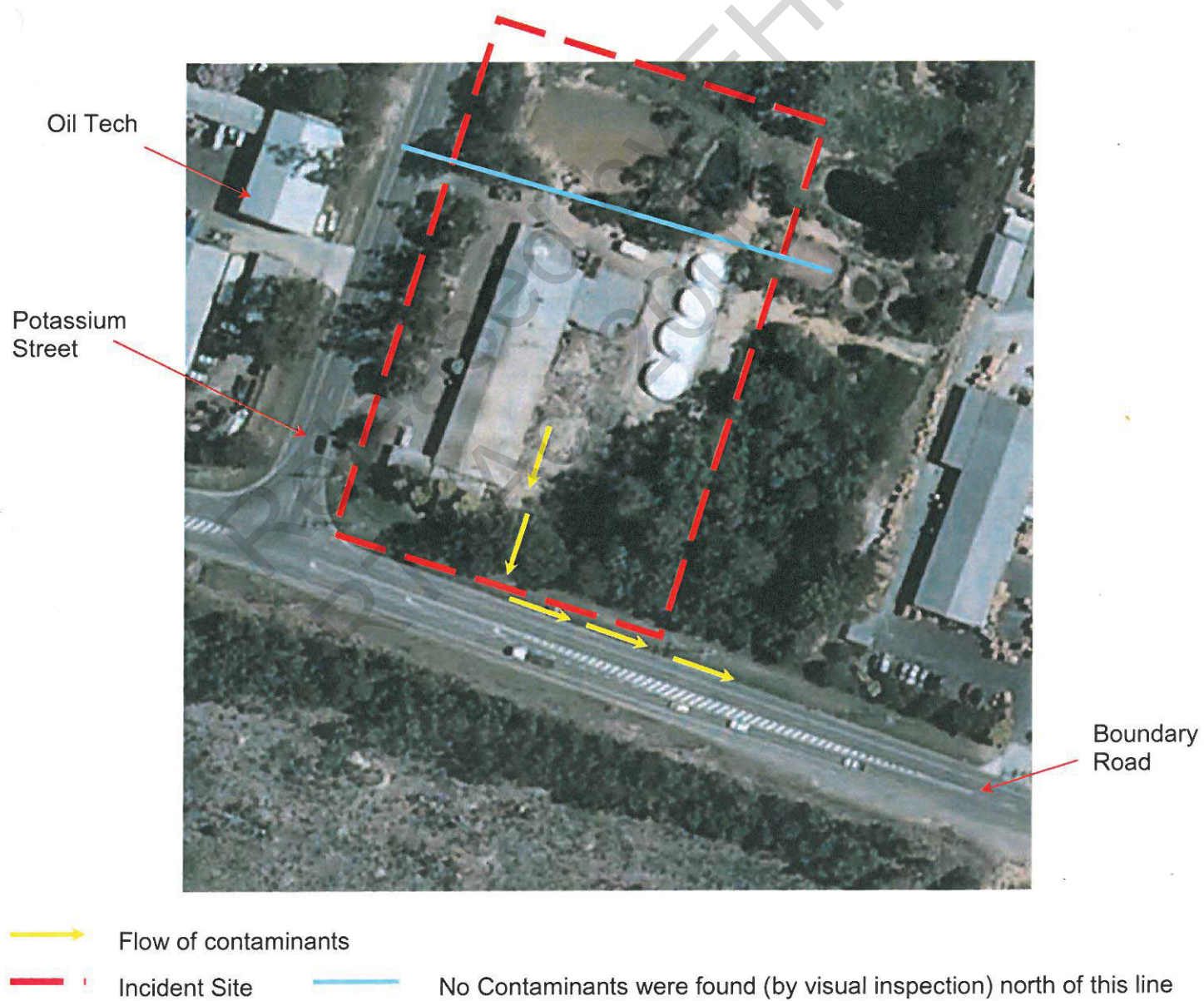
<p><i>element of this contravention, as there is a reasonable expectation that without correct measures in place the contaminants could move into waterways.</i></p> <p>“Wash”</p> <p><i>to carry or bring (up, down, or along) with water or any liquid, or as the water or liquid does</i></p> <p>Source: http://www.macquariedictionary.com.au (14/01/2013)</p>	<p>Peter Moffatt's response to the initial s451 notice stating that no site based management plan (SBMP) was currently employed onsite. A SBMP was used onsite when the former tannery was operational. The response also stated that no SBMP was thought necessary.</p>	<p>Fax (Hard Copy)</p>	<p>In response to the s451 notice sent 13 December 2012.</p>
<p>“Blow”</p> <p><i>to move along, carried by or as by the wind</i></p> <p>Source: http://www.macquariedictionary.com.au (14/01/2013)</p>	<p>A letter (written in 2009) provided by Peter Moffatt in his response to the show cause notice. The letter states that only non-dangerous goods and inert products would be stored onsite, therefore no requiring special facilities and bunds.</p>	<p>Fax and Letter (Hard Copy)</p>	<p>In response to the show cause notice sent 14 January 2013.</p>
<p>“Fall”</p> <p><i>to become less or lower</i></p> <p>Source: http://www.macquariedictionary.com.au (14/01/2013)</p>	<p>OTech's response to the show cause notice stating that OTech changed what was being stored onsite after 6 months. OTech were now storing finished oil stock on site.</p>	<p>Letter (Hard and Electronic Copy)</p>	<p>In response to show cause notice sent 14 January 2013.</p>
<p>“Move”</p> <p><i>to change place or position; pass from one place or situation to another</i></p> <p>Source: http://www.macquariedictionary.com.au</p>	<p>During the initial incident response environmental officers, Joanne Page and Daniel Salomone did not observe and bunding on the incident site.</p>	<p>Environmental officer observations</p>	<p>At the initial incident response on 11/12/2012</p>

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(14/01/2013)	Photos taken by Moreton Bay Regional Council on the initial incident response day showing the inside of the main building. No bunding is evident in the images.	Photos (Electronic Copy)	Provided by Moreton Bay Regional Council, taken during the initial incident response on 11/12/2012.
	Figure 1 below shows the flow path of the contaminants during the incident. This suggests that the contaminants stored onsite would have flowed to the stormwater drain along Boundary Road in the event of an incident, due to the lack of bunding onsite.	Map (Electronic Copy) – Departmental Files	Create by environmental officer Joanne Page based on officer observations and photographs.
	Photographs taken during the initial incident response (11/12/2013) showing that contaminants have reached the stormwater drain along Boundary Road.	Photos (Electronic Copy)	Photos taken by environmental officers, Joanne Page and Daniel Salomone during the initial incident response on 11/12/2012.
“Waters” <i>Queensland waters</i> Source: Schedule 4 <i>Environmental Protection Act 1994</i> “Roadside Gutter” <i>Roadside - the side or border of the road</i> <i>Gutter - a channel at the side (or in the middle) of a road or street, for leading off surface water</i> Source: http://www.macquariedictionary.com.au (14/01/2013)	Figure 1 below shows the location of a stormwater drain along Boundary Road. In the event of a spill contaminants would flow into this drain due to the results of the fire incident on 11/12/2012	Map (Electronic Copy) – Departmental Files	Create by environmental officer Joanne Page based on officer observations and photographs.
	Photographs taken during the initial incident response (11/12/2013) showing the stormwater drain along Boundary Road (including contaminants in the drain)	Photos (Electronic Copy)	Photos taken by environmental officers, Joanne Page and Daniel Salomone during the initial incident response on 11/12/2012.

<p>"Stormwater Drainage"</p> <p><i>a drain, channel, pipe, chamber, structure, outfall or other work used to receive, store, transport or treat stormwater.</i></p> <p>Source: Section 440ZD <i>Environmental Protection Act 1994</i></p>			
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Figure 1 – Map of the Incident Site Showing the Flow of Contaminants During the Fire Incident.



Please note that a stormwater drain runs along Boundary Road following the flow of contaminants indicated above.

5. Alleged offender correspondence

Please detail any correspondence received from the alleged offender, or sent from the department to the alleged offender. Attach copies of any correspondence (including letters, emails, file notes of phone conversations, etc.).

****Please note due to the large amount of correspondence it is unreasonable for each item to be attached to the report. Please contact Joanne Page for a copy of any correspondence.**

Date	Type of Correspondence	Brief description of correspondence	Which alleged offence does the correspondence relate to?	Copy Attached?
11/12/2012	Meeting (File Note and Voice Recording)	The initial incident response. This included meetings with Peter Moffat, OTech, Transpacific as well as discussions with QRFS and QPS. An overview of what occurred, what was being conducted onsite and how clean was going to be conducted.	All	No see ** above
11/12/2012	Letter	A letter sent immediately after the event to Peter Moffat stating his requirements under the general environment duty.	All	No see ** above
12/12/2012	Notice	A clean up notice was issued to Tasman Sheepskin Tannery Pty Ltd (Tasman) to take specified actions to clean-up the site.	All	No see ** above
12/12/2012	Email	Acknowledgement that Peter Moffat has engaged an appropriately qualified person to assist with the clean-up.	All	No see ** above
12/12/2012	Email	Peter Moffat has requested an extension for specific requirements on the clean-up notice.	All	No see ** above
13/12/2012	Notice	Oil Technology Australia Pty Ltd (OTech) provided	All	No see ** above

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		a completed duty to notify form.		
13/12/2012	Email (x2)/Notice/Letter	An amended clean-up notice with new deadlines was issued to Tasman.	All	No see ** above
13/12/2012	Letter/Notice/Email	An s451 notice and cover letter were issued to Tasman and OTech requesting further information regarding the activities onsite.	All	No see ** above
14/12/2012	Meeting (File Note and Voice Recording)	Meeting with OTech and Tasman to issue the s451 notice.	All	No see ** above
17/12/2012	Email	Email to OTech defining a contaminant.	All	No see ** above
17/12/2012	Email	OTech confirmed receipt of email above.	All	No see ** above
18/12/2012	Notice/Letter/Email	An amended clean-up notice was issued with new timeframes.	All	No see ** above
21/12/2012	Email/Report	Email received with an attached report from Tasman's consultant. EHP received the plan of operations.	All	No see ** above
21/12/2012	Letter/Email	OTech's response to s451 notice. A List of contaminants stored onsite was provided.	All	No see ** above
21/12/2012	Email	Email sent to OTech requesting further clarification of the response received from the s451 notice.	All	No see ** above
21/12/2012	Notice	Peter Moffat provided a completed duty to notify form.	All	No see ** above
21/12/2012	Fax	Tasman's response to s451 notice.	All	No see ** above
21/12/2012	Email	OTech confirmed they would provide clarification	All	No see ** above

Alleged Breach Report
Penalty Infringement Notice (PIN)

		to the s451 response.		
28/12/2012	Email	OTech provide further clarification to the list of contaminants provided for the s451 notice.	All	No see ** above
10/01/2013	Email	EHP confirming they have received the confirmation.	All	No see ** above
11/01/2013	Email	EHP requesting a site meeting with Tasman and their consultant.	All	No see ** above
11/01/2013	Email	Confirmation of the site meeting from Tasman and their consultant.	All	No see ** above
11/01/2013	Email	EHP confirming the site visit time.	All	No see ** above
14/01/2013	Notice/Letter/Email	A show cause notice was issued to OTech and Tasman asking why PIN's should not be issued.	All	No see ** above
15/01/2013	Email	OTech confirming they will provide a response to the show cause notice by the due date.	All	No see ** above
15/01/2013	Letter	OTech's response to the show cause notice.	All	No see ** above
16/01/2013	Meeting (File Note and Voice Recording)	EHP met Tasman and their consultant onsite to discuss what clean-up activities have occurred onsite since the new year.	All	No see ** above
16/02/2013	Phone Call (File Note)	Peter Moffat clarified which contractor would be conducting the clean-up.	All	No see ** above
16/01/2013	Email	EHP confirming receipt of OTech's response to the show cause notice.	All	No see ** above
21/01/2013	Fax	Peter Moffat's response to the show cause notice. Including a letter provided by OTech at the start of the lease arrangements regarding what products	All	No see ** above

Alleged Breach Report
Penalty Infringement Notice (PIN)

		would be stored onsite.		
22/01/2013	Phone Call (File Note)	EHP called Tasman several times to report a minor contamination incident from the site.	All	No see ** above
24/01/2013	Meeting (File Note and Voice Recording)	OTech discuss the minor contamination incident onsite with EHP officers.	All	No see ** above
24/01/2013	Phone Call (File Note)	EHP contacted Tasman's clean-up contractor to identify what actions have been conducted to clean-up the minor contamination incident.	All	No see ** above
24/01/2013	Email	Photos of minor contamination incident clean-up provided by clean-up contractor.	All	No see ** above
25/01/2013	Phone Call (File Note)	EHP discussing concerns with current measures due to predicted rainfall.	All	No see ** above
27/01/2013	Email	Peter Moffat stating that no contaminants have exited the site over the weekend.	All	No see ** above
28/01/2013	Email	Peter Moffat stating that no contaminants have exited the site over the weekend.	All	No see ** above
29/01/2013	Email	EHP confirming the receipt of Peter Moffat's email.	All	No see ** above
31/01/2013	Notice/Letter/Email	An s451 notice and cover letter were issued to Tasman and OTech requesting further information regarding the activities onsite.	All	No see ** above
31/01/2013	Email	OTech requesting further clarification regarding a penalty unit.	All	No see ** above
31/01/2013	Email	EHP providing a definition	All	No see ** above

Alleged Breach Report
Penalty Infringement Notice (PIN)

		of a penalty unit.		
1/02/2013	Letter/Email	OTech's response to the s451 notice. Stating Peter Moffat had unrestricted access to the site and accessed the site on several occasions. Real estate listings and monthly invoices were also provided.	All	No see ** above
06/02/2013	Email	EHP confirming the receipt of the s451 notice response.	All	No see ** above
7/02/2013	Email	Peter Moffat requesting an extension on the response to the s451 notice.	All	No see ** above
08/02/2013	Email	EHP confirming an extension of timeframe for the s451 notice to Peter Moffat.	All	No see ** above
13/02/2013	Fax/Email	Tasman's response to the s451 notice. Monthly invoices and bank statements were also provided.	All	No see ** above
18/02/2013	Email	EHP confirming the receipt of the response to the show cause notice.	All	No see ** above
25/02/2013	Phone Call (File Note)	EHP called Peter Moffat to discuss the remaining clean-up actions.	All	No see ** above
26/02/2013	Phone Call (File Note)	Peter Moffat called EHP to discuss concerns over the removal of the television units.	All	No see ** above
01/03/2013	Phone Call (File Note)	EHP called Peter Moffat to inform him that sediment and erosion controls need to be improved onsite.	All	No see ** above

6. Other enforcement options

Please detail what other enforcement options have been considered for this matter.

Have other enforcement options been considered?	Yes
If yes, what are they and the reasons for using/not using them?	<p>Prosecution was considered as an enforcement option however after consulting the enforcement guidelines it was decided that a penalty infringement notice would be issued based on the following reasons:</p> <ul style="list-style-type: none">• All offenders have been honest and have provided the required information when requested.• Environment harm did not occur as a result of the incident. Contaminants were contained to the stormwater drain, the adjacent land and the site itself. No contaminants reached any areas of significant environmental values. Therefore the incident is considered to be minor.• The public were not impacted by the incident. <p>Other enforcement options are not relevant for this incident as it is not current licensed and all activities have ceased operation on site due to the fire.</p>
If no, please advise why no other options have been considered?	N/A

7. Recommendation

The officer is required to make a recommendation in relation to the matter under investigation

Recommendation:

It is recommended that a 2 PIN's be issued for offences relating to sections 427 and 440ZG of the *Environmental Protection Act 1994*. There is substantial evidence indicating that Oil Technology Australia Pty Ltd had not discharged their environmental duty when storing the contaminants at the site and subsequently contravened the aforementioned sections of the *Environmental Protection Act 1994*. Due to the nature of the incident and the particulars of the activities conducted on the site it is considered suitable to issue a PIN as enforcement action at this time (see the section 'Other Enforcement Options' above for further information).

Alleged Breach Report
Penalty Infringement Notice (PIN)

8. Endorsement

The recommending officer and supervisor are required to sign and date below.

Recommending Officer	Supervisory Review
Signature: sch4p4(6) Personal information	Signature: sch4p4(6) Personal information
Print Name: Joanne Page	Print Name: Daniel Salomone
Position: Environmental Officer	Position: Senior Environmental Officer
Date: 1 March 2013	Date: 1 March 2013

9. Approval

The appropriate manager or supervisor is required to make a decision and sign and date below.

Decision for recommendation	Approve <i>Endorsed</i>
Reasons for decision I approve this decision for the reasons set out above.	
Signature: sch4p4(6) Personal information	Print Name: Leonie Clough <i>John Harden</i>
Position: <i>AM</i>	Date: 1 March 2013 <i>AM</i> sch4p4(6) Personal information

ESR DIVISION ALERT ENFORCEMENT

TYPE OF ALERT: PIN Alert
UNIQUE ALERT NAME: Tasman Tannery Site - Narangba Industrial Estate - OTech
ALERT DATE: 8 March 2013
ALERT VERSION: 1
SIGNIFICANCE LEVEL: Medium (18)
ECOTRACK / FILE REF: CA26671

CONTACT OFFICER: Joanne Page
OFFICE LOCATION: Caboolture

OFFENCE NO. 1

NAME OF RESPONSIBLE COMPANY, CLIENT, ACTIVITY, LOCATION:

- Oil Technology Australia Pty Ltd (OTech) leased Lot 732 on SP241692 situated at 6 Potassium Street, Narangba (the site) for the storage of oil products ready for sale.
- A fire occurred on the site at approximately 12.30am on 11/12/2012.
- Contamination occurred as a result of the incident, to the adjacent Stockland property (adjacent to the incident site on Boundary Road) and to the road, footpath and stormwater drain along Boundary Road.
- OTech is currently governed by the conditions of development permit IPDE00459306D11 for their activities on the site adjacent to the 6 Potassium Street, Narangba (Lot 801 on SP138531, 5-7 Potassium Street, Narangba). No development permit exists for the storage of oil products at 6 Potassium Street, Narangba.
- The alleged offence for which the Penalty Infringement Notice (PIN) will be issued is pertaining to s427 – Only registered operators may carry out chapter 4 activities and 440ZG – Depositing prescribed water contaminants in waters, of the *Environmental Protection Act 1994* (EP Act).

SUMMARY OF ISSUES:

s427 – Only registered operators may carry out chapter 4 activities

- A list of products stored at the site was provided by OTech in response to the s451 notice issued by the Department of Environment and Heritage Protection (EHP). This list indicated that over 100,000 Litres of contaminants (oil products) were stored onsite.
- Further analysis of the list of products, using the MSDS's for each product provided on the OTech website indicates that over 55,000 Litres of identifiable C1 and C2 combustible products were stored on the site.
- This amount of contaminants triggers ERA 8 3(a) under the *Environmental Protection Regulation 2008*

440ZG – Depositing prescribed water contaminants in waters

- No evidence of control measures in place to prevent the contaminants exiting the site during an incident.
- OTech have stated that no site based management plan had been developed for the site in a response to the s451 notice issue by the Department of Environment and Heritage Protection (EHP).
- A list of products stored at the site was provided by OTech in response to the s451 notice issue by EHP. This list indicated that over 100,000 Litres of contaminants were stored onsite.

Consultation of the risk analysis matrix determines that this incident had a Medium (18) risk level.

POTENTIAL IMPACTS/RISKS:

- Section 427 of the EP Act specifies that only registered operators may carry out Chapter 4 activities.
- OTech was not a register operator for ERA 8 3(a) on the site (Lot 732 on SP241692)
- Section 440ZG of the EP Act specifies that a person must not deposit a prescribed water contaminant, in such a way that it could reasonably be expected to wash, blow, or otherwise move into waters, a roadside gutter or stormwater drainage.
- The site had the potential to cause water contamination as the necessary measures to contain spills were not employed onsite.

ACTIONS TAKEN BY COMPANY, CLIENT:

- EHP is not aware of any actions taken by OTech to assist in the remediation and clean-up of the onsite and offsite impacts from the incident.
- OTech have responded to all EHP letters and notices within the specified timeframes.

EHP ASSESSMENT AND PLANNED ACTIONS:

- An initial meeting was conducted with OTech during the incident response on 11/12/2012 to determine OTech's involvement in the incident including any activities they conducted at the site.
- OTech were provided with a copy of EHP's duty to notify of environmental harm notice after the incident and the completed notice was received by EHP on 13/12/2012.
- An s451 notice was issued to OTech on 14/12/2012. This notice required OTech to provide further information regarding the products stored and activities conducted onsite.
- EHP received a response to the s451 notice from OTech on 21/12/2012, however further information was required and a request for clarification was sent to OTech on 21/12/2012. A response was received to the request on 28/12/2012. EHP was able to determine the type, combustibility, and quantities of the oil products stored at the site with the information provided in response to the s451 notice.

- A show cause notice was issued to OTech on 14/01/2013 requesting OTech to provide cause as to why a PIN should not be issued pursuant to section 427 and 440ZG of the EP Act.
- EHP received a response to the show cause notice on the 15/01/2013.
- All correspondence and information from OTech has been taken into consideration before the making of this decision
- After assessment of the site and gathering of evidence, consideration was given to section 427 and 440ZG of the EP Act.
- The enforcement guidelines have been considered and it has been determined that the issuing of a Penalty Infringement Notice (PIN) for the offence is the appropriate enforcement action.
- The PIN offence is s427- only registered operators may carry out chapter 4 activities – penalty of \$2,200 fine and s440ZG- depositing prescribed water contaminants in water and related matter – penalty of \$2,200.
- A PIN will be issued to OTech on 8 March 2013.

COMMUNICATION:

- EHP has been in continual communication with Peter Moffat, the land owner, regarding the clean-up and remediation of the site.
- Communication has been consistent with Moreton Bay Regional Council officers regarding the clean-up of public areas including the footpaths and roads and stormwater drains and any potential enforcement action.
- Due to the nature and location of the incident several media reports have already been released. Several media outlets were also onsite. The impacts of these reports are currently unknown.

Enquiries: Joanne Page
Telephone: (07) 5433 7773
Our reference: CA26671



14 March 2013

Department of
**Environment and
Heritage Protection**

Director
Oil Technology Australia Pty Ltd
PO Box 139
DECEPTION BAY QLD 4508
Attention: Mr Raymond Georgey

Dear Mr Georgey,

Re: Enforcement Action - Fire incident that occurred on 11 December 2012 at 6 Potassium Street, Narangba.

I refer to the show case notice issued from the Department of Environment and Heritage Protection (the department) dated 14 January 2013 which discussed fire incident that involved the release of contaminants at 6 Potassium Street, Narangba and Oil Technology Australia Pty Ltd's subsequent response dated 15 January 2013. The department has taken your response to the show cause notice into consideration.

I draw your attention to sections 427 and 440ZG of the *Environmental Protection Act 1994* (attached in full). The department reasonably believes that you have committed an offence by:

- (1) Conducting a chapter 4 activity, being ERA 8 (3a) Chemical Storage, on Lot 732 on SP241692 without being a registered operator for the activity on the site

and;

- (2) Unlawfully depositing a prescribed water contaminant at a place, and in a way, so that the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage;

The department has determined that the facts and circumstances of the offence warrant the issuing of a Penalty Infringement Notice (PIN) as an alternative to proceeding by way of prosecution in Court.

Please find enclosed 2 PIN's issued to you in the amount of \$2,200 each. Payment of these sums must be made within 28 days. Payment options available to you include cheque, money order, BPAY and BPOINT. For more information regarding your payment options please refer to the reverse side of the PIN.

Department of Environment and
Heritage Protection
Level 3, 33 King St, Caboolture
PO Box 1080
CABOOLTURE QLD4510

Telephone (07) 5433 7731
Facsimile (07) 5433 7762

Also contained in the PIN is information regarding your rights and obligations. This includes your right of election to have this matter dealt with by a Court. Should you wish elect to take the matter to Court, please complete the 'Elect for Court Hearing' section in the PIN and send the Notice to GPO Box 2454, Brisbane QLD 4001.

To assist you in complying with this Act, or for more information about the department's role in regulating Queensland's environment and heritage, please visit the department's website at: www.ehp.qld.gov.au.

If you have any questions about this letter or require more information about the accompanying PIN please contact Joanne Page on (07) 5433 7773 or via email at joanne.page@ehp.qld.gov.au.

Yours sincerely,

Nadine Cooper

Principal Environmental Officer (Moreton Bay)

Environmental Services (South)

Environmental Services and Regulation

Department of Environment and Heritage Protection

Released by EHP
RTI Act 2009

Attachment

427 Only registered operators may carry out chapter 4 activities

(1) A person must not carry out a chapter 4 activity, unless the person is a registered operator for the activity or is acting under a registration certificate for the activity.

Maximum penalty—400 penalty units.

(2) This section is subject to section 73T.

440ZG Depositing prescribed water contaminants in waters and related matters

A person must not -

(a) unlawfully deposit a prescribed water contaminant -

(i) in waters; or

(ii) in a roadside gutter or stormwater drainage; or

(iii) at another place, and in a way, so that the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage; or

Example of a place for subparagraph (iii) -

a building site where soil may be washed into an adjacent roadside gutter

(b) Unlawfully release stormwater run-off into waters, a roadside gutter or stormwater drainage that results in the build-up of earth in waters, a roadside gutter or stormwater drainage.

Maximum penalty -

(a) if the deposit or release is done wilfully - 835 penalty units; or

(b) Otherwise - 300 penalty units.

Note –

See section 493A (When environmental harm or related acts are unlawful).