



Our Ref DOC13/33787

Dear Householder

This letter is to advise you of the outcome of the EPA's recent legal proceedings against Du Pont (Australia) Ltd, relating to the death and damage of trees and other plants in the area near Gilba Road, Girraween in mid-2011.

From July 2011, the EPA began receiving reports of trees, shrubs, plants and garden beds in Girraween dying or showing signs of damage. In response to those reports, the EPA undertook a thorough and exhaustive investigation that included taking a large number of samples from the vegetation and in other places in the area. Many of those samples showed the presence of metsulfuron methyl, a chemical used in herbicides. As a result of that investigation, in April 2012 the EPA commenced prosecution proceedings against Du Pont in the Land and Environment Court for an alleged offence of land pollution. In summary, the EPA alleged that dust containing metsulfuron methyl had escaped from Du Pont's factory during April and May 2011.

Du Pont pleaded not guilty and the trial commenced on 25 June 2013. As there was no direct evidence of a discharge, the EPA's case had to rely on circumstantial evidence linking Du Pont to the incident. Du Pont has consistently maintained there was no emission from its Girraween premises that caused the impacts on the trees and other plants in the vicinity of its factory. At a very late stage in the proceedings Du Pont put forward an argument to the Court that the EPA could not exclude the possibility that the samples collected by the EPA, that showed the presence of metsulfuron methyl, could have potentially contained herbicide emitted by Du Pont either prior to or after the period of the charge that the EPA put before the Court.

In light of this argument, the EPA was advised by Senior Environmental Counsel that it would be unlikely that the EPA would succeed in the case. In these circumstances and to avoid incurring further costs, the EPA withdrew the charge on Wednesday, 3 July 2013.

I can understand that you may be disappointed by this outcome. However, I can inform you that over the last two years the EPA has required Du Pont to improve its environmental systems and it will continue to work with Du Pont in this regard.

The EPA very much relies on members of community reporting pollution incidents and, where necessary, providing evidence for court proceedings. I wish to take this opportunity to thank you for the assistance that you and your community have provided to the EPA in this matter.

Yours sincerely

A handwritten signature in black ink that reads 'Mark Gifford'.

11 July 2013

**MARK GIFFORD**  
**Chief Environmental Regulator**  
**Environment Protection Authority**

PO Box A290 Sydney South NSW 1232  
59-61 Goulburn St Sydney NSW 2000  
Tel: (02) 9995 5000 Fax: (02) 9995 5999  
TTY (02) 9211 4723  
ABN 43 692 285 758  
[www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)