

1 Douglas C. Allen
2 Attorney at Law
3 153 Main Street
4 P.O. Box 873
5 Shelby, MT 59474
6 Telephone: (406) 424-8020
7 Facsimile: (406) 434-5522

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EPA REGION VIII
HEARING CLERK

8 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
9 REGION 8

9 IN THE MATTER OF: *
10 FULTON FUEL COMPANY * Docket No. CWA-08-2009-0006
11 127 Main Street * AFFIDAVIT OF WILLIAM M.
12 Shelby, MT 59474 * FULTON, JR.

12 State of Montana)
13 :ss
14 County of Toole)

15 William M. Fulton, Jr. Being first duly sworn states:

16 1. I am the President of Fulton Fuel Company, the Respondent
17 in these proceedings.

18 2. On February 29, 2004 a small crude oil release occurred
19 from a fiberglass flowline buried in rock several feet under-
20 ground under Fred and George Creek in Toole County, Montana. The
21 facts concerning the nature of the spill and demonstrating the
22 rapidly initiated, sustained and successful response and
23 remediation measures implemented and paid for by Fulton Fuel
24 Company are set forth by Fulton Fuel Company's Response to Order
25 to Supplement the record and to Show Cause filed herein on or
26 about January 4, 2010. The facts set forth therein and demon-
27 strated through the exhibits attached thereto are true and
28 correct to the best of my knowledge, information and belief.

1 3. The small flowline from which the spill occurred was
2 installed several feet underground by Western Natural Gas Company
3 of Shelby, Montana in a bed of rock. Prior to the leak which
4 occurred, the location and situation of the flowline was impossi-
5 ble to determine or detect by Fulton Fuel Company. The leak which
6 occurred was caused by acts and omissions of Western Natural Gas
7 Company some years prior to acquisition of the property by Fulton
8 Fuel Company.

9
10 4. I am personally acquainted with the geography and topog-
11 raphy in the area of the Sweetgrass Hills where Fred and George
12 Creek meanders through rugged hill country in rural northern
13 Toole County, Montana. Fred and George Creek is a small seasonal
14 creek which runs dry each year below the site of the spill. It is
15 not even remotely navigable and its waters do not reach any
16 navigable stream. Fulton Fuel Company's storage tank facility was
17 located some distance away from the spill at a place lower than
18 Fred and George Creek. No spill occurred from that storage
19 facility. Had one occurred it could not have reasonably been
20 expected to reach navigable waters of the United States.

21 5. Subsequent to the spill which occurred February 29, 2004,
22 Fulton Fuel Company retained an attorney, Renee Coppock of the
23 Crowley Fleck Law Firm, 500 Transwestern Plaza II, 490 North 31st
24 Street, Billings, Montana 59101, to handle all legal matters
25 pertaining to environmental issues with local, state and federal
26 governments arising out of the spill. Ms. Coppock arranged for
27 and monitored the remedial, testing and reporting activities of
28 Hydro Solutions Inc., corresponded with state and federal
agency's and was involved in all aspects of Fulton Fuel Company's

1 legal, remedial, and restoration actions discussed in Fulton Fuel
2 Company's Response to Order to Supplement the Record and to Show
3 Cause herein and demonstrated through the exhibits attached
4 thereto.

5
6 6. Specifically Renee Coppock was involved in communica-
7 tions, including telephone conferences with EPA officials in-
8 volved in this case, and I am informed and believe and therefore
9 state that she received a copy of Hydro Solutions, Inc. "Response
10 to United States Environmental Protection Agency Expedited
11 Information Request for Fulton Fuel Crude Oil Release Into Fred
12 and George Creek, Toole County, Montana, dated October 3, 2007.
13 That Response sets forth facts pertaining to allegations now set
14 forth in the Administrative Complaint in this case and is at-
15 tached to this Affidavit marked Exhibit 10. I do not handle any
16 legal matters for Fulton Fuel Company. I believed that Renee
17 Coppock transmitted Exhibit 10 to the EPA and was handling all
18 legal matters arising out of the EPA's investigation and Adminis-
19 trative Complaint and would file any legal papers required and
20 participate in any hearings to be held herein. I believed such
21 facts to be true until I was advised on December 21, 2009 by
22 Douglas C. Allen that Renee Coppock had not appeared in this
23 matter at which time I requested and authorized Mr. Allen to
24 appear and represent Fulton Fuel Company in this matter.

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1 Subscribed and sworn to before me this 5th day of March,
2 2010.

3
4 (SEAL)

Tennile Frydenlund
Print Name Tennile Frydenlund
Notary Public for the State of MT
Residing at Shelby, MT 59474
My commission expires 07/25/2012

7
8 **CERTIFICATE OF SERVICE**

9 I hereby certify that on the 5th day of March, 2010, I
10 mailed a true and correct copy of the foregoing document, postage
prepaid, to the following:

11 Marc D. Weiner
12 Enforcement Attorney
13 1595 Wynkoop Street
14 Denver, CO 80202-1129

15 Tina Artemis
16 Regional Hearing Clerk
17 US Environmental Protection Agency, Region 8
18 1595 Wynkoop Street
19 Denver, CO 80202-1129
20 Fax: (303)-312-6859

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Douglas C. Allen