

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

9 2010 10  
OFFICE OF THE  
GENERAL COUNSEL  
PHILADELPHIA, PA

In The Matter of: )  
)  
International Petroleum )  
Corporation of Delaware )  
d/b/a/ FCC Environmental )  
)  
505 South Market Street )  
Wilmington, DE 19801 )

Docket No. CWA-03-2010-0327

**ANSWER TO ADMINISTRATIVE COMPLAINT AND  
REQUEST FOR HEARING AND CONFERENCE**

Respondent, International Petroleum Corporation of Delaware d/b/a FCC Environmental (“Respondent”) hereby presents its answer to the Administrative Complaint, and requests an informal conference and a hearing.

**I. STATUTORY AUTHORITY**

1. This paragraph states a legal conclusion to which no response is required. To the extent a response might be required, Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and on that basis denies them.
2. This paragraph states a legal conclusion to which no response is required. To the extent a response might be required, Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and on that basis denies them.
3. Admitted that the Complainant requests the assessment by the Administrator of civil penalties against Respondent, but denied that any civil penalties are warranted or should be assessed against Respondent.
4. This paragraph states a legal conclusion to which no response is required.
5. This paragraph states a legal conclusion to which no response is required.

6. This paragraph states a legal conclusion to which no response is required.
7. This paragraph states a legal conclusion to which no response is required.
8. This paragraph states a legal conclusion to which no response is required.
9. This paragraph states a legal conclusion to which no response is required.

## **II. RESPONDENT**

10. Admitted.

11. Admitted that a tanker truck owned by Respondent was located on Pennsylvania State Highway Route 41 in Avondale, Chester County, Pennsylvania on or about June 2, 2008. The remainder of this paragraph states legal conclusions to which no response is required.

## **III. GENERAL ALLEGATIONS**

12. The responses in paragraphs 1-11 are incorporated by reference as though fully set forth herein.

13. This paragraph states a legal conclusion to which no response is required.

14. This paragraph states a legal conclusion to which no response is required.

15. Admitted that on or about June 2, 2010, at approximately 6:45 a.m., a tanker truck that is owned and operated by Respondent spilled approximately 400 gallons of Recycled Fuel Oil onto Route 41 in Avondale, PA, and that some small portion of such Recycled Fuel Oil, estimated to be approximately 30 gallons, reached Trout Run through a storm drain and caused a sheen upon the water. The remainder of this paragraph states legal conclusions to which no response is required. To the extent a response might be required, Respondent is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph, and on that basis denies them. By way of further response to the factual allegations contained in this paragraph, Respondent states that upon learning of the spill, IPC

dispatched its emergency responders, assisted by emergency responders from HMHTTC Response Incorporated. The spill response cleanup consisted of initial containment of the Recycled Fuel Oil by booming of the road and Trout Run. The Recycled Fuel Oil on the asphalt was removed and then pressure washed, with the wash water being removed with a vacuum truck. The storm drains were pressure washed to remove any residual Recycled Fuel Oil. The Recycled Fuel Oil that entered Trout Run was boomed off, and removed using a skimmer and a vacuum truck. The spill clean-up was successfully completed by 1:30 p.m. on the day of the spill. The spill did not impact any vegetation or soil, including the banks of Trout Run. There was a small amount of debris that acted as a dam in Trout Run that was stained, and as a result was bagged for proper disposal. The Recycled Fuel Oil and water removed were returned to IPC for recycling. None of the Recycled Fuel Oil flowed into the White Clay Creek or the Christiana River. The Pennsylvania Department of Environmental Protection was on-site during the cleanup.

16. This paragraph states a legal conclusion to which no response is required. By way of further answer, the small amount of oil that reached Trout Run was removed, and none of the Recycled Fuel Oil flowed into the White Clay Creek or the Christiana River.

17. This paragraph states a legal conclusion to which no response is required. By way of further answer, the small amount of oil that reached Trout Run was removed, and none of the Recycled Fuel Oil flowed into the White Clay Creek or the Christiana River.

18. This paragraph states a legal conclusion to which no response is required. By way of further answer, the small amount of oil that reached Trout Run was removed, and none of the Recycled Fuel Oil flowed into the White Clay Creek or the Christiana River.

19. This paragraph states a legal conclusion to which no response is required. To the extent a response might be required, Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and on that basis denies them. By way of further answer, the small amount of oil that reached Trout Run was removed, and none of the Recycled Fuel Oil flowed into the White Clay Creek or the Christiana River.

### **COUNT I**

20. Admitted that the small amount of Recycled Fuel Oil that reached Trout Run caused a sheen upon the water. The remainder of this paragraph states a legal conclusion to which no response is required.

21. This paragraph states a legal conclusion to which no response is required. By way of further answer, it is denied that the Complainant's request for relief should be granted. It is further denied that the administrative penalty, in the maximum amount of \$11,000, proposed by Complainant is appropriate under applicable legal standards or proportional to the facts in this case.

### **PROPOSED PENALTY**

22. The responses in paragraphs 1-21 are incorporated by reference as though fully set forth herein.

23. Denied that the maximum civil penalty of \$11,000.00 as proposed is appropriate under applicable legal standards or proportional to the facts in this case.

24. Denied that the maximum civil penalty of \$11,000.00 as proposed is appropriate under applicable legal standards, including without limitation those factors set forth in 33 U.S.C. § 1321(b)(8) and enumerated in this paragraph of the Administrative Complaint. It is further denied that the proposed penalty is proportional to the facts in this case.

**ANSWER TO THE ADMINISTRATIVE COMPLAINT**  
**AND REQUEST FOR HEARING**

25. Respondent hereby requests a hearing pursuant to 33 U.S.C. § 1321(b)(6)(B) and Section 22.15(c) of the Consolidated Rules.

26. The responses in paragraphs 1-25 are incorporated by reference as though fully set forth herein. By way of further answer, it is denied that the Complainant's request for relief should be granted in any respect, and it is further denied that the proposed maximum administrative penalty in the amount of \$11,000 is appropriate or proportional to the facts in this case. An original and copy of this Answer To The Administrative Complaint And Request For Hearing And Conference are being filed with the Regional Hearing Clerk, and served upon the individual identified in paragraph 26 of the Administrative Complaint.

27. This paragraph states a legal conclusion to which no response is required.

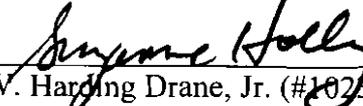
28. This paragraph states a legal conclusion to which no response is required.

29. through 37. These paragraphs state legal conclusions to which no response is required.

38. Respondent has requested an informal conference concerning the alleged violations and the amount of the proposed penalty by conveying such request to Ms. Yvette Hamilton Taylor, Senior Assistant Regional Counsel.

WHEREFORE, Respondent requests that the Regional Administrator or his designee issue a final order that no civil penalty shall be imposed upon Respondent in this case, and dismissing the Administrative Complaint with prejudice.

POTTER ANDERSON & CORROON LLP

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*Attorney for International Petroleum  
Corporation of Delaware*

Dated: July 29, 2010

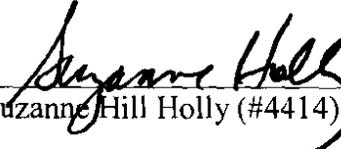
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**CERTIFICATE OF SERVICE**

Suzanne M. Hill, hereby certifies that, on this 29th day of July, 2009, she caused to be filed with the United States Environmental Protection Agency, Region III, via Federal Express, the attached document, which was served upon the following, via Federal Express:

Lydia Guy  
Regional Hearing Clerk (3RC00)  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

Yvette Hamilton-Taylor  
Senior Assistant Regional Counsel (3RC43)  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

  
Suzanne Hill Holly (#4414)