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November 5, 2009

VIA FEDERAL EXPRESS

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, NY 10007-1866

RE: In the Matter of Leroux Oil Co.
Docket No. CWA-02-2009-3810

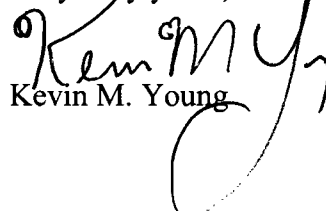
Dear Sir/Madam:

Enclosed for filing are an original and one copy of an Amended Answer to the Administrative Complaint and a Notice Regarding Change of Attorney in the above-referenced matter, together with a Certification of Service.

Note that an answer to the Complaint in this matter was previously submitted to your office by Joseph A. Giorgi, Esq. Please substitute the enclosed Amended Answer for the one previously filed. If this substitution requires a formal motion, please let me know.

If you have any questions, please do not hesitate to call or e-mail.

Very truly yours,


Kevin M. Young

Enclosure (original and one copy)

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2009 NOV 10 PM 12:16
REGIONAL HEARING
CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:)
)
Leroux Oil Co.)
2546 Chateaugay Street)
Fort Covington, New York 12937)
)
Respondent)
)
Proceeding Pursuant to §311(b)(6) of the)
Clean Water Act, 33 U.S.C. §1321(b)(6),)
for SPCC Violations)
_____)

Proceeding to Assess Class I Civil
Penalty Under Section 311(b)(6) of
the Clean Water Act

Docket No. CWA-02-2009-3810

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REGION 2
2010 NOV 10 PM 12:16
REGIONAL HEARING
CLERK

AMENDED ANSWER TO ADMINISTRATIVE COMPLAINT

Respondent Leroux Oil Co. (Respondent) submits this Amended Answer in response to the Administrative Complaint, served October 6, 2009 (the Complaint), by the United States Environmental Protection Agency (EPA).

I. Statutory Authority

1. Respondent neither admits nor denies the allegations contained in paragraph 1 of the Statutory Authority section of the Complaint and refers to the statute cited therein for its contents.
2. Respondent admits that it operates a facility at 156 Pike Street, Fort Covington, New York and refers to the statutes and regulations contained in paragraph 2 of the Statutory Authority section of the Complaint for their contents.

II. Findings of Violation

JURISDICTIONAL ALLEGATIONS

1. Respondent admits the allegations in paragraph 1 of the Findings of Violation section of the Complaint.
2. Respondent admits that it is a corporation and that corporations are among the entities identified as a "person" within the meaning of Clean Water Act §§ 311(a)(7), 502(5), 33 U.S.C. §§ 1321(a)(7), 1362(5).

3. Respondent admits it is the owner and/or operator of a bulk oil storage facility (the "Facility") located at 156 Pike Street, Fort Covington, New York, and refers to the statutes and regulations cited in paragraph 3 of the Findings of Violation section of the Complaint for the contents thereof.
4. Respondent admits that the Facility is engaged in the storage, transfer and distribution of oil and oil products.
5. Respondent admits the allegations in paragraph 5 of the Findings of Violation section of the Complaint relating to storage capacity.
6. Upon information and belief, the Facility is located approximately 400 to 500 feet from the junction of the Big Salmon and Little Salmon Rivers and is separated from the rivers by an elevated railroad track. Respondent refers to the statutes and regulations cited in paragraph 6 of the Findings of Violation section of the Complaint for the contents thereof.
7. Respondent admits that the Facility is engaged in the storage, transferring and distributing of oil and oil products on land and refers to the regulations cited in paragraph 7 of the Findings of Violation section of the Complaint for the contents thereof.
8. Respondent refers to the statute cited in paragraph 8 of the Findings of Violation section of the Complaint for the contents thereof.
9. Respondent refers to the Executive Orders cited in paragraph 9 of the Findings of Violation section of the Complaint for the contents thereof.
10. Respondent refers to the regulations cited in paragraph 10 of the Findings of Violation section of the Complaint for the contents thereof. Respondent notes that the United States Environmental Protection Agency (EPA) has extended until November 10, 2010 the date by which existing facilities must amend their SPCC plans and implement the changes contained in 67 Fed. Reg. 47140 (July 17, 2002). 74 Fed. Reg. 29136 (June 19, 2009).
11. Respondent incorporates its responses to paragraphs 4, 5 and 6 of the Findings of Violation section of the Complaint.

SPECIFIC CLAIMS

12. Respondent refers to the regulation cited in paragraph 12 of the Findings of Violation of the Complaint for the contents thereof.
13. Respondent purchased the Facility on or about August 1, 1975 and denies knowledge or information sufficient to form a belief concerning operations at the Facility before that date.

14. Respondent refers to the regulations cited in paragraph 14 of the Findings of Violation section of the Complaint for the contents thereof. Respondent notes that 40 CFR §112.8 was adopted by EPA as part of the 2002 revisions to the SPCC rulemaking. As noted in response to paragraph 10 above, EPA has extended until November 10, 2010 the date by which existing facilities must amend their SPCC plans and implement the changes contained in 67 Fed. Reg. 47140 (July 17, 2002). 74 Fed. Reg. 29136 (June 19, 2009).

15. Respondent admits that during inspections of Respondent's facility by EPA on August 17, 2009, the Complainant determined that the Respondent had not prepared an SPCC Plan in writing.

16. Respondent refers to the regulations cited in paragraph 16 of the Findings of Violation section of the Complaint for the content thereof.

17. See Section entitled Responses to Allegations in Attachment A of Complaint for Respondent's answers to the specific allegations contained therein.

CLAIM FOR RELIEF

18. Respondent incorporates its responses to the allegations contained in Paragraphs 12 through 17 by reference.

19. Respondent neither admits nor denies the allegations in paragraph 19 of the Findings of Violation section of the Complaint.

20. Respondent neither admits nor denies the allegations in paragraph 20 of the Findings of Violation section of the Complaint.

GENERAL RESPONSE TO ALLEGATIONS

1. Complainant's allegations against Respondent appear to be based on the most recent version of the SPCC regulations published in the Code of Federal Regulations based on particular regulations cited in Attachment A to the Complaint. As Complainant is aware, the SPCC regulations were significantly amended in 2002, at which time many new requirements were added to the rule and many existing requirements revised. In particular, EPA added 40 CFR §112.8, which contains requirements specifically applicable to onshore facilities such as bulk storage plants. As noted in the response to Section 10 of the Findings of Violation section of the Complaint, EPA has extended until November 10, 2010 the date by which existing facilities must amend their SPCC plans and implement the changes contained in 67 Fed. Reg. 47140 (July 17, 2002). 74 Fed. Reg. 29136 (June 19, 2009). Accordingly, none of the new requirements added to SPCC regulations as of July 17, 2002 currently apply to Respondent's facility. Although Respondent is aware that it must eventually comply with the revised SPCC regulations, it objects to any effort by Complainant to enforce against it for failure to comply with any new/revised standards before the November 10, 2010 deadline.

2. Also, Respondent notes that the pre-2002 SPCC regulations, which it believes apply in this action, did not impose mandatory requirements with respect to the content of SPCC plans. Section 112.7, is identified as “Guidelines for the preparation and implementation of a Spill Prevention, Control and Countermeasures Plan”. (emphasis added). Most of the remaining provisions of 40 CFR 112.7 provide that facilities “should” undertake various measures (e.g., facilities “should” include written description of spills in plan; appropriate containment or diversionary structures “should” be provided). In its 2002 rulemaking, EPA acknowledged that its use of the word “should” rather than the word “shall” (the word customarily used to denote mandatory obligations in EPA rules) created the impression that the guidelines were suggestions – not mandatory obligations enforceable as a matter of law. EPA indicated that it considered n §112.3 of the SPCC rules to require plans to be prepared in accordance with §112.7 (i.e., “should” meant “shall”), but noted that “clarification” of the rule was necessary because facility owners have interpreted these requirements as optional. 67 Fed. Reg. 47042, 47051 (July 17, 2002). Again, Respondent fully intends to comply with all applicable SPCC requirements. In light of the ambiguity in the rules applicable to the Facility, however, Respondent objects to efforts by Complainant to enforce against it for failing to comply with provisions that were not clearly mandatory.

RESPONSES TO ALLEGATIONS IN ATTACHMENT A OF COMPLAINT

Failure to Implement the SPCC Plan in Accordance with 40 CFR §112.7 [40 CFR §112.3(a, b, c)]

1. Respondent has retained Hynes Maintenance Service, which has conducted monthly inspections of the Facility for many years. These inspections include the tanks, spill prevention equipment, secondary containment systems and other related equipment. Upon information and belief, these inspections were conducted pursuant to a written checklist, a copy of which was provided to Respondent upon completion of each inspection. Respondent retained copies of certain of these inspection reports in its files. In addition, Respondent retained copies of invoices showing that the inspections were completed; in most cases, these invoices provide a reasonably detailed overview of the areas inspected and the inspector’s findings. Copies of the reports and invoices available at the Facility for the previous three years are included as Exhibit A. Going forward, Respondent will retain all SPCC-related inspection reports and test results for at least five years.

2. During the previous three years, Respondent has typically employed between three and four people (including the owner, Mr. Phillip Leroux) at the Facility who are responsible for loading and offloading of oil and for day-to-day maintenance and operation of the oil storage facility and related equipment. Because of the small size of the facility, employees are trained on the job. The on-the-job training includes working with and mentoring with a more experienced staff person, periodic demonstration of procedures, instructions by the manager and exposure to all aspects of the operation. Information concerning facility operations typically was exchanged through this training process. Respondent believes that its on-the-job training program satisfies the training requirements of the SPCC regulations, particularly in light of the Facility’s small

size. With regard to the specific information highlighted in Attachment A, upon information and belief, during the three years preceding the inspection, the Facility did not experience any “discharges or failures, malfunctioning components, and any recently developed precautionary measures.” As a result, there was no need to include this information in any spill prevention briefings. Going forward, Respondent has retained C.T. Male Associates, an environmental engineering firm, to help formalize its SPCC training. A copy of the draft form developed by C.T. Male to document training is included as Exhibit B.

3. Upon information and belief, the Facility is equipped with lighting sufficient “to assist in the discovery of discharges during hours of darkness by (employees) operating personnel and non-operating personnel (general public, local police, etc.)” and to “assist in the prevention of discharges occurring through acts of vandalism.” The Facility operates a yard light in the vicinity of the storage area that is sufficient to identify the presence of intruders and to aid in the discovery of spills should they occur. During the 34 years that Respondent has operated at this location, there have not been any discharges during hours of darkness or discharges occurring through acts of vandalism. Photographs of the lighting at the facility will be provided under separate cover.

4. See response to Item 3 above.

5. ^{requested that} The Facility currently is equipped with a clay-bottom containment structure at the area used for loading trucks. Upon information and belief, this area is sufficient to contain most spills that would be likely to occur from trucks during the loading process. Photographs of the containment area ~~are~~ will be provided under separate cover. Going forward, Respondent has ~~asked~~ its consultant, C.T. Male Associates, to evaluate the containment structure in light of the requirements of the SPCC regulations; the consultant will also address compliance with any SPCC requirements applicable to the Facility’s unloading area.

Failure to Implement an SPCC Plan in Accordance with 40 CFR §112.8 [40 CFR §112.3(a,b,c)]

1. Upon information and belief, prior to the EPA’s inspection on August 17, 2009, Respondent had initiated a program to repair all known visible cracks in the secondary containment structure. Thus, Respondent’s secondary containment repair program was already underway at the time of EPA’s inspection. This effort continued after the inspection and has been completed. The cracks were repaired by Respondent’s staff using lockbond and hydraulic cement. Photographs of the repaired secondary containment structure are included as Exhibit C.

2. As previously noted, the Facility is extremely small, with only three to four people involved in the actual management and transfer of oil. On many days, only one person is on-site at a given time. Given the size of Respondent’s facility, and the fact that all of its yard employees are similarly knowledgeable, Respondent believes the “responsible supervisor” requirement associated with drainage of stormwater in diked areas was met. Going forward, the owner, Mr. Leroux, will assign one employee (in addition to himself) to be responsible for draining stormwater from the diked area. The remaining yard employee(s) will be instructed not to drain

the stormwater unless Mr. Leroux or the delegated employee is present. In the alternative, Mr. Leroux or the delegated employee will perform the draining themselves. Respondent's consultant, CT Male Associates, has developed a draft form for documenting draining of its containment area. A copy of the draft form is included as Exhibit D.

3. See response to Item 2 above.

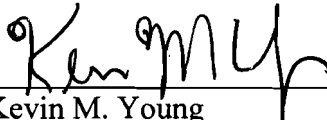
SUPPLEMENTAL ENVIRONMENTAL PROJECT

1. Respondent is a small business providing heating oil to local residents and operating three convenience stores. Due to the extremely rural nature of the region, heating oil is the primary fuel for heating homes and the costs of delivery (a lot of miles for a few gallons) is high. Respondent provides 12 full-time equivalent jobs at its various facilities, with health benefits and living wages plus part-time employment. Respondent's heating oil customers are typically elderly individuals living on social security income. As a result, Respondent has little or no ability to fund capital improvements or pay penalties other than by passing the costs on to its customers. Rather than paying a substantial cash penalty, Respondent proposes to provide assistance to its local residential customers to make energy saving improvements to their homes. For example, Respondent could fund energy audits for its customers who are not able to fund such audits themselves. In the alternative, Respondent proposes to provide funding to the local fire department for use in acquiring emergency response equipment or training. Respondent is seeking EPA's cooperation in reducing the penalty amount based upon information set forth in this answer and allowing all and/or substantially the entire penalty to be used for a supplemental environmental project within the local community.

REQUEST FOR A HEARING

1. Respondent requests a hearing in this matter.

Dated: November 5, 2009



Kevin M. Young
Attorney for Leroux Oil Company
Young Sommer LLC
5 Palisades Drive
Albany, NY 12205
(518) 438-9907

TO: Eduardo J. Gonzalez, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, NY 10007-1866

cc: Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, NY 10007-1866
(Original and one copy)

SERVICE ORDER



Nozzles • Swivels • Filters • Hoses • Breakaways
 Specializing in Mechanical Pumps
 TMS Console Service Station Maintenance

Hynes Maintenance Service

Plumbing & Electrical - Hardwood Floors

James Hynes
 284 County Route 33
 Burke, NY 12917

Home Office
 (518) 483-7112

DATE: 5/3 2008

JOB NAME _____

QUAN.	DESCRIPTION	PRICE	AMOUNT
-------	-------------	-------	--------

NAME <i>Laura Oil Com.</i>	
ADDRESS <i>2546 Challenging St</i>	
CITY <i>Rt Corrington, N.Y. 12937</i>	PHONE

Rt Corrington Bulk Plant.

NATURE OF SERVICE

month inspection

*The Tank: Need some parts
 The Dike has some water no product
 The spill bucket has about 34 in it
 The pipy in Dry.*

*The Loading Area has water no
 product.
 The Loading Area. Dry - no spills*

179212
8749

TOTAL TIME	<i>1</i>	\$ <i>34.50</i> PER HR.	<i>34.50</i>
MILEAGE			
TOTAL MATERIALS			
TECHNICAL SERVICE TIME:	<input type="checkbox"/> SHOP		
	<input type="checkbox"/> SERVICE CALL CHARGE		
TECHNICIAN			<i>34.50</i>
DATE COMPLETED		TAX	<i>2.76</i>
CASH ON COMPLETION OF WORK OR NET 10 DAYS		TOTAL	<i>37.26</i>
SIGNATURE			

TOTAL MATERIALS

Thank You

Signature above constitutes acceptance of above work as being satisfactory and that equipment has been left in good condition.

SERVICE ORDER



Nozzles • Swivels • Filters • Hoses • Breakaways
Specializing in Mechanical Pumps
TMS Console Service Station Maintenance

Hynes Maintenance Service

Plumbing & Electrical - Hardwood Floors

James Hynes
284 County Route 33
Burke, NY 12917

Home Office
(518) 483-7112

DATE: 7/3 2008

JOB NAME

QUAN.	DESCRIPTION	PRICE	AMOUNT
1.	3hr Motor Rebuild		176.40
1.	1/2 coupler		25.40

NAME	Loroux Oil Com.
ADDRESS	2546 Christyway St.
CITY	El Cerrillo, CA 94530
PHONE	

NATURE OF SERVICE	7/3
	El Cerrillo, Bulk plant. 1hr.
	Remove motor on fuel oil pump
	7/3. Reinstalled motor on fuel oil pump.
	Had Rebuild By Tim Sullivan -

CE 8877
1543.04
7/17

1543.04

TOTAL TIME	4hrs @ \$25.00 PER HR.		146.00	
MILEAGE	100 @ 85		85.00	
	TOTAL MATERIALS		201.80	
TECHNICAL SERVICE TIME: <input type="checkbox"/> SHOP				
<input type="checkbox"/> SERVICE CALL CHARGE				
TECHNICIAN			432.86	
DATE COMPLETED		TAX	34.63	
CASH ON COMPLETION OF WORK OR NET 10 DAYS TOTAL			467.49	
SIGNATURE				

TOTAL MATERIALS 201.80

Thank You

Signature above constitutes acceptance of above work as being satisfactory and that equipment has been left in good condition.

SERVICE ORDER



Nozzles • Swivels • Filters • Hoses • Breakaways
Specializing in Mechanical Pumps
TMS Console Service Station Maintenance

Hynes Maintenance Service

Plumbing & Electrical - Hardwood Floors

James Hynes
284 County Route 33
Burke, NY 12917

Home Office
(518) 483-7112

DATE: 20

JOB NAME

QUAN.	DESCRIPTION	PRICE	AMOUNT

NAME	Lorona oil Com.
ADDRESS	2546 Chathamway St.
CITY	P4 Covington, N.Y. 12937
PHONE	

P4 Covington Bulk plant.

NATURE OF SERVICE

Month inspection.

Unloading N. no spill
Loading N. no spill
The Site has some snow + Ice
no product.
The spill Bucket has some product

The pipes All Dry -

TOTAL TIME	1. \$36.50 PER HR.	36	50
MILEAGE			
TOTAL MATERIALS			
TECHNICAL SERVICE TIME: <input type="checkbox"/> SHOP			
<input type="checkbox"/> SERVICE CALL CHARGE			
TECHNICIAN		36	80
DATE COMPLETED		TAX	2.92
CASH ON COMPLETION OF WORK OR NET 10 DAYS		TOTAL	39.42
TOTAL MATERIALS	SIGNATURE		

Thank You

Signature above constitutes acceptance of above work as being satisfactory and that equipment has been left in good condition.

MONTHLY FACILITIES INSPECTION

Month/Year: 6/3/09 Pike 57

*Bulk plant
Pike 57*

Note to Manager: Inspect the following areas of the facility. Inspect one tank per column. Use a new inspection form every month. Use a "Y" to indicate a satisfactory condition, an "N" for a deficient condition or "N/A" for areas that do not apply. Note all deficiencies in "Comments" area and immediately report any and all deficiencies to General Manager or Distribution Manager.

TANK NO.	1000	2000	3000	400	500										
Tank Shells & Foundations:															
Tanks are free from leaks	Y	Y	Y	Y	Y										
Discoloration	Y	Y	Y	Y	Y										
Corrosion	Y	Y	Y	Y	Y										
Bulging	Y	Y	Y	Y	Y										
Cracking	Y	Y	Y	Y	Y										
Uneven settlement	Y	Y	Y	Y	Y										
Loosened anchor bolts	Y	Y	Y	N/A	N/A										
All seams liquid tight	Y	Y	Y	Y	Y										
All skid tanks secure & free from leaks, weeps, & drips	N/A	N/A	N/A	N/A	N/A										
Drum storage area secure	N/A	N/A	N/A	N/A	N/A										
Tanks labeled with capacities and safe fill capacities	Y	Y	Y	Y	Y										
All tank gauges functional	Y	Y	Y	Y	Y										
High-level alarm functional	N/A	N/A	N/A	N/A	N/A										
Piping:															
All piping inspected and free from leaks, weeps, & drips	Y	Y	Y	Y	Y										
All piping is properly coated with no signs of corrosion	Y	Y	Y	Y	Y										
API color-coded	Y	Y	Y	Y	Y										
Pipe supports in good condition	Y	Y	Y	Y	Y										
Facility drainage system functioning properly	N/A	N/A	N/A	N/A	N/A										
Pumps operating properly and free of leakage	N/A	N/A	N/A	Y	Y										
All piping sumps checked for water and/or product.	N/A	N/A	N/A	N/A	N/A										

COMMENTS

LEROUX OIL COMPANY
2548 CHATEAUGAY STREET
FT. COVINGTON, NY 12937

VISUAL MONTH INSPECTION

DATE: 6/3/09
SITE: PIKE ST

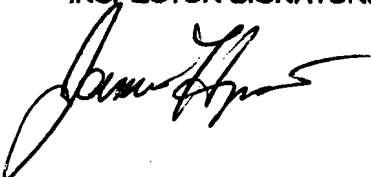
P.BS # 5-299537

TANK SIZE	TANK	RESULTS OF INSPECTION	REPORT FOR REPAIRS
12,000	200A	Y	
10,000	300A	Y	
5,000	300B	Y	
10,000	400	Y	
25,000	500	Y	
DIKE AREA		Snow under no product.	

USE A "Y" TO INDICATE A SATISFACTORY CONDITION, AN "N" FOR A DEFICIENT CONDITION OR "NA" FOR AREAS THAT DO NOT APPLY.

THIS INSPECTION HAS BEEN PERFORMED IN A MANNER CONSISTANT WITH INDUSTRY STANDARDS, AND THIS REQUIREMENT OF 6NYCRR 613-6

INSPECTOR SIGNATURE:



INSPECTOR ADDRESS
284 COUNTY
BURKE NY 12917

LEROUX OIL COMPANY
 2548 CHATEAUGAY STREET
 FT. COVINGTON, NY 12937

VISUAL MONTH INSPECTION

DATE: 8/4/2009
 SITE: PIKE ST

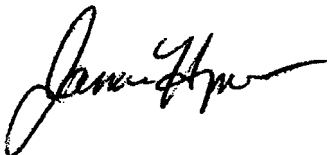
P.BS # 5-298537

TANK SIZE	TANK	RESULTS OF INSPECTION	REPORT FOR REPAIRS
12,000	200A	Y	Spots. Pres. Ask to have the cracks in floor + wall Repair
10,000	300A	Y	
5,000	300B	Y	
10,000	400	Y	
25,000	500	Y	
DIKE AREA		Water in Dike Area.	

USE A "Y" TO INDICATE A SATISFACTORY CONDITION, AN "N" FOR A DEFICIENT CONDITION OR "NA" FOR AREAS THAT DO NOT APPLY.

THIS INSPECTION HAS BEEN PERFORMED IN A MANNER CONSISTANT WITH INDUSTRY STANDARDS, AND THIS REQUIREMENT OF 6NYCRR 613-6

INSPECTOR SIGNATURE:



INSPECTOR ADDRESS
 284 COUNTY
 BURKE NY 12917

LEROUX OIL COMPANY
 2546 CHATEAUGAY STREET
 FT. COVINGTON, NY 12937

VISUAL MONTH INSPECTION

DATE: 10/1/09
 SITE: PIKE ST

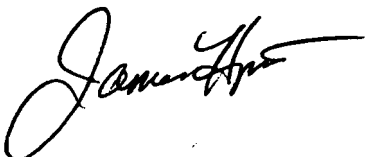
P.BS # 5-299537

TANK SIZE	TANK	RESULTS OF INSPECTION	REPORT FOR REPAIRS
12,000	200A	Y	Y
10,000	300A	Y	Y
5,000	300B	Y	Y
10,000	400	Y	Y
25,000	500	Y	Y
DIKE AREA		Soms water no product.	

USE A "Y" TO INDICATE A SATISFACTORY CONDITION, AN "N" FOR A DEFICIENT CONDITION OR "N/A" FOR AREAS THAT DO NOT APPLY.

THIS INSPECTION HAS BEEN PERFORMED IN A MANNER CONSISTANT WITH INDUSTRY STANDARDS, AND THIS REQUIREMENT OF 6NYCRR 613-6

INSPECTOR SIGNATURE:



INSPECTOR ADDRESS

284 COUNTY
 BURKE NY 12917

EMPLOYEE TRAINING PROGRAM LOG SHEET

EXHIBIT B

Facility Registration Number: 5-299537
 Facility Name: Leroux Oil Co., Inc
 Facility Address: 156 Pike Street Fort Covington, NY 12937

Column 1	Column 2					Column 3
Training Topic	Training Method or Tool					Employee Signature and Date
	Post in Central Location Instructions, Notices, etc.	Provide Written Guidelines (i.e., Standard Operating Procedures)	Provide On-Job Training; Demonstrations, Drills, etc.	Conduct Routine Employee Meetings	Other (list)	

Note: The employee training program will be implemented, at a minimum, on an annual basis. New employees will be trained as part of their orientation program.

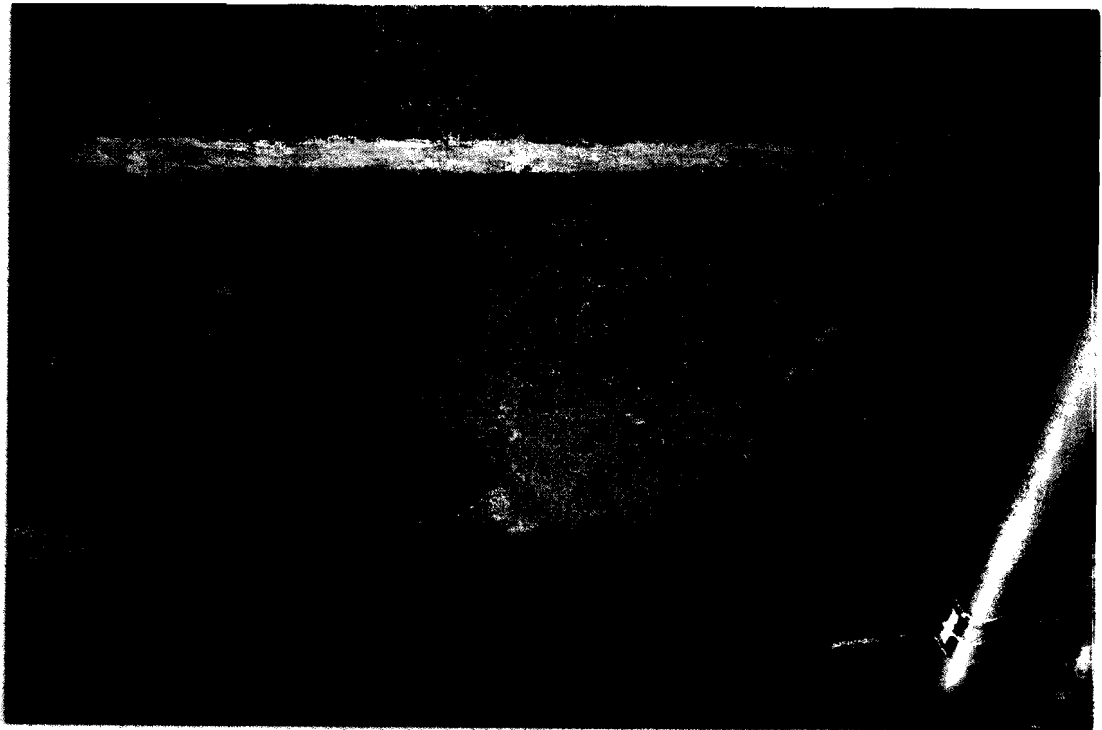
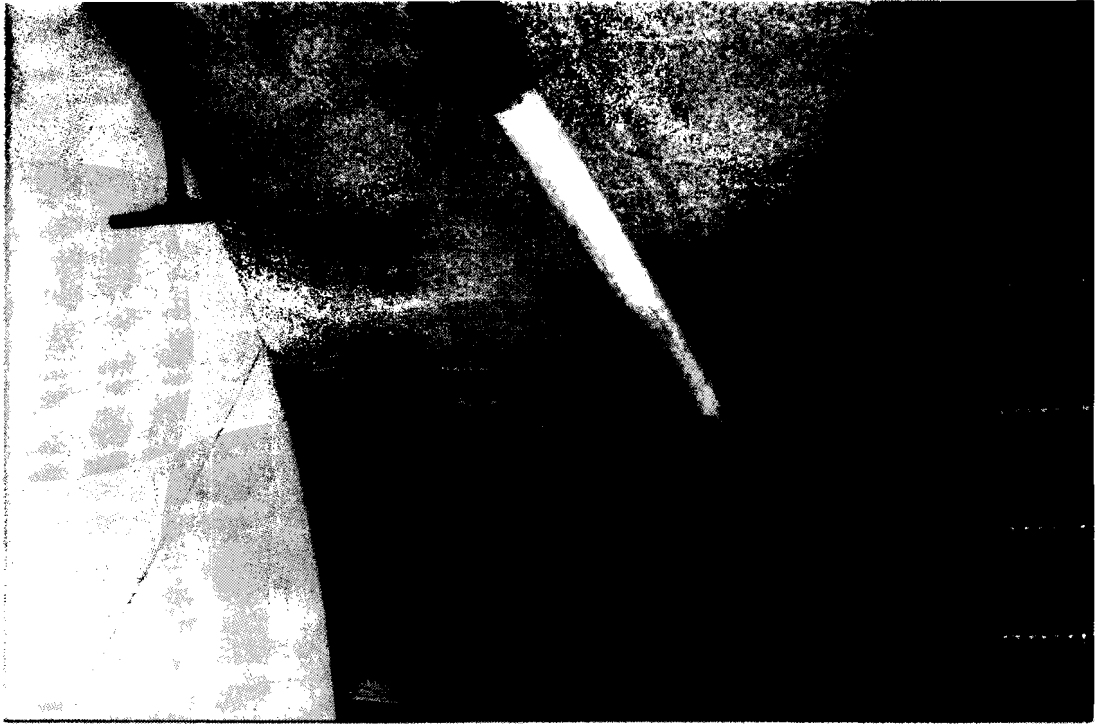
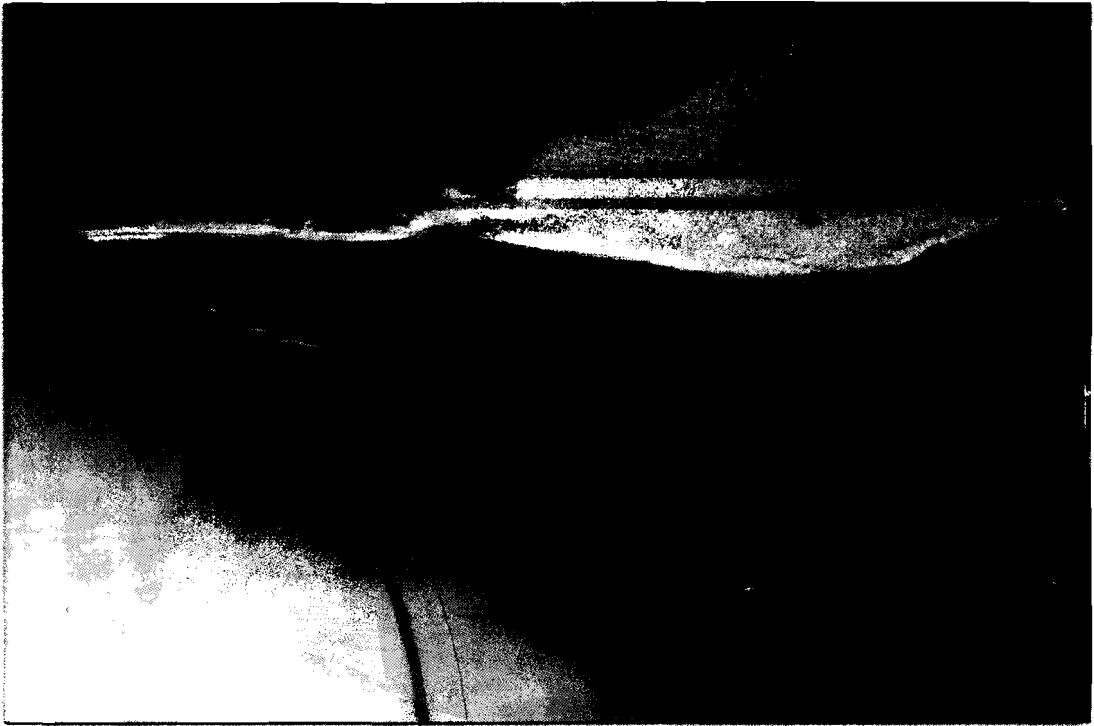


Exhibit C







Record of Draining Secondary Containment Areas (Sheet 1 of 2)

Facility Name/Address: Leroux Oil Co., Inc. – 156 Pike Street Fort Covington, NY 12937

Facility PBS Number: 5-299537

Exhibit D

Date	Secondary Containment Area Description	Sheen/Oil Present?		Time Began	Time Stopped	Stormwater Discharge Location	Employee Name
		Yes	No				

NOTE: Check stormwater/precipitation present in secondary containment area(s) for a sheen or oil contamination prior to discharge. If a sheen or oil contamination is present do not discharge the stormwater; the water must be pumped out and taken to an approved/ permitted wastewater treatment facility (note any such actions on the reverse side of this form).

* - Use back of page to note any problems or concerns found during secondary containment area draining event.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Leroux Oil Co.
2546 Chateaugay Street
Fort Covington, New York 10701

Respondent

Proceeding Pursuant to §311(b)(6) of the
Clean Water Act, 33 U.S.C. §1321(b)(6),
for SPCC Violations

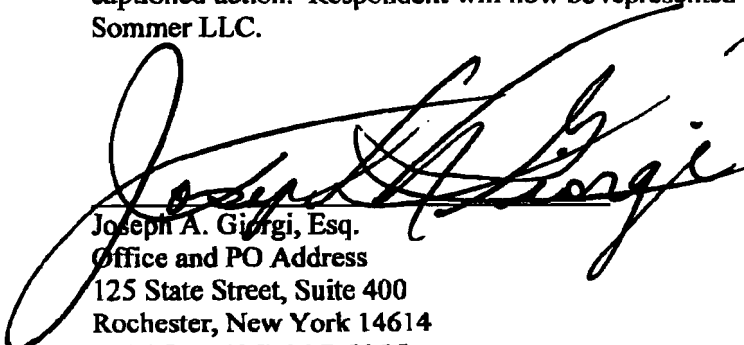
Proceeding to Assess Class I Civil
Penalty Under Section 311(b)(6) of
the Clean Water Act

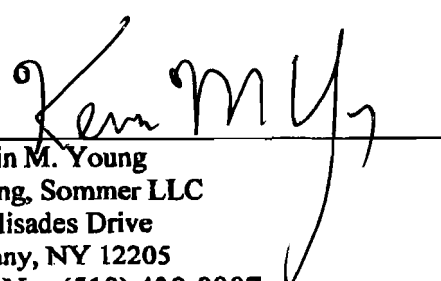
Docket No. CWA-02-2009-3810

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2009 NOV 10 PM 12:17
REGIONAL HEARING
CLERK

NOTICE REGARDING CHANGE OF ATTORNEY

PLEASE BE ADVISED that Respondent has changed the attorney representing it in the above-captioned action. Respondent will now be represented by Kevin Young of the law firm of Young, Sommer LLC.


Joseph A. Giorgi, Esq.
Office and PO Address
125 State Street, Suite 400
Rochester, New York 14614
Tel. No. (585) 327-5055


Kevin M. Young
Young, Sommer LLC
5 Palisades Drive
Albany, NY 12205
Tel. No. (518) 438-9907

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Leroux Oil Co.
2546 Chateaugay Street
Fort Covington, New York 12937

Respondent

Proceeding Pursuant to §311(b)(6) of the
Clean Water Act, 33 U.S.C. §1321(b)(6),
for SPCC Violations

Proceeding to Assess Class I Civil
Penalty Under Section 311(b)(6) of
the Clean Water Act

Docket No. CWA-02-2009-3810

REGIONAL HEARING
CLERK

2009 NOV 10 PM 12:17

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REGION 2

CERTIFICATION OF SERVICE

I certify on the date noted below, I caused to be sent, by Federal Express, a copy of the foregoing **Amended Answer to Administrative Complaint** and a **Notice Regarding Change of Attorney** in the above-referenced action, to the following person at the address listed below:

Eduardo J. Gonzalez, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

Date: November 5, 2009

Name: Elizabeth B. Wykes

Title: Legal Secretary to Kevin M. Young

Address: Young, Sommer
5 Palisades Drive
Albany, NY 12205

Christine Cushine

CHRISTINE CUSHINE
Notary Public, State of New York
Qualified in Albany County
No. 01CU6070965
Commission Expires March 11, 2010