

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

Rec'd
FEB 17 2009
RHC
WRS

IN THE MATTER OF:

HOP Energy, LLC
d.b.a. DDLC Energy
410 Bank Street
New London, Connecticut 06320

Respondent

ANSWER TO:

ADMINISTRATIVE COMPLAINT
AND NOTICE OF OPPORTUNITY
TO REQUEST HEARING

Docket No. CWA 01-2009-0004

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HOP Energy, LLC, d.b.a. DDCL Energy, responds to the Administrative Complaint and Notice of Opportunity to Request Hearing as follows:

1. through 6. These paragraphs make statements of law to which no response is necessary.
7. Admitted.
8. Admitted.
9. Respondent denies that it has been the owner and operator of the Facility since December 4, 1997. Respondent has been the owner and operator of the Facility since August 4, 2006.
10. through 18. Admitted.
19. This paragraph makes a statement of law to which no response is necessary.
20. This paragraph makes statements as to the general practices of the Environmental Protection Agency ("EPA") New England Office, of which the Respondent lacks knowledge or information sufficient to respond.

21. Respondent denies that its Spill Prevention Control and Countermeasure (“SPCC”) plan had not been updated to reflect current ownership by HOP Energy, LLC. Respondent, and its predecessors in ownership of the Facility, prepared regular updates to the Facility’s SPCC plan, including significant updates in 2000, 2003, and 2004.

22. Admitted.

Count 1
Alleged Failure to Fully Implement an SPCC Plan

23. Respondent admits that EPA conducted a review of the Facility’s SPCC plan and performed an inspection at the Facility on May 19, 2008. However, Respondent denies the accuracy of EPA’s conclusions as to the Respondent’s provisions for measures which would prevent the discharge of oil from reaching waters of the United States and the Respondent’s implementation of specific requirements listed in 40 C.F.R. §§ 112.7 and 112.8.

24. Respondent admits to the delivery of the Memo by EPA, but disputes the conclusions and/or denies the allegations contained therein.

25. Respondent admits to the provision of a revised SPCC and the additional information on October 10 and 14, 2008. Respondent is unaware of any additional information being provided to EPA on October 28, 2008.

26. Respondent denies that it failed to fully implement an SPCC plan for the Facility in accordance with the requirements of 40 C.F.R. §§ 112.7 and 112.8 and denies that it violated 40 C.F.R. § 112.3. Respondent denies that it violated these requirements from December 4, 1997 through October 28, 2008.

27. Respondent denies the allegations of the preceding paragraph, and as such denies the liability for civil penalties.

Count 2

Alleged Failure to Implement a Facility Response Training Program and Drill/Exercise Program

28. Respondent reasserts any denial for applicable paragraphs 1 through 27 by reference.

29. Admitted.

30. Admitted.

31. Respondent denies the accuracy of the determination that Respondent could not properly implement its response plan and that Respondent's personnel were not adequately trained in implementing the response plan.

32. Respondent denies the accuracy of the "unsuccessful" rating in all categories except for demonstrating availability of adequate storage capacity.

33. Respondent admits to receipt of the letter, but denies the EPA conclusion that it had failed to successfully satisfy all of the objectives of the Government-Initiated Unannounced Exercise ("GIUE").

34. Respondent admits to the issuance of a Captain of the Port Order but denies the EPA conclusion that it had failed to successfully satisfy all of the objectives of the GIUE.

35. Admitted.

36. Admitted.

37. Respondent denies that it failed to have developed an adequate facility response training program or a facility response drill/exercise program that satisfies the requirements of 40 C.F.R. Part 112.

38. Respondent denies that it failed to have implemented an adequate facility response training program or a facility response drill/exercise program that satisfies the requirements of 40 C.F.R. Part 112.

39. Respondent denies that it violated 40 C.F.R. §112.21(a).

40. Respondent denies the allegations of the preceding paragraph, and as such denies the liability for civil penalties.

Penalty

41. Respondent denies liability for civil penalties.

42. Respondent denies the allegations above and the subsequent conclusions of this paragraph.

Request for Hearing

43. Respondent, pursuant to Section 311(b)(6) of the Act and 40 C.F.R. § 22.15(c), requests a hearing on the proposed penalty assessment.

44. The foregoing response is being submitted within 30 days after receipt of the Complaint in accordance with the requirements provided therein.

45. The foregoing document is being provided as the Answer to the Complaint.

46. No response required.

47. No response required.

Settlement

48. No response required.

49. No response required.

**DEFENSES, CHALLENGES TO FACTUAL ALLEGATIONS, AND BASIS FOR
OPPOSITION TO PROPOSED PENALTY**

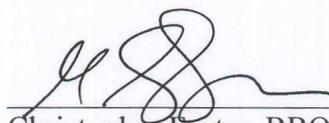
1. Bankruptcy Proceedings: Respondent began operations on August 4, 2006. In accordance with the United States Bankruptcy Court's Order Confirming Debtors' First

Amended Joint Plan of Reorganization, Respondent is discharged from any claims that arose prior to the reorganization.

HOP Energy LLC,

RESPONDENT

By its attorneys,



Christopher Foster, BBO# 563790

Gregory Sampson, BBO# 664510

ROBINSON & COLE LLP

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Boston, MA 02108

(617) 557-5900

Dated: February 17, 2009

In the Matter of HOP Energy, LLC, d.b.a. DDLC Energy
EPA Docket No. CWA-01-2009-0004

CERTIFICATE OF SERVICE

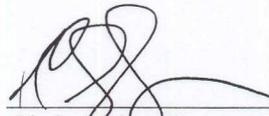
I certify that the enclosed Response was transmitted to the following persons, in the matter specified, on the date below:

Original and one copy hand-delivered to:

Wanda Santiago
Regional Hearing Clerk (RAA)
U.S. Environmental Protection Agency – Region 1
One Congress Street, Suite 1100
Boston, MA 02114-2023

Copy hand-delivered:

Tonia Bandrowicz, Senior Enforcement Counsel
Office of Environmental Stewardship (SEL)
U.S. Environmental Protection Agency – Region 1
One Congress Street, Suite 1100
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Dated: February 17, 2009