



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

BY HAND

NOV 05 2015



Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Re: In The Matter of B&B Petroleum, Inc.
EPA Docket No. CWA-01-2015-0086

Dear Ms. Santiago:

Enclosed for filing in the above-referenced action, please find the original and one copy of an Administrative Complaint and Notice of Opportunity to Request a Hearing.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Tonia Bandrowicz".

Tonia Bandrowicz
Senior Enforcement Counsel

Enclosure

cc: Edward Baillargeon, Sr., B&B Petroleum, Inc.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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EPA ORC WS
Office of Regional Hearing Clerk

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5 Post Office Square, Suite 100
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Tonia Bandrowicz
Senior Enforcement Counsel

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

IN THE MATTER OF:)	ADMINISTRATIVE COMPLAINT AND NOTICE OF OPPORTUNITY TO REQUEST A HEARING
B&B Petroleum, Inc.)	Proceeding to Assess Class II Civil Penalties
22 Brownstone Avenue)	Under Sections 311 of the Clean
Portland, Connecticut 06480,)	Water Act for Violations of the
Respondent.)	Oil Pollution Prevention Regulations at
_____)	40 C.F.R. Part 112
)	Docket No. CWA-01-2015-0086

INTRODUCTION

1. Pursuant to Section 311(b)(6)(B)(ii) of the Clean Water Act (the “CWA”), 33 U.S.C. § 1321(b)(6)(B)(ii), and in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation, Termination or Suspension of Permits*, 40 C.F.R. Part 22 (the “*Consolidated Rules*”), and applicable delegations of authority, the United States Environmental Protection Agency, Region I (“EPA”) issues this Administrative Complaint to B&B Petroleum, Inc. (“Respondent”).

2. EPA takes this action based on its allegations that Respondent failed to fully comply with the Oil Pollution Prevention regulations set forth at 40 C.F.R. Part 112, promulgated under the authority of Section 311(j) of the CWA, 33 U.S.C. § 1321(j), and other provisions of the CWA, 33 U.S.C. §§ 1251 *et seq.*, at its Sterling Street Terminal in East Hartford, Connecticut.

3. This Administrative Complaint provides notice of Respondent’s opportunity to file an Answer to this Complaint and to request a hearing.

STATUTORY AUTHORITY

4. Section 311(j)(1) of the CWA, 33 U.S.C. § 1321(j)(1), provides that the President, as delegated to EPA, shall issue regulations “establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil . . . from onshore and offshore facilities, and to contain such discharges . . .”

5. Under the authority of Section 311(j)(1) of the CWA, the Oil Pollution Prevention regulations establish procedures, methods and requirements for preventing the discharge of oil, including the preparation and implementation of a Spill Prevention Control and Countermeasure (“SPCC”) Plan. These requirements apply to owners or operators of non-transportation-related facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products that, due to their location, could reasonably be expected to discharge oil in harmful quantities, as defined in 40 C.F.R. Part 110, to navigable waters of the United States or adjoining shorelines. 40 C.F.R. § 112.1(b).

6. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as “the waters of the United States, including the territorial seas.”

7. Pursuant to Section 311(b)(6)(B)(ii) of the CWA, as amended by the Debt Collection Improvement Act of 1996, and 40 C.F.R. Part 19.4 (Civil Monetary Penalty Inflation Adjustment), Respondent is liable for civil penalties of up to \$16,000 per day for each day during which the violation continued, up to a maximum of \$177,500 for violations occurring after January 12, 2009 though to December 6, 2013, and liable for civil penalties of up to \$16,000 per day for each day during which the violation continued, up to a maximum of \$187,500, for violations occurring after December 6, 2013. EPA considers each day that Respondent failed to fully and adequately prepare or implement a SPCC plan to be a separate day of violation.

GENERAL ALLEGATIONS

8. Respondent, a corporation organized under the laws of Connecticut, with a principal office located 22 Brownstone Avenue, Portland, Connecticut, is a “person” within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7), and 40 C.F.R. § 112.2.

9. Respondent is the “owner” and “operator,” as those terms are defined in Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2, of the Sterling Street Terminal, a bulk oil storage facility located at 1351 Main Street, East Hartford, Connecticut (the “Facility”).

10. The Facility has been in operation since prior to August 16, 2002.

11. Respondent is engaged in storing and distributing “oil,” within the meaning of 40 C.F.R. §§ 112.1(b) and 112.2, at the Facility.

12. The Facility is an “onshore facility” within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.

13. The Facility is a “non-transportation-related” facility within the meaning of Appendix A of 40 C.F.R. Part 112, as incorporated by reference in 40 C.F.R. § 112.2.

14. The Facility contains a facility storm water collection system that is connected with, and drains into, the municipal storm sewer system. The municipal storm sewer system, in turn, discharges into either the Connecticut River, which flows to Long Island Sound, or the Hockanum River, which flows west through East Hartford to the Connecticut River.

15. The Connecticut River, an interstate waterbody that is used in interstate or foreign commerce, and the Hockanum River, a tributary of the Connecticut River, are both “navigable waters” of the United States as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

16. Due to its proximity Connecticut River and Hockanum River, and the storm drain system connected to such rivers, the Facility could reasonably be expected to discharge oil in harmful quantities (defined in 40 C.F.R § 110.3 to include discharges causing a film or sheen upon or discoloration of the surface of the water), into a navigable water or its adjacent shoreline.

17. As the owner and operator of a non-transportation-related facility engaged in storing and distributing oil or oil products that could reasonably be expected to discharge oil in quantities that may be harmful to navigable waters of the United States, Respondent is subject to the Oil Pollution Prevention regulations at 40 C.F.R. Part 112.

18. On September 29, 2014, an EPA inspector reviewed Respondent's April 20, 2011 SPCC plan and inspected the Facility to determine its compliance with the Oil Pollution Prevention regulations at 40 C.F.R. Part 112.

19. Based on EPA's review of Respondent's SPCC plan, inspection of the Facility, and subsequent correspondence with the Respondent, EPA determined that the Respondent's SPCC plan was inadequate and not fully implemented. Among other things, the Facility did not have: (1) adequately sized secondary containment for the 1.18 million gallon oil storage tank; (2) adequate secondary containment for the loading rack; (3) adequate general containment for the offloading area to the 10,000 gallon oil storage tank; (4) secure fencing; and (5) proper labeling on certain out of service tanks.

20. By letter dated December 4, 2014, EPA informed Respondent of the SPCC plan deficiencies that needed to be corrected.

21. Respondent submitted a revised SPCC plan, dated April 22, 2015, that corrected the SPCC plan deficiencies, and, on August 14, 2015, submitted certification that the secondary containment deficiencies were corrected.

FINDINGS OF VIOLATION

Failure to Fully and Adequately Prepare and Implement a SPCC Plan

22. The Complaint incorporates Paragraphs 1 through 21 above by reference.
23. Pursuant to 40 C.F.R. § 112.1, the owner or operator of an SPCC-regulated facility shall develop and implement a SPCC plan in accordance with 40 C.F.R. Part 112.
24. The Respondent's 2011 SPCC plan was deficient in a number of respects and not fully implemented because, among other things, the Facility did not have: (1) adequately sized secondary containment for the 1.18 million gallon oil storage tank; (2) adequate secondary containment for the loading rack; (3) adequate general containment for the offloading area to the 10,000 gallon oil storage tank; (4) secure fencing; and (5) proper labeling on certain out of service tanks.
25. For the period from SPCC plan preparation in 2011 through to August 14, 2015, Respondent failed to fully and adequately prepare and implement a SPCC plan for its Facility in violation of 40 C.F.R. Part 112 and Section 311 of the Clean Water Act, 33 U.S.C. § 1321.

PROPOSED PENALTY FOR CLEAN WATER ACT VIOLATIONS

26. Based on the forgoing Findings of Violation, and pursuant to the authority of Sections 311(b)(6)(B)(ii) and (b)(8) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii) and (b)(8), and 40 C.F.R. § 19.4, the Complainant proposes that a Final Order assessing administrative penalties be issued against Respondent in an amount not to exceed \$16,000 per day for each day during which its violations continued, up to a maximum of \$177,500, for violations occurring after January 12, 2009 though to December 6, 2013, and in an amount not to exceed \$16,000 per day for each day during which the violation continued, up to a maximum of \$187,500, for violations

occurring after December 6, 2013, taking into account the seriousness of the violations, the economic benefit to the violator, if any, resulting from the violations, the degree of culpability involved, any other penalty for the same incidents, any history of prior violations, the economic impact of the penalty on the violator, and any other matters as justice may require.

27. Respondent's violations of the Oil Pollution Prevention regulations alleged above represent significant violations of the CWA because failure to fully prepare and implement an adequate SPCC plan leaves a facility unprepared to deal with an oil spill or to prevent the spill from having potentially serious environmental consequences.

OPPORTUNITY TO REQUEST HEARING

28. Respondent may, pursuant to Section 311(b)(6) of the CWA, 33 U.S.C. § 1321(b)(6), and 40 C.F.R. § 22.15(c), request a hearing on the proposed penalty assessment in its Answer to this Complaint. The procedures for any such hearing and for all proceedings in this action are set out in the *Consolidated Rules*, a copy of which is enclosed with this Complaint.

29. Default constitutes an admission of all facts alleged in this Complaint and a waiver of the right to a hearing on such factual allegations. In order to avoid default in this matter, Respondent must, within 30 days after receipt of this Complaint, either settle this matter with the Complainant or file both an original and one copy of a written Answer to this Complaint with:

Wanda Santiago
Regional Hearing Clerk (RAA)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (ORA 18-1)
Boston, Massachusetts 02109-3912

Respondent is also required to provide a contemporaneous copy of any Answer to Complainant's counsel, who is authorized to receive service on behalf of EPA pursuant to 40 C.F.R.

§ 22.5(c)(4), at the following address:

Tonia Bandrowicz, Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (OES 04-3)
Boston, Massachusetts 02109-3912

30. Pursuant to 40 C.F.R. § 22.15, Respondent's Answer shall clearly and directly admit, deny or explain each of the factual allegations contained in this Complaint with regard to which Respondent has knowledge. If the Answer asserts no knowledge of a particular factual allegation, the allegation shall be deemed denied. Otherwise, the failure to admit, deny, or explain any material factual allegation contained in this Complaint constitutes an admission of the allegation. The Answer shall also state the circumstances or arguments for any defense Respondent wishes to assert, challenges to any factual allegation in the Complaint, and any basis Respondent may have to oppose the Complainant's proposed penalty.

31. Following receipt of the Answer, a Presiding Officer will be assigned. The Presiding Officer will notify the parties of this assignment and shall notify the parties of the time and place of further proceedings in the case.

32. The filing and service of documents, other than the complaint, rulings, orders, and decisions, in all cases before the Region 1 Regional Judicial Officer governed by the Consolidated Rules of Practice may be filed and served by email, consistent with the *Standing Order Authorizing Filing and Service by E-mail in Proceedings Before the Region 1 Regional Judicial Officer*, a copy of which has been provided with the Complaint.

PUBLIC NOTICE

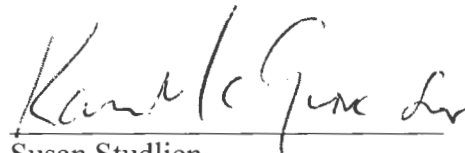
33. Pursuant to Section 311(b)(6)(C) of the CWA, 33 U.S.C. § 1321(b)(6)(C), the Complainant is providing public notice of, and reasonable opportunity to comment on, this proposed issuance of a Final Order assessing administrative penalties. If a hearing is held on this matter, members of the public who submitted timely comments on this proceeding have the right under Section 311(b)(6)(C) of the CWA to be heard and present evidence at the hearing.

SETTLEMENT

34. You may request an informal conference with Complainant's attorney, Tonia Bandrowicz, concerning the alleged violations and the amount of the proposed penalty. A request for an informal conference does not extend any deadline in this proceeding, including the deadline by which you must submit an Answer to this Complaint.

35. If you have any questions concerning the enclosed Administrative Complaint or the settlement process, or wish to arrange for an informal conference, please contact Tonia Bandrowicz, Senior Enforcement Counsel, at the address above, or by calling (617) 918-1734.

Date: Nov. 4, 2015



Susan Studlien
Director, Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region I

**In the Matter of B&B Petroleum, Inc.
EPA Docket No. MPRSA-01-2015-0086**

CERTIFICATE OF SERVICE

I certify that the foregoing COMPLAINT was transmitted to the following persons, in the manner specified, on the date below:

Original and one copy
hand-delivered:

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: MC-ORA 18-1
Boston, MA 02109-3912

Copy by certified mail,
return receipt requested:

Edward Baillargeon, Sr.
Terminal Manager
22 Brownstone Avenue
Portland, CT 06480

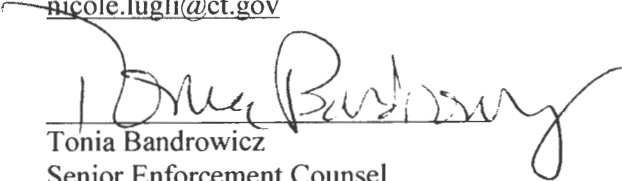
Copy by certified mail,
return receipt requested:

CDR Cornell Rosiu
First Coast Guard District
Captain John Foster Williams Building
408 Atlantic Avenue
Boston, MA 02210-2209
cornell.j.rosiu@uscg.mil

Copy by certified mail,
return receipt requested:

Nicole Lugli
Connecticut Department of
Environmental Protection
79 Elm Street
Hartford, CT 06106
nicole.lugli@ct.gov

Dated: 11.5.15


Tonia Bandrowicz
Senior Enforcement Counsel
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617-918-1734
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bandrowicz.toni@epa.gov