

1 CUMMINS & WHITE, LLP
Fred M. Whitaker (150555)
2 E-mail: fwhitaker@cwlawyers.com
Scott R. Carpenter (144259)
3 E-mail: scarpenter@cwlawyers.com
2424 S.E. Bristol Street, Suite 300
4 Newport Beach, CA 92660-0764
Telephone: (949) 852-1800
5 Facsimile: (949) 852-8510

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6 Attorneys for PAUL OIL COMPANY,
INC.

9 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
10 REGION IX

12 IN THE MATTER OF
13 Paul Oil Company, Inc.
14
15 511 S. 2nd Street
Patterson, Ca 95363
16 Respondent.

) **ANSWER TO ADMINISTRATIVE
) COMPLAINT AND REQUEST FOR
) HEARING AND SETTLEMENT
) CONFERENCE**
)
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)
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) Docket No. OPA-09-2016-0003

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19 COMES NOW Paul Oil Company, Inc. ("Paul Oil" or "Respondent") submits its
20 answer to the Civil Administrative Complaint in the above-referenced matter ("Complaint").

21 **I. Statutory Authority**

- 22 1. In response to paragraph 1 of the Complaint, Respondent admits the allegations
23 therein.
24 2. In response to paragraph 2 of the Complaint, Respondent admits the allegations
25 therein.

26 **II. Allegations**

- 27 3. In response to paragraph 3 of the Complaint, Respondent admits the allegations
28 therein.

1 4. In response to paragraph 4 of the Complaint, Respondent admits the allegations
2 therein.

3 5. In response to paragraph 5 of the Complaint, Respondent admits the allegations
4 therein.

5 6. In response to paragraph 6 of the Complaint, Respondent admits the allegations
6 therein.

7 7. In response to paragraph 7 of the Complaint, Respondent admits the allegations
8 therein.

9 8. In response to paragraph 8 of the Complaint, Respondent admits the allegations
10 therein.

11 9. In response to paragraph 9 of the Complaint, Respondent admits the allegations
12 therein.

13 10. In response to paragraph 10 of the Complaint, Respondent denies that it is engaged
14 in drilling, producing, gathering, processing, refining, or transferring oil products at the
15 Facility, but admits to storing and distributing oil products at the Facility. Respondent denies
16 any remaining allegations therein.

17 11. In response to paragraph 11 of the Complaint, Respondent admits the allegations
18 therein.

19 12. In response to paragraph 12 of the Complaint, Respondent admits the allegations
20 therein.

21 13. In response to paragraph 13 of the Complaint, Respondent admits the allegations
22 therein.

23 14. In response to paragraph 14 of the Complaint, Respondent admits the allegations
24 therein.

25 15. In response to paragraph 15 of the Complaint, Respondent admits that the San
26 Joaquin River is a “navigable water”, but Respondent lacks sufficient information and on that
27 basis denies the remaining allegations therein.

28 16. In response to paragraph 16 of the Complaint, Respondent admits the allegations

1 therein.

2 17. In response to paragraph 17 of the Complaint, Respondent admits the allegations
3 therein

4
5 **Count 1: Failure to Prepare an SPCC Plan**

6 Paragraphs 1 through 17 above are hereby incorporated by reference.

7 18. In response to paragraph 18 of the Complaint, Respondent lacks sufficient
8 information and on that basis denies the allegations therein.

9 19. In response to paragraph 19 of the Complaint, Respondent admits the allegations
10 therein.

11 20. In response to paragraph 20 of the Complaint, Respondent admits the allegations
12 therein.

13 21. In response to paragraph 21 of the Complaint, Respondent lacks sufficient
14 information and on that basis denies the allegations therein.

15 22. In response to paragraph 22 of the Complaint, Respondent lacks sufficient
16 information and on that basis denies the allegations therein.

17 23. In response to paragraph 23 of the Complaint, Respondent lacks sufficient
18 information and on that basis denies the allegations therein.

19 24. In response to paragraph 24 of the Complaint, on information and belief
20 Respondent has prepared a compliant plan and lacks sufficient information and on that basis
21 denies the remaining allegations therein.

22
23 **Count 2: Failure to Prepare an SPCC Plan That has Proper Management**

24 **Approval**

25 Paragraphs 1 through 24 above are hereby incorporated by reference.

26 25. In response to paragraph 25 of the Complaint, Respondent lacks sufficient
27 information and on that basis denies the allegations therein.

28 26. In response to paragraph 26 of the Complaint, Respondent admits the allegations

1 therein.

2 27. In response to paragraph 27 of the Complaint, Respondent lacks sufficient
3 information and on that basis denies the allegations therein.

4 28. In response to paragraph 28 of the Complaint, Respondent lacks sufficient
5 information and on that basis denies the allegations therein.

6 29. In response to paragraph 29 of the Complaint, Respondent lacks sufficient
7 information and on that basis denies the allegations therein.

8
9 **Count 3: Failure to Include in the SPCC Plan The Type of Oil Stored in Mobile or**
10 **Portable Containers**

11 Paragraphs 1 through 29 above are hereby incorporated by reference.

12 30. In response to paragraph 30 of the Complaint, Respondent lacks sufficient
13 information and on that basis denies the allegations therein.

14 31. In response to paragraph 31 of the Complaint, Respondent admits the allegations
15 therein.

16 32. In response to paragraph 32 of the Complaint, Respondent admits that there were
17 55-gallon drums at the facility, but the large mobile or portable tanks were not in use, were
18 cleaned and were closed. Respondent denies any additional allegations therein.

19 33. In response to paragraph 30 of the Complaint, Respondent lacks sufficient
20 information and on that basis denies the allegations therein.

21 34. In response to paragraph 30 of the Complaint, Respondent lacks sufficient
22 information and on that basis denies the allegations therein.

23 35. In response to paragraph 30 of the Complaint, Respondent lacks sufficient
24 information and on that basis denies the allegations therein.

25
26 **Count 4: Failure to Include in the SPCC Plan Information of Oil Discharges from**
27 **Failure of Major Equipment**

28 Paragraphs 1 through 35 above are hereby incorporated by reference.

1 36. In response to paragraph 36 of the Complaint, Respondent admits the allegations
2 therein.

3 37. In response to paragraph 37 of the Complaint, Respondent admits the allegations
4 therein.

5 38. In response to paragraph 38 of the Complaint, Respondent lacks sufficient
6 information as to what the EPA observed and denies the remaining allegations therein.

7 39. In response to paragraph 39 of the Complaint, Respondent denies the allegations
8 therein.

9 40. In response to paragraph 40 of the Complaint, Respondent lacks sufficient
10 information and on that basis denies the allegations therein.

11 41. In response to paragraph 41 of the Complaint, Respondent denies that Respondent
12 never provided a plan showing rate of flow information. Respondent lacks sufficient
13 information and on that basis denies the remaining allegations therein.

14
15 **Count 5: Failure to Provide Containment and/or Diversionary Structures or**
16 **Equipment to Prevent a Discharge**

17 Paragraphs 1 through 41 above are hereby incorporated by reference.

18 42. In response to paragraph 42 of the Complaint, Respondent lacks sufficient
19 information and on that basis denies the allegations therein.

20 43. In response to paragraph 43 of the Complaint, Respondent admits the allegations
21 therein.

22 44. In response to paragraph 44 of the Complaint, Respondent admits the allegations
23 therein.

24 45. In response to paragraph 45 of the Complaint, Respondent admits the allegations
25 therein.

26 46. In response to paragraph 46 of the Complaint, Respondent admits the allegations
27 therein.

28 47. In response to paragraph 47 of the Complaint, Respondent admits the allegations

1 therein.

2 48. In response to paragraph 48 of the Complaint, Respondent admits the allegations
3 therein.

4 49. In response to paragraph 49 of the Complaint, Respondent lacks sufficient
5 information and on that basis denies the allegations therein.

6 50. In response to paragraph 50 of the Complaint, Respondent lacks sufficient
7 information and on that basis denies the allegations therein.

8 51. In response to paragraph 51 of the Complaint, Respondent admits the allegations
9 therein.

10 52. In response to paragraph 52 of the Complaint, Respondent denies that Respondent
11 has not corrected the alleged violations. Respondent lacks sufficient information and on that
12 basis denies the remaining allegations therein.

13
14 **Count 6: Failure to Conduct Inspections and Test and Keep Appropriate Records**

15 Paragraphs 1 through 52 above are hereby incorporated by reference.

16 53. In response to paragraph 53 of the Complaint, Respondent lacks sufficient
17 information and on that basis denies the allegations therein.

18 54. In response to paragraph 54 of the Complaint, Respondent admits the allegations
19 therein.

20 55. In response to paragraph 55 of the Complaint, Respondent lacks sufficient
21 information and on that basis denies the allegations therein. I can't admit or deny.

22 56. In response to paragraph 56 of the Complaint, Respondent lacks sufficient
23 information and on that basis denies the allegations therein.

24 57. In response to paragraph 57 of the Complaint, Respondent admits the allegations
25 therein.

26 58. In response to paragraph 58 of the Complaint, Respondent lacks sufficient
27 information and on that basis denies the allegations therein.

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Count 7: Failure to Conduct Discharge Prevention Training

Paragraphs 1 through 58 above are hereby incorporated by reference.

59. In response to paragraph 59 of the Complaint, Respondent lacks sufficient information and on that basis denies the allegations therein.

60. In response to paragraph 60 of the Complaint, Respondent admits the allegations therein.

61. In response to paragraph 61 of the Complaint, Respondent lacks sufficient information and on that basis denies the allegations therein.

62. In response to paragraph 62 of the Complaint, Respondent lacks sufficient information and on that basis denies the allegations therein.

63. In response to paragraph 63 of the Complaint, Respondent admits the allegations therein.

Count 8: Failure to Provide Professional Engineer Certification of the SPCC Plan

Paragraphs 1 through 63 above are hereby incorporated by reference.

64. In response to paragraph 64 of the Complaint, Respondent lacks sufficient information and on that basis denies the allegations therein.

65. In response to paragraph 65 of the Complaint, Respondent admits the allegations therein.

66. In response to paragraph 66 of the Complaint, Respondent admits the allegations therein.

67. In response to paragraph 67 of the Complaint, Respondent admits the allegations therein.

68. In response to paragraph 68 of the Complaint, Respondent admits the allegations therein.

Count 9: Failure to Provide a System to Restrain Drainage from Diked Areas

Paragraphs 1 through 68 above are hereby incorporated by reference.

1 69. In response to paragraph 69 of the Complaint, Respondent lacks sufficient
2 information and on that basis denies the allegations therein.

3 70. In response to paragraph 70 of the Complaint, Respondent admits the allegations
4 therein.

5 71. In response to paragraph 71 of the Complaint, Respondent admits the allegations
6 therein.

7 72. In response to paragraph 71 of the Complaint, Respondent denies the allegations
8 therein; all 5 tanks had valves.

9 73. In response to paragraph 73 of the Complaint, Respondent lacks sufficient
10 information and on that basis denies the allegations therein.

11 74. In response to paragraph 74 of the Complaint, Respondent admits the allegations
12 therein.

13 75. In response to paragraph 75 of the Complaint, Respondent admits the allegations
14 therein.

15 76. In response to paragraph 76 of the Complaint, Respondent lacks sufficient
16 information and on that basis denies the allegations therein.

17
18 **Count 10: Failure to Equip Undiked Areas With a Diversion System to Retain Oil**
19 **Discharges in the Facility**

20 Paragraphs 1 through 76 above are hereby incorporated by reference.

21 77. In response to paragraph 77 of the Complaint, Respondent lacks sufficient
22 information and on that basis denies the allegations therein.

23 78. In response to paragraph 78 of the Complaint, Respondent admits the allegations
24 therein.

25 79. In response to paragraph 79 of the Complaint, Respondent admits the allegations
26 therein.

27 80. In response to paragraph 80 of the Complaint, Respondent admits the allegations
28 therein.

1 81. In response to paragraph 81 of the Complaint, Respondent admits the allegations
2 therein.

3 82. In response to paragraph 82 of the Complaint, Respondent lacks sufficient
4 information and on that basis denies the allegations therein.

5 83. In response to paragraph 80 of the Complaint, Respondent admits the allegations
6 therein.

7 84. In response to paragraph 84 of the Complaint, Respondent admits the allegations
8 therein.

9
10 **Count 11: Failure to Use Containers for Storage of Oil that are Compatible with**
11 **the Materials Stored**

12 Paragraphs 1 through 84 above are hereby incorporated by reference.

13 85. In response to paragraph 85 of the Complaint, Respondent lacks sufficient
14 information and on that basis denies the allegations therein.

15 86. In response to paragraph 86 of the Complaint, Respondent admits the allegations
16 therein.

17 87. In response to paragraph 87 of the Complaint, Respondent admits the allegations
18 therein.

19 88. In response to paragraph 88 of the Complaint, Respondent admits the allegations
20 therein.

21 89. In response to paragraph 89 of the Complaint, Respondent avers that the Tanks were
22 transported to the property using all standards for closing tanks, and the tanks were
23 permanently closes. Respondent lacks sufficient information and denies all remaining
24 allegations therein.

25 90. In response to paragraph 90 of the Complaint, Respondent denies the allegations
26 therein.

1 **Count 12: Failure to Provide Sufficiently-Sized Secondary Containment for Bulk**
2 **Storage Tanks**

3 Paragraphs 1 through 91 above are hereby incorporated by reference.

4 91. In response to paragraph 91 of the Complaint, Respondent lacks sufficient
5 information and on that basis denies the allegations therein.

6 92. In response to paragraph 92 of the Complaint, Respondent admits the allegations
7 therein.

8 93. In response to paragraph 93 of the Complaint, Respondent lacks sufficient
9 information and on that basis denies the allegations therein.

10 94. In response to paragraph 94 of the Complaint, Respondent admits the allegations
11 therein.

12 95. In response to paragraph 95 of the Complaint, Respondent admits the allegations
13 therein.

14 96. In response to paragraph 96 of the Complaint, Respondent denies that no correction
15 has occurred. Respondent admits the remaining allegations therein.

16
17 **Count 13: Failure to Promptly Correct Visible Discharges of Oil and Remove**
18 **Accumulations of Oil**

19 Paragraphs 1 through 96 above are hereby incorporated by reference.

20 97. In response to paragraph 97 of the Complaint, Respondent lacks sufficient
21 information and on that basis denies the allegations therein.

22 98. In response to paragraph 98 of the Complaint, Respondent admits the allegations
23 therein.

24 99. In response to paragraph 99 of the Complaint, Respondent lacks sufficient
25 information and on that basis denies the allegations therein.

26 100. In response to paragraph 96 of the Complaint, Respondent denies that the tank ever
27 leaked. However Respondent admits a minor leak from piping. Respondent denies the
28 remaining allegations therein.

1 101. In response to paragraph 101 of the Complaint, Respondent admits the allegations
2 therein.

3 102. In response to paragraph 102 of the Complaint, Respondent admits the allegations
4 therein.

5 103. In response to paragraph 103 of the Complaint, Respondent denies the allegations
6 therein; the tank did not leak.

7 104. In response to paragraph 104 of the Complaint, Respondent admits the allegations
8 therein.

9 105. In response to paragraph 105 of the Complaint, Respondent admits the allegations
10 therein.

11 106. In response to paragraph 106 of the Complaint, Respondent denies the allegations
12 therein; the tank did not leak.

13 107. In response to paragraph 96 of the Complaint, Respondent denies that no
14 correction has occurred. Respondent admits the remaining allegations therein.

15
16 **Count 14: Failure to Position or Location Mobile or Portable Containers to**
17 **Prevent a Discharge and Provide Adequate Secondary Equipment**

18 Paragraphs 1 through 107 above are hereby incorporated by reference.

19 108. In response to paragraph 108 of the Complaint, Respondent lacks sufficient
20 information and on that basis denies the allegations therein.

21 109. In response to paragraph 109 of the Complaint, Respondent admits the allegations
22 therein.

23 110. In response to paragraph 110 of the Complaint, Respondent admits the allegations
24 therein.

25 111. In response to paragraph 111 of the Complaint, Respondent admits the
26 allegations therein.

27 112. In response to paragraph 112 of the Complaint, Respondent admits the
28 allegations therein.

1 113. In response to paragraph 113 of the Complaint, Respondent admits the allegations
2 therein.

3 **III. Proposed Penalty**

4 114. In response to paragraph 114 of the Complaint, Respondent lacks sufficient
5 information and on that basis denies the allegations therein.

6 115. In response to paragraph 115 of the Complaint, Respondent lacks sufficient
7 information and on that basis denies the allegations therein. Respondent further requests a
8 hearing, including an oral hearing on the allegations herein.

9 116. In response to paragraph 116 of the Complaint, Respondent lacks sufficient
10 information and on that basis denies the allegations therein.

11
12 **IV. Procedures Governing this Administrative Litigation**

13 117. In response to paragraph 117 of the Complaint, Respondent lacks sufficient
14 information and on that basis denies the allegations therein.

15 118. In response to paragraph 118 of the Complaint, Respondent lacks sufficient
16 information and on that basis denies the allegations therein.

17 119. In response to paragraph 119 of the Complaint, Respondent lacks sufficient
18 information and on that basis denies the allegations therein.

19 120. In response to paragraph 120 of the Complaint, Respondent lacks sufficient
20 information and on that basis denies the allegations therein.

21
22 **VI. Request for Hearing**

23 121. Respondent hereby requests a hearing, including a request for an oral hearing, on
24 the allegations, claims and penalties herein.

25 122. In response to paragraph 122 of the Complaint, Respondent lacks sufficient
26 information and on that basis denies the allegations therein.

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SETTLEMENT CONFERENCE REQUEST

123. Respondent requests a settlement procedure as set forth in 40 C.F.R. §22.18(b)(2), and Respondent further requests an informal conference with Complainant as set forth in paragraph 123 of the Complaint.

VII. GENERAL PROVISIONS

124. In response to paragraph 124 of the Complaint, Respondent admits the allegations therein.

125. In response to paragraph 125 of the Complaint, Respondent lacks sufficient information and on that basis denies the allegations therein.

126. In response to paragraph 126 of the Complaint, Respondent lacks sufficient information and on that basis denies the allegations therein.

AFFIRMATIVE DEFENSES

127. As a first affirmative defense, Respondent alleges that Respondent lacks the ability to pay and that the proposed penalties are not appropriate due to: the size of the facility; the size of the Respondent; the revenue and expense associated with the facility; the compliance history at the facility; the history of Respondent; the economic effect on the Respondent; the minimal culpability involved; the lack of substantial or dangerous discharge; the economic effect on the Respondent and the facility; all the relevant facts and circumstances regarding the facility, the Respondent, or the Complaint; and any other matters that justice requires.

128. As a second affirmative defense, Respondent alleges on information and belief that this proceeding violates the Fifth, Tenth and Seventh Amendments to the U.S. Constitution.

129. As a third affirmative defense, Respondent alleges on information and belief that Respondent was not aware of many of the alleged facts, circumstances and rules set forth in the Complaint, and Respondent reasonably relied on the compliance assistance of others, including licensed professional engineers in order to insure compliance, such that Respondent cannot be held responsible for the violations set forth herein.

CERTIFICATE OF SERVICE

I hereby certify that the original and one copy of the foregoing Answer to Administrative Complaint and Request for Hearing and Settlement was filed with the Regional Hearing Clerk, United States Environmental Protection Agency, Region IX and that a true and correct copy of (1) the Answer to Administrative Complaint and Request for Hearing and Settlement; was sent by United States Certified Mail to:

<p>Xiao Zhang Assistant Regional Counsel Office of the Regional Counsel (ORC-3) U.S. Environmental Protection Agency- Region IX 75 Hawthorne Street San Francisco, CA 94105 (copy and by email)</p> <p>Certified Mail # 7016 2710 0000 5348-2840</p>	
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Dated: September 13, 2017

By: 
Christine G. Anderson