

DAVID C. DOW  
EDWARD L. DILWORTH III\*

**DOW'S LAW OFFICE, P.A.**

A Professional Service Corporation  
8 Danforth St P.O. Box 349  
Norway, Maine 04268  
WWW.DOWSLAWOFFICE.COM  
Telephone 207 743-6351  
Fax 207 739-2435

\*Also Admitted in New Hampshire

**FILED**  
4/3/26  
9:47 AM  
U.S. EPA REGION 1  
HEARING CLERK  
TOWER TITLE COMPANY

A DIVISION OF  
DOW'S LAW OFFICE, P.A.

*ted@dowslawoffice.com*

April 3, 2026

Via USPS Mail and email:

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square, Suite 100  
(Mail Code 4-MO)  
Boston, MA 02109-3912

In the matter of: Pepperell , LLC  
Docket No. CWA-01-2026-0030

Dear Ms. Santiago,

Please enter my appearance on behalf of the Respondents, Pepperell, LLC. Enclosed for filing please find the Respondents' Answer, Affirmative Defenses, and Request for Hearing in the above-captioned matter.

Please feel free to contact me with any questions or concerns.

Very truly yours,

*/s/Edward L. Dilworth III, Esq.*

Edward L. Dilworth III  
Maine Bar No. 7644

ELD/jstp  
Enclosure

cc: Jaegun Lee, Attorney-Advisor  
Client

**UNITED STATE ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

\_\_\_\_\_) )  
In the matter of ) )  
 ) )  
Pepperell, LLC ) )  
550 Lisbon Street ) )  
Lewiston, Maine 04240 ) )  
 ) )  
Respondent. ) )  
\_\_\_\_\_)



**RESPONDENT'S ANSWER, AFFIRMATIVE DEFENSES,  
AND REQUEST FOR HEARING**

Respondent Pepperell, LLC ("Respondent"), by and through undersigned counsel, answers the Administrative Complaint as follows. Except as expressly admitted, Respondent denies each and every allegation in the Complaint. To the extent the Complaint contains legal conclusions, citations to statutes or regulations, or characterizations of law to which no response is required, Respondent denies any such conclusions to the extent they are inconsistent with applicable law or with Respondent's rights.

**I. Response to Numbered Paragraphs**

1. Respondent admits that this is an administrative proceeding in which EPA seeks civil penalties under the Clean Water Act, but denies that EPA is entitled to the relief requested or to any penalty in the amount alleged.
2. Admitted.
3. Respondent admits that Pepperell, LLC is associated with the property located at 550 Lisbon Street, Lewiston, Maine, and that an oil release allegedly occurred on or about November 1, 2023. Respondent denies the remaining allegations in Paragraph 3, including any characterization of Respondent's status, role, or responsibility except as expressly admitted.
4. Admitted.
5. Denied.
6. Respondent admits only that EPA purports to act under Sections 309(g) and 311(b)(6) of the Clean Water Act. Respondent denies any remaining allegations in Paragraph 6 to the extent a response is required.

7. Respondent admits that Paragraph 7 quotes or paraphrases a statutory provision. Respondent denies any allegation inconsistent with the statute or with the facts of this matter.

8. Respondent admits that 40 C.F.R. section 110.3 exists and speaks for itself. Respondent denies any allegation not expressly admitted.

9. Respondent admits that Section 311(b)(6)(A)(i) provides for administrative penalties in certain circumstances. Respondent denies that such penalties are warranted here in the manner alleged.

10. Admitted.

11. Respondent admits that Section 311(j)(1) authorizes the issuance of regulations. Respondent denies any allegation not expressly admitted.

12. Respondent admits that 40 C.F.R. Part 112 contains Oil Pollution Prevention regulations. Respondent denies the remaining allegations to the extent they assert applicability or violation as to Respondent.

13. Respondent admits that 40 C.F.R. section 112.3(a)(1) sets forth circumstances under which an SPCC plan may be required. Respondent denies that EPA has established all elements of applicability or violation as alleged.

14. Respondent admits that 40 C.F.R. section 112.8(c)(2) contains secondary containment requirements for covered bulk storage tank installations. Respondent denies that EPA has established a violation by Respondent.

15. Respondent admits that Section 311(b)(6)(A)(ii) provides for penalties in certain circumstances. Respondent denies any allegation not expressly admitted.

16. Admitted that Section 308(a) authorizes EPA to require certain information. Respondent denies the remaining allegations to the extent they imply a violation by Respondent.

17. Respondent admits that Section 309(g) provides for administrative penalties in certain circumstances. Respondent denies any remaining allegations.

***Count 1 - Discharge of Oil into Waters of the United States***

18. Respondent repeats and incorporates its responses to Paragraphs 1 through 17 as if fully set forth herein.

19. Respondent admits that on or about November 1, 2023, a delivery truck from Fielding's Oil and Propane Company arrived at the Facility for delivery of heating oil. Respondent lacks sufficient knowledge to admit or deny the remaining allegations regarding the actions, observations, and meter settings of the driver, and therefore denies them.

20. Respondent admits that an oil release occurred on or about November 1, 2023. Respondent lacks sufficient knowledge to admit or deny the allegations concerning the precise cause of the release, the alleged malfunction of all referenced equipment, the quantity of oil released, the quantity that allegedly breached containment, the route of migration, and the quantity, if any, that reached any stormwater drainage, canal, or river, and therefore denies those allegations.

21. Respondent lacks sufficient knowledge to admit or deny the legal characterization alleged in Paragraph 21 and therefore denies the same.

22. Respondent admits only that a release of heating oil is alleged to have occurred on or about November 1, 2023. Respondent denies the remaining allegations and legal conclusions in Paragraph 22.

23. Respondent lacks sufficient knowledge to admit or deny the allegations and legal characterizations in Paragraph 23 and therefore denies the same.

24. Denied.

***Count 2 - Failure to Maintain and Fully Implement an SPCC Plan***

25. Respondent repeats and incorporates its responses to Paragraphs 1 through 24 as if fully set forth herein.

26. Admitted that the Facility stored, used, and/or consumed oil during relevant times.

27. Respondent lacks sufficient knowledge to admit or deny the specific storage-capacity calculations and allegations in Paragraph 27 and therefore denies the same.

28. Respondent admits that the Facility is located on land within the United States. Respondent denies the remaining allegations to the extent they assert legal conclusions not otherwise admitted.

29. Respondent lacks sufficient knowledge to admit or deny the allegation in Paragraph 29 and therefore denies the same.

30. Respondent lacks sufficient knowledge to admit or deny the allegation in Paragraph 30 and therefore denies the same.

31. Denied.

32. Respondent lacks sufficient knowledge to admit or deny the allegations and legal characterizations in Paragraph 32 and therefore denies the same.

33. Denied.

34. Respondent admits that during EPA's December 5, 2023 inspection, Respondent did not produce an SPCC plan for the Facility. Respondent denies the remaining allegations and any implication that EPA has thereby established a violation.

35. Denied.

36. Denied.

***Count 3 - Failure to Comply with CWA Information Request***

37. Respondent repeats and incorporates its responses to Paragraphs 1 through 36 as if fully set forth herein.

38. Respondent admits that EPA sent a request for information dated January 26, 2024. Respondent denies the remaining allegations to the extent they characterize the legal effect, adequacy of service, or timing obligations in the manner alleged.

39. Respondent lacks sufficient knowledge to admit or deny the allegations in Paragraph 39 in full and therefore denies the same.

40. Denied.

41. Respondent admits that it ultimately provided a response to EPA on or about June 30, 2025. Respondent denies the remaining allegations in Paragraph 41.

42. Denied.

43. Denied.

***Conclusions of Law***

44. Denied.

45. Denied.

46. Denied.

***Relief Sought***

47. Denied.

48. Respondent admits only that EPA has referenced the issue of ability to pay. Respondent denies any remaining allegations in Paragraph 48.

## **II. Affirmative Defenses**

**First Defense - Failure to State a Claim.** The Complaint fails, in whole or in part, to state facts sufficient to establish one or more violations as alleged.

**Second Defense - Failure of Proof as to Discharge to Jurisdictional Waters.** EPA has not established that oil from the Facility was discharged into waters of the United States or adjoining shorelines in the quantity, manner, or extent alleged.

**Third Defense - Failure of Proof as to Harmful Quantity.** EPA has not established that any discharge, if any, to jurisdictional waters constituted a harmful quantity within the meaning of the statute and regulations.

**Fourth Defense - Failure of Proof as to SPCC Applicability.** EPA has not established all elements necessary to prove that the Facility was subject to all SPCC requirements alleged, including but not limited to storage capacity, facility classification, and applicability criteria.

**Fifth Defense - Failure of Proof as to Secondary Containment.** EPA has not established the nature, scope, duration, or legal sufficiency of the alleged secondary containment violation.

**Sixth Defense - Third-Party Causation / Comparative Responsibility.** Any alleged release and resulting damages, if proven, were caused in whole or in part by the acts, omissions, negligence, fault, or equipment of third parties, including but not limited to the fuel delivery contractor and/or those responsible for delivery procedures, calibration, alarm systems, gauge systems, inspection, or maintenance.

**Seventh Defense - Mitigation and Corrective Action.** Respondents undertook response, cleanup, remediation, and/or corrective action, all of which must be considered in evaluating liability and any penalty.

**Eighth Defense - Penalty Factors / Excessive Penalty.** The penalty sought is excessive, unsupported, disproportionate, and fails to account for disputed liability, mitigation, cooperation, economic impact, degree of culpability, any absence of prior violations, and other relevant statutory factors.

**Ninth Defense - Service / Notice / Timing Issues.** To the extent applicable, EPA has not established proper service, receipt, or the legal basis for the timing calculations alleged in connection with the information request count.

**Tenth Defense - Reservation of Additional Defenses.** Respondents reserve the right to assert additional defenses as they become known through further investigation, discovery, expert review, and motion practice.

### **III. Basis for Opposing Relief**

Respondent denies that EPA is entitled to the penalty demanded or to any comparable penalty. Liability is disputed. The extent of any discharge to jurisdictional waters is disputed. SPCC applicability and the nature and duration of any alleged noncompliance are disputed. The facts concerning causation, equipment performance, delivery operations, corrective measures, and the appropriateness of any penalty remain disputed. Any penalty, if assessed, must be substantially reduced in light of all statutory and equitable considerations.

### **IV. Request for Hearing**

Pursuant to 40 C.F.R. Part 22, Respondent requests a hearing on all issues properly raised by the Complaint, including liability, the factual basis for the alleged violations, the appropriateness of any civil penalty, and any other relief sought.

*Respectfully submitted,*

**PEPPERELL, LLC**

By its attorney,

*/s/Edward L. Dilworth III, Esq.*

Edward L. Dilworth III

Maine Bar Number 7644

Dows Law Office, P.A.

266 Main Street

P.O. Box 349

Norway, ME 04268

Telephone: (207) 743-6351

[ted@dowslawoffice.com](mailto:ted@dowslawoffice.com)

Dated this 3rd day of April, 2026

