



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

IN THE MATTER OF:

**Aircraft Services International, Inc.**  
**Hawaii Fueling Facilities Corp.**

**Respondent**

Proceeding Under Section 311(c)  
of the Federal Water Pollution Control Act,  
33 U.S.C. § 1321(c)

)  
) U.S. EPA Docket No.  
) OPA 311-09-2015-001  
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) ORDER FOR REMOVAL,  
) MITIGATION OR PREVENTION OF A  
) SUBSTANTIAL THREAT OF  
) OIL DISCHARGE  
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**I. AUTHORITY**

1. This Order for Removal, Mitigation or Prevention of a Substantial Threat of Oil Discharge (the "Order"), is issued pursuant to the authority vested in the President of the United States by Section 311(c) of the Clean Water Act, 33 U.S.C. § 1321(c), as amended ("CWA"). This authority has been delegated to the Administrator of the United States Environmental Protection Agency ("EPA") by Executive Order No. 12777, 58 Federal Register 54757 (October 22, 1991), and further delegated to the Regional Administrator by EPA Delegation No. 2-89 and to EPA Region 9 On-Scene Coordinators by Regional Order R9 1250.30 (September 30, 1997).
2. EPA issues this Order to Aircraft Services International, Inc. ("ASIG"), and to Hawaii Fueling Facilities Corporation ("HFFC"), referred to herein as "Respondents." This Order provides for the performance of removal actions in connection with the discharge of oil that may

impact Ke'ehi Lagoon and Honolulu Harbor, which are hydrologically connected to Mamala Bay and the Pacific Ocean. The release occurred from the oil storage and distribution facility located at 9 Sand Island Parkway, in Honolulu, Hawai'i (the "Facility"). This Order requires Respondents to immediately conduct response actions to remove the discharge or to mitigate or prevent the substantial threat of a discharge of oil or hazardous substances into or on navigable waters or adjoining shorelines.

## **II. PARTIES BOUND**

3. This Order applies to and is binding on Respondents, and Respondents' directors, officers, employees, agents, receivers, trustees, successors, and assigns. Any change in ownership or corporate status of Respondents, including, but not limited to, any transfer of assets or real or personal property shall in no way alter Respondents' responsibilities under this Order.

## **III. DEFINITIONS**

4. Unless expressly stated otherwise, terms used in this Order shall have such meaning as may be defined in Section 311(a) of the CWA, 33 U.S.C. § 1321(a).

5. "Order" shall mean this Order for Removal, Mitigation, or Prevention of a Substantial Threat of Oil Discharge, and any documents incorporated herein.

6. "Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or federal holiday.

## **IV. FINDINGS OF FACT AND VIOLATIONS**

7. ASIG is incorporated in the state of Delaware and is authorized to conduct business in Hawai'i. The registered agent for service of process on ASIG is The Corporation Company, Inc., 1136 Union Mall, Suite 301, Honolulu, Hawai'i (96813).

8. HFFC is incorporated in the state of Hawai'i. The registered agent for service of process

on HFFC is Scott Morita, 745 Fort Street, Suite 1500, Honolulu, Hawai'i (96813).

9. HFFC owns the facilities and infrastructure that comprise the oil storage and distribution facility located at the Facility. ASIG operates the Facility. On December 22, 2014, ASIG notified the Hawai'i Department of Health of a possible release of an approximate 42,000 gallons (1,000 bbls) of petroleum based jet fuel from Tank #2 at the Facility. Tank #2 has a total storage capacity of approximately 2.8 million gallons. The Facility is immediately adjacent to Honolulu Harbor and Ke'ehi Lagoon, which both connect to Mamala Bay and the Pacific Ocean. The area surrounding the bulk storage tanks at the Facility, including Tank #2, is comprised of layers of crushed coral and other fill material. The released jet fuel has migrated through the permeable basin.

10. The Ke'ehi Lagoon, Honolulu Harbor, Mamala Bay and the Pacific Ocean are "navigable waters" or tributaries to navigable waters and are "waters of the United States" as defined by Section 502 of the Clean Water Act, 33 U.S.C. § 1362.

11. Exposed trenches within the Facility demonstrate tidal infiltration and confirm the presence of a significant volume of petroleum product in the subsurface from the Facility. The tidal movement of water facilitates the migration of the jet fuel into Ke'ehi Lagoon or Honolulu Harbor. The discharge of 42,000 gallons of jet fuel into the permeable soils adjacent to Ke'ehi Lagoon and Honolulu Harbor constitute a discharge or substantial threat of a discharge 1) into or on navigable waters, 2) on the adjoining shorelines to the navigable waters, or 3) that may affect natural resources, belonging to, appertaining to, or under the exclusive management authority of the United States.

12. The spill into the permeable soils adjacent to Ke'ehi Lagoon and Honolulu Harbor channel pose a substantial threat to public health or welfare. The presence of large volumes of

jet fuel in the permeable soils adjacent to Ke'ehi Lagoon and Honolulu Harbor poses a substantial threat of a continued release of oil into or on navigable waters and or their adjoining shorelines.

13. The work to be performed pursuant to this Order shall be performed in accordance with the National Contingency Plan, 40 C.F.R. Part 300 (the "NCP"), and any appropriate Regional or Area Contingency Plan, and is necessary to ensure the effective and immediate removal, mitigation, or prevention of a substantial threat from a discharge of oil or hazardous substance.

#### **V. ON SCENE COORDINATOR and PROJECT COORDINATOR**

14. Donn Zuroski, an employee of EPA Region 9, shall be the primary On Scene Coordinator ("OSC") and shall have the authorities, duties, and responsibilities vested in the OSC by the NCP. The OSC's authority includes, but is not limited to, the authority to halt, modify, conduct, or direct any tasks required by this Order. Within six (6) hours of the effective date of this Order, Respondents each shall designate a project coordinator who shall be responsible for overseeing Respondents' implementation of this Order. Respondents' notice of designation shall include an address and telephone number for each respective project coordinator. To the maximum extent possible, all oral communications between Respondents and EPA concerning the activities performed pursuant to this Order shall be directed through the OSC and Respondents' project coordinators.

#### **VI. WORK TO BE PERFORMED**

15. Respondents shall follow the terms set forth in this Order and perform the work as required in this Order.

16. Respondents immediately shall work to ensure that oil from the Facility does not enter into navigable waters or adjacent shorelines. Respondents shall take all necessary steps to

remove the discharge or threat of continued discharge of oil into such waters from the Facility, including the removal of uncontained or leaking oil or oily water from the Facility.

17. Respondents shall propose necessary corrective action measures for the Facility in accordance with paragraph 19 of this Order in order to ensure that there is no longer a substantial threat of a discharge of oil to the environment. Respondents shall perform the actions as approved by EPA in accordance with the process for approval stated in Paragraph 21 of this Order.

18. Respondents shall submit to EPA a daily Incident Action Plan (“IAP”). The IAP shall provide a concise description of the activities within the operational period designated by EPA that the Respondents will conduct in order to comply with the requirements of this paragraph. The Respondents shall also provide and implement the following work plans if the required information is not provided as part of an IAP:

- a. A work plan and schedule to study and analyze of the cause(s) of the spill and to set forth plans for the design and implementation of measures necessary to halt the discharge of oil into the environment and prevent the reoccurrence of a discharge at the Site (“Work Plan 1”). Work Plan 1 shall include measures needed to insure compliance of the response action with the requirements of 40 C.F.R. § 112: Oil Pollution Prevention. Unless otherwise approved by EPA, Respondents shall provide Work Plan 1 to EPA no later than February 5, 2015, by close of business.
- b. A work plan (“Work Plan 2”) that shall include a disposal plan and schedule to calculate the quantity of petroleum, oil, water, soil, or debris (according to the number of disposal containers used) that was generated during the spill cleanup. Work Plan 2 must be approved by EPA prior to implementation. Unless

otherwise approved by EPA, Respondents must provide Work Plan 2 to EPA no later than February 15, 2015, by close of business.

- c. A sampling plan detailing how Respondents will conduct post-removal confirmation sampling (the "Sampling Plan"). The cleanup action levels shall be determined by EPA. EPA may establish the action levels based on requirements of municipal, county or state agencies, or may waive the need for sampling. Unless otherwise approved by EPA, the Sampling Plan must be submitted no later than March 2, 2015.

19. Respondents shall implement the following actions immediately:

- a. Repair all damaged equipment at the Facility to prevent future spills of petroleum or petroleum-contaminated media into the environment.
- b. Prevent further releases and impacts to the environment resulting from releases of oil to waters of the United States and adjoining shorelines.
- c. Remove all petroleum or petroleum-contaminated media released to the environment as a result of the spill.

20. Respondent shall send all work plans, the Sampling Plan, and all notices required by this Order to Donn Zuroski at:

U.S. Environmental Protection Agency  
75 Hawthorne Street  
SFD-9-2  
San Francisco, CA 94105

or by e-mail to:

[zuroski.donn@epa.gov](mailto:zuroski.donn@epa.gov)

21. The work plans and Sampling Plan ("Plans") shall be reviewed by EPA and other

responding agencies, which may approve, disapprove, require revisions, or modify them. If EPA requires revisions, Respondents shall submit a revised Plan within two (2) days after receipt of EPA's notification of the required revisions. Once approved, the Plans shall be deemed to be incorporated into and made a fully enforceable part of this Order. Within five (5) days after EPA approves of a Plan or any portion of a Plan or other work specified by this Order, Respondents shall begin implementation of the approved work.

22. Respondents shall perform the work necessary to complete the task(s) in this Order in accordance with the NCP, and shall comply with the schedules specified in this Order and in the Plans submitted pursuant to Paragraph 19.

23. Respondents shall notify EPA of any field work being conducted in accordance with this Order at least one (1) day prior to work being performed.

24. Respondents shall notify EPA of any proposed response actions at least three (3) days prior to undertaking any actions that are not described or scheduled pursuant to this Order or approved plans submitted pursuant to Paragraph 19.

## **VII. RESERVATION OF RIGHTS AND PENALTIES**

25. This Order shall not preclude EPA from taking any action authorized by the CWA or any other applicable law. EPA reserves the right to direct all activities, and to comment on and direct off-Site shipping and disposal and all other matters related to the response action directed by this Order. Furthermore, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order or from taking any other legal or equitable action as it deems appropriate and necessary, or to require the Respondents in the future to perform additional activities pursuant to the CWA or other applicable law.

26. Violation of any term of this Order or oral direction from EPA may subject Respondents

to an administrative civil penalty of up to \$37,500 per day of violation or an amount up to three times the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure, under Section 311(b)(7)(B) of the CWA, 33 U.S.C. § 1321(b)(7)(B).

### **VIII. REPORTING REQUIREMENTS and ACCESS**

27. Respondents shall submit daily progress reports to EPA until all actions required by this Order are complete (unless otherwise directed in writing by EPA) via e-mail to the OSC at [zuroski.donn@epa.gov](mailto:zuroski.donn@epa.gov). These reports shall describe all significant developments during the preceding period, including work performed and any problems encountered, analytical data received during the reporting period, treatment and disposal information and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems. The OSC may require more frequent reports when the activities at the Site warrant a higher reporting frequency.

28. Within thirty (30) days after completion of the actions required under this Order, the Respondents shall submit, for EPA review and approval, a final report summarizing all actions taken pursuant to this Order. The final report shall conform, at a minimum, to the requirements stated in 40 C.F.R. § 300.165 ("OSC Reports"). The final report shall include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed off-Site or handled on-Site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report also shall include the following certification signed by a person who supervised or directed the preparation of that



report:

Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. *I am aware that under section 309(c)(4) of the CWA, 33 U.S.C. § 1319(c)(4), there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

29. Respondents shall provide EPA representatives access to the Facility. Respondents also shall provide EPA representatives access to all records and documentation related to the release or threat of release at the Facility or to Respondents' implementation of this Order. Nothing in this Order limits or otherwise affects EPA's right of access and entry pursuant to applicable law, including the CWA, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., and the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.

30. Where work under this Order is to be performed in areas operated by or in possession of someone other than the Respondents, the Respondents shall use their best efforts to obtain all necessary access agreements. Best efforts, as used in this paragraph, shall include the payment of reasonable compensation in consideration of granting access. The Respondents shall immediately notify EPA if it is unable to obtain such agreements. EPA may then assist the Respondents in gaining access using such means as EPA deems appropriate. EPA reserves the right to seek reimbursement from the Respondents for all costs and attorney's fees incurred by the United States in obtaining access for the Respondents.

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**IX. EFFECTIVE DATE**

31. The effective date of this Order shall be the date of the receipt of this Order by the Respondents.



Donn Zuroski  
On-Scene Coordinator  
U. S. Environmental Protection Agency  
Region 9

1-30-15

Date

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Respondent Receipt Acknowledgement  
For:

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Date

cc: Andrew Helmlinger, EPA ORC  
Peter Reich, EPA  
Harry Allen, EPA  
Keith Kawaoka, HDOH