

March 5, 2007

**BY E-MAIL AND CERTIFIED MAIL:
RECEIPT NO. 7005 0390 0006 4477 3289**

Mr. Watson Gin, P.E., Deputy Director
Hazardous Waste Management Program
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

Subject: **Petition/Request for Review of Final Permit Decision**
Industrial Service Oil Company, Inc.
1700 South Soto Street, Los Angeles, California
USEPA ID No. CAD 099 452 708

Dear Mr. Gin:

On behalf of Industrial Service Oil Company, Inc. (ISOCI), EP Consultants (EPC) is pleased to submit this Petition/Request for Review (Petition) of your agency's Final Permit Decision for a Hazardous Waste Facility Permit for the referenced ISOCI facility. The initial *Notice of Final Hazardous Waste Facility Permit Decision* was issued by the Department of Toxic Substances Control (DTSC) on December 18, 2006, and was subsequently amended by the DTSC on January 2, 2007 and February 1, 2007. ISOCI's final Hazardous Waste Facility Permit No. 06-GLN-17 (Final Permit) was issued by the DTSC on December 18, 2006.

The intent of this Petition is to request revision, clarification, or deletion of specific portions of the Final Permit as issued by DTSC. This Petition does not intend to delay the effective date of the Final Permit, which we understand is March 6, 2007. Furthermore, it is not the intent of this Petition to suspend any provision of the Final Permit that is not addressed by the comments contained in this Petition.

STATEMENT OF REASONS SUPPORTING THIS PETITION

Reason No. 1: Used Oil Blending and Certification on page 6 of the Final Permit states, "After inbound shipments of used oil are fingerprint tested to identify the contents of the shipment, they may be commingled in the designated receiving Tanks 21, 22, 23,

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24, 25, 26 and 27. Subsequently, the contents of the receiving tanks are transferred to the designated storage Tanks 100, 200, 300, 400, 500, 600, and 700, where they are tested to certify that the oil meets the standards for recycled oil and the contents are no longer hazardous."

EPC requested modification of this language during the public comment period that ended on April 14, 2006. DTSC has not changed this language, and, as a matter of policy and consistency with current ISOCI operations and other recent DTSC permit decisions, this language should be reviewed.

Requested Modification No. 1: To clarify, ISOCI requests again that DTSC include, "Fingerprint testing for PCBs is conducted when designated receiving Tanks 21, 22, 23, 24, 25, 26, and 27 are deemed full prior to transfer to designated storage Tanks 100, 200, 300, 400, 500, 600, and 700." This is the procedure that DTSC has authorized for ISOCI to reduce the potential risk associated with idle, used oil trucks waiting at the Facility until PCB analytical results are available.

Furthermore, in a recent DTSC permit decision for American Oil Company (USEPA ID No. CAD 981 427 669), DTSC stated in its December 8, 2006 Response to Comments (#4-1 on page 15) that "DTSC recognized that it would be difficult to have each incoming load of used oil tested for PCBs to ensure it does not contain greater than 5 ppm of PCBs. Instead, DTSC allows used oil facilities to test each outgoing load for PCBs at 2 ppm to account for the dilution factor." If DTSC allows this testing standard for transfer facilities such as American Oil Company, DTSC should be consistent and equitable by allowing an equivalent standard for ISOCI.

Reason No. 2: Special Condition 1(b) on page 52 of the Final Permit states that the closure cost estimate (CCE) is \$1,583,391 for current operations and an additional \$1,595,272 for proposed operations.

During the public comment period that ended on April 14, 2006, EPC requested modification of the CCE amounts based on further dialogue with DTSC. DTSC has not changed the CCE amounts, and, as previously stated by EPC, DTSC's CCE is based on an erroneous application of the law at 22 CCR 66264.142.

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Requested Modification No. 2: On behalf of ISOCI, EPC submitted CCE detail for existing and proposed operations on August 20, 2004. The EPC estimates were based on actual labor, material, analytical, supply, and engineering quotes that were obtained by ISOCI as the owner and operator of the Facility. 22 CCR 66264.142(a)(2) states that the CCE "shall be based on the costs to the owner or operator of hiring a third party to close the facility."

During a meeting with DTSC on October 31, 2005, the CCE was discussed and it was determined that the primary difference between DTSC and EPC estimates was associated with labor costs. DTSC's estimates were based on default labor rates and level of effort per the CostPro software program, whereas EPC's estimates were based on an actual quote from a third-party contractor. It is our understanding that DTSC has reverted back to the previous RACER software program for other facilities where the CostPro software was questioned.

ISOCI believes that EPC's CCE is the appropriate financial assurance amount because it is based on actual quotes obtained in accordance with 22 CCR 66262.142(a)(2), and also because it is consistent with previous DTSC estimates. Cost estimates based on field visits and vendor quotes are always more reliable than estimation software that is not site-specific.

Therefore, ISOCI requests further dialogue with DTSC to refine the CCE for existing and proposed operations. With respect to the CCE portion for site investigation activities (\$124,000), this is not pertinent and should be deleted because ISOCI has already started the RFI site investigation activities.

Reason No. 3: Special Condition 2(b) on page 52 of the Final Permit states that Information sheets and waste profile forms shall include results for PCBs for all incoming loads."

EPC requested modification of this language during the public comment period that ended on April 14, 2006. DTSC has not changed this language, and, as a matter of policy and consistency with current ISOCI operations and other recent DTSC permit decisions, this language should be reviewed.

Requested Modification No. 3: See Reason No. 1 above.

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Reason No. 4: *Special Condition 2(f)* on page 53 states that all waste profiles shall be analyzed by a certified laboratory on an annual basis.

EPC requested modification of this language during the public comment period that ended on April 14, 2006. DTSC has not changed this language, and, as a matter of policy, consistency with current ISOCI operations USEPA guidance, and other recent DTSC permit decisions, this language should be reviewed.

Requested Modification No. 4: As stated in EPC's November 30, 2005 letter to Mr. Allan Plaza, ISOCI believes that the annual requirement for analyses is unnecessarily burdensome and costly to generators. These are especially so for those generators that conduct auto and truck repair and maintenance services and produce used oil and spent antifreeze. Also, the USEPA Guidance Manual (OSWER 9938.4-03), entitled, "Waste Analysis at Facilities That Generate, Treat and Dispose of Hazardous Waste: A Guidance Manual," dated April 1994, page 2-44 states the following:

"The RCRA regulations state that 'waste analysis must be repeated as often as necessary to ensure that it is accurate and up to date.' At a minimum, the analysis must be repeated as follows:

- When the TSDf is notified, or has reason to believe that the process or operation generating the hazardous wastes has changed*
- When the generator has been notified by an off-site TSDf that the characterization of the wastes received at the TSDf does not match a pre-approved waste analysis certification and/or the accompanying waste manifest or shipping paper (the generator may be requested to re-evaluate the waste).*
- Off-site combustion facilities should characterize all wastes prior to burning to verify that permit conditions will be met (i.e., fingerprint analysis may not be acceptable).*

Although there are no required time intervals for re-evaluating wastes, you must develop a schedule for re-evaluating the waste on a regular basis. You will need to make an individual assessment of how often the wastes analysis is necessary to ensure compliance with your interim status or Part B permit operating conditions."

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Furthermore, based on DTSC's recent final permit issuance for American Oil Company, Inc. (USEPA ID No. CAD 981 427 669), this facility is not required to have certified analysis, even though it is authorized for used oil storage and transfer.

ISOCI believes that its waste profiles do need to be re-evaluated at least annually and that certified analysis be performed only as stated by the USEPA Guidance Manual, "when the TSDf is notified, or has reason to believe that the process or operation generating the hazardous wastes has changed and when the generator has been notified by an off-site TSDf that the characterization of the wastes received at the TSDf does not match a pre-approved waste analysis certification and/or the accompanying waste manifest or shipping paper (the generator may be requested to re-evaluate the waste)."

Based on ISOCI's comments of 4/14/06 on the Draft Permit, ISOCI requests that the condition be revised to state, "All waste profiles shall be reviewed, at a minimum, on an annual basis, and more frequently for analyses where there is a concern or knowledge of any changes in the waste stream or the underlying waste-generating processes."

Reason No. 5: *Special Condition 2(u)* on page 57 of the Final Permit states that "the permit for the proposed units shall not become effective until the applicant is granted a local land used permit."

This is a new condition on the Final Permit that was not contained in previous drafts of the permit that were available during the public comment period. Therefore, it was not reasonably ascertainable for EPC or ISOCI to provide comments on this permit condition. Furthermore, it is clearly erroneous for DTSC to impose land use conditions which are not within DTSC's statutory jurisdiction.

Request for Modification No. 5: ISOCI requests that this statement be stricken from the Final Permit. DTSC has no jurisdiction over local land use decisions and permitting. Furthermore, the language at issue is overly restrictive upon ISOCI and may compromise ISOCI's land use rights.

At least some of the activities in the Final Permit that pertain to proposed units may be conducted by ISOCI without the need for additional local land use permitting. The ISOCI facility is within the City of Los Angeles M3 "heavy industrial" zoning designation, and as such is permitted by right to conduct various existing and

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proposed activities. The first part of Special Condition 2(u) states that ISOCI shall not begin construction without the required local permits, and this is sufficient for DTSC to ensure that ISOCI will obtain land use permits as necessary and required by local laws and regulations.

On behalf of ISOCI, EPC appreciates your attention to this petition. If you have any questions or comments, please call me at (310) 541-5407.

Very truly yours,

E P C ONSULTANTS



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cc: Claudia Bohorquez, Attorney-at-Law
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