

February 24, 2010

Sent via email to [leeann.walling@state.de.us](mailto:leeann.walling@state.de.us)

Ms. Lee Ann Walling  
Chief of Planning  
Department of Natural Resources and Environmental Control  
89 Kings Highway  
Dover, DE 19901

**Re: FCC Environmental Request for Coastal Zone Status Decision –  
Response to DNREC Questions**

Dear Ms. Walling:

Our counsel, W. Harding Drane, Jr., has provided us with a copy of your letter, dated February 18, 2010, which requests additional information regarding the Coastal Zone Status Decision Application that FCC Environmental submitted to the Department on January 21, 2010. In response to your letter, FCC is submitting the following answers to the specific questions that were posed in the letter. We appreciate this opportunity to provide supplemental information concerning FCC's proposed project.

- 1) *This application makes several references to a POTW (publicly owned treatment works). What POTW is being referred to here?*

**FCC Environmental is referring to either the Wilmington Wastewater Treatment Plant or the Delaware City Wastewater Treatment Plant. FCC Environmental is currently working with New Castle County to determine an acceptable connection point to the existing system and the necessary system upgrades, if any, that would be required. This process will ultimately dictate to which POTW the proposed facility would discharge its treated water under the industrial pretreatment program. The facility currently at 505 S. Market St. discharges treated water under the industrial pretreatment program to the Wilmington Wastewater Treatment Plant.**

- 2) *How would you characterize the new facility compared to your client's facility at 505 S. Market St. in Wilmington in size and appearance?*

**The facility at 505 S. Market St. is situated on approximately six (6) acres of property along the Christina River. The processing area, including the oil recycling plant, water treatment plant, and aboveground storage tanks, occupy about three (3) acres. Aside from the processing equipment and aboveground storage tanks, the current property also has an office and a warehouse located on it, along with sufficient asphalted areas in which to park its associated vehicles.**

The property at 1685 River Road, New Castle, DE, on which the proposed facility would be located, is 24 acres in size. The processing area (oil recycling plant, water treatment plant, and aboveground storage tanks) would occupy approximately 8 acres upon completion of the project. The remaining space will be used for rail siding, offices, and warehouses, all of which are presently on the property and will require only minor modifications.

Visually, the two facilities are similar to one another. The proposed facility, however, would be employing a new technology, which will yield a more sustainable recycling operation than the current facility. As a result, the proposed facility will require additional processing equipment beyond that which is currently found at the Wilmington location. The proposed operation will also be situated in a larger processing area to accommodate the recycling operation that would be taking place. The profiles of proposed equipment and tanks will be very similar, except for noticeable downsizing of the two large oil storage tanks currently on Market Street.

- 3) *Approximately how many aboveground storage tanks will be utilized on site, and what will be their approximate size?*

The proposed facility will utilize various sizes of aboveground storage tanks across approximately 4 acres of the property. These storage tanks will store used oil, finished products and other co-products, used antifreeze, and wastewater. At this time, it is estimated that a completed facility (initial processing facility and future expansion) would have approximately 58 tanks on it, with an estimated 4 million gallons of capacity. The current Market Street facility has approximately 3.3 million gallons of storage capacity. Tank sizes would range from 10,000 gallon tanks to 500,000 gallon tanks, as compared to the current Market Street facility where there are two storage tanks each with a capacity of greater than 1,000,000 gallons. The vast majority of the proposed tanks ( $\geq 75\%$ ) will likely be 30,000 gallons in capacity or less.

- 4) *How is your facility different from another oil recycling facility proposed in 1991 by Texaco (Status Decision 260), which was deemed a prohibited heavy industry?*

After reviewing the file for CZA Project No. 260 SD (Texaco Refining and marketing Inc.), FCC Environmental would like to note several important differences between the two facilities and their respective Coastal Zone Status Decision applications.

**Products:** The Texaco project was proposing the construction of a facility that would yield gasoil to be burned for fuel as a main product. FCC Environmental is proposing a facility that will recycle used motor oil back into base oil, and will use different processes than those proposed by Texaco. This base oil can subsequently be reused as motor oil upon blending with additives; note that at this time, the additive blending process will be performed offsite at FCC customer locations.

Because of the sustainable cycle that its proposed facility makes possible, FCC Environmental believes its facility meets the definition of a “recycling” facility, and the used oil meets the definition of a “recyclable material”, according to the section 3.0 of the Delaware Regulations Governing Solid Waste:

- "Recycling" means the process by which recyclable materials, which would otherwise be disposed of as solid waste, are returned to the economic mainstream in the form of raw materials or products;
- "Recyclable Material" means a solid waste that exhibits the potential to be used repeatedly in place of a virgin material.

**Size:** The proposed Texaco project was going to be sited on a 45 acre tank farm near the Port of Wilmington. Texaco was claiming the actual process was going to be situated on approximately 2-1/3 acres and the tank capacity for this process would amount to about 2 million gallons. The proposed FCC Environmental facility will be sited on a 24-acre parcel of land, with the processing area, including the initial construction and future expansion, having an approximately 8 acre footprint. This includes 4 acres of tanks and containment that would allow for a storage capacity of approximately 4 million gallons. Despite the smaller tank capacity and footprint, the Texaco facility was designed to handle 44 million gallons of oil annually, while a fully completed FCC Environmental facility would only recycle 24 million gallons of oil.

**Transportation:** Texaco was proposing shipments of finished product via barges, which would have required over the water transfers to take place, thus potentially increasing the risk of spills in coastal waters. FCC Environmental will be transporting all incoming and outgoing materials via trucks and railcars (rail already exists at the site). All transfers to trucks and railcars will take place inside areas with proper spill containment.

**Net Environmental Impact:** The proposed Texaco facility was a new operation that would have been taking place in Delaware, thus contributing new emissions to the environment. FCC Environmental is also proposing the construction of a new facility; however, if it is successful in its petition to build this facility, FCC Environmental would vacate its current facility at 505 S Market St. along the Christina River in Wilmington. Any emissions from a new facility would be offset by the closure of FCC's current facility, yielding significantly less of a net impact on the environment than the proposed Texaco facility. While FCC's Market Street facility is not in the Coastal Zone, FCC believes it to be in an equally environmentally sensitive area along the Christina River.

**Net Economic Impact:** Though the Texaco project would have offered economic benefits to the state of Delaware, it is the belief of FCC Environmental that its project will yield more significant and sustainable benefits to the state. The proposed facility will cost an estimated \$40 million to complete, consisting of an

estimated 240,000 hours of construction labor. Annual operating expenses will amount to an estimated \$12.3 million, with much of this staying in Delaware through the hiring of contractors and the purchasing of materials. FCC's ability to locate in Delaware will also have an estimated net impact of 48 jobs in the area. In addition to this, the relocation of FCC Environmental from its current facility in Wilmington will allow for more commercial opportunities within the downtown revitalization effort, resulting in Land Use that would be more suitable to the surrounding area and the long range plans of the Riverfront.

**Used Oil Management Regulations:** FCC Environmental would also like to draw attention to the "Standards For Management Of Used Oil", adopted by EPA on September 10, 1992 (57 Fed. Reg. 41612 (codified at 40 C.F.R. Part 279)). The adoption of these regulations at the federal level took place subsequent to the Secretary's December 14, 1991 status decision on the Texaco proposal and the Coastal Zone Industrial Control Board's July 9, 1992 opinion affirming the Secretary's ruling. On July 23, 1996, these standards were adopted by DNREC in the Delaware Hazardous Waste Regulations ("DHWR"), Part 279. In Section 279.1 of the DHWR, a "Petroleum Refining Facility" is defined as:

An establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking or other processes (i.e., facilities classified as SIC 2911).

The proposed FCC Environmental facility is not classified under SIC 2911, it does not employ all of the unit operations listed in the definition, it is not using crude oil in its process, nor is it producing products such as gasoline and kerosene.

Instead, FCC Environmental's proposed facility falls under the classification of a "Used Oil Processor/Re-Refiner", which is defined in Section 279.1 of the DHWR as:

A facility that processes used oil.

Section 279.1 of the DHWR defines "Processing" as:

Chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived product. Processing includes, but is not limited to: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation and re-refining.

FCC Environmental thus believes that its proposed facility clearly falls under the classification of a Used Oil Processor/Re-Refiner, as its operations and intentions are directly described under the definition of such a facility in the DHWR. It should

**therefore not be prohibited from operating in the Coastal Zone under the premise that it is an oil refinery.**

It is our hope that the answers provided to the above questions are sufficient for DNREC to proceed with this Coastal Zone Status Decision determination. Please feel free to contact me if any further questions arise.

Sincerely,



Vincent A. Glorioso  
Vice President

cc: W. Harding Drane, Jr.