

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CONOCOPHILLIPS COMPANY

AI # 2538

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-HE-10-0014
*
* Enforcement Tracking No.
* HE-P-08-0511
*
*
* Docket No. 2009-8450-EQ
*

SETTLEMENT

The following Settlement is hereby agreed to between ConocoPhillips Company (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation that owns and/or operates a petroleum refinery facility located in Westlake, Calcasieu Parish, Louisiana (“the Facility”).

II

On July 30, 2009, the Department issued to Respondent a Penalty Assessment, Enforcement No. HE-P-08-0511, in the amount of \$11,290.15, which was based upon the following findings of fact:

The Respondent owns and/or operates the Lake Charles Refinery, a petroleum refinery, located at 2200 Old Spanish Trail in Westlake, Calcasieu Parish, Louisiana.

An inspection conducted by the Department on or about January 10, 2007, disclosed the following:

- A. The Respondent failed to notify the administrative authority, within seven (7) days, of changes in the information submitted in the application for the identification number, in violation of LAC 33:V.1105.B. Specifically, the Respondent failed to update the form to include the generation of K169 waste. On about January 26, 2007, the Respondent addressed this violation by submitting an updated form to the Department which included the K169 waste code.

- B. The Respondent failed to design, construct, maintain, and operate the facility to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to soil, or surface water which could threaten human health or the environment as specified in LAC 33:V.4325.A, in violation of LAC 33:V.1109.E.1.e. Specifically, the Respondent washes heat exchanger bundles (generating K050 hazardous waste) on the west and south bundle cleaning slabs, which have cracks and gaps and are not capable of containing leaks and/or spills. This K050 hazardous waste is placed/washed directly onto the slabs. The Respondent repaired the cleaning slabs by April 23, 2007, and modified their maintenance system to ensure that repairs are scheduled upon discovery, thus addressing this violation.

On November 6, 2007, a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. HE-CN-07-0155 was issued to the Respondent.

III

In response to the Penalty Assessment, Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00), of which Two Thousand Three Hundred Ninety and 15/100 Dollars (\$2,390.15) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on

cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), the Penalty Assessment and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Calcasieu Parish, Louisiana. The advertisement, in form,

wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

CONOCOPHILLIPS COMPANY

BY: [Signature]
(Signature)

Willie A. Tempton, Jr
(Print)

TITLE: ConocoPhillips LCR Manager

THUS DONE AND SIGNED in duplicate original before me this 11th day of June, 20 10, at Westlake, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 7642)

Nsida J. McCurry
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: [Signature]
Beau James Brock, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 12th day of October, 20 10, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 10149)

Christopher A. Ratcliff
(Print)

Approved: [Signature]
Paul D. Miller, P.E., Assistant Secretary

