



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

OCT 22 2012

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Michael Bechtol
Phillips 66 Company
WRRB
Post Office Box 76
900 South Central Avenue
Roxana, Illinois 62048

Re: Phillips 66 Company and WRB Refining, LP, Roxana, Illinois, Consent Agreement and Final Order, Docket Nos. CERCLA-05-2013-0002 EPCRA-05-2013-0004 MM-05-2013-0002

Dear Mr. Bechtol:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on OCT 22 2012.

Please pay the Comprehensive Environmental Response, Compensation and Liability Act civil penalty in the amount of \$19,422 in the manner prescribed in paragraph 83, and reference your check with the billing document number 2751330B002 and the docket number CERCLA-05-2013-0002.

Please pay the Emergency Planning and Community Right-to-Know Act civil penalty in the amount of \$5,802 in the manner prescribed in paragraph 85, and reference your check with the billing document number 2751344E004 and the docket number EPCRA-05-2013-0004.

Your payments are due on NOV 20 2012.

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Cathleen Martwick, Associate Regional Counsel, at (312) 886-7166. Thank you for your assistance in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Hans", with a horizontal line extending to the right.

Michael E. Hans, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

cc: Jon England, Legal Counsel (w/ enclosure)
Kathy Allen (w/ enclosure)
IL SERC

Donna Carvalho (e/enclosure)
Attorney
Phillips 66
PWC 8115
Post Office Box 4428
Houston, Texas 77210 (certified)

RECEIVED

OCT 22 2012

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of:) Docket Nos. CERCLA-05-2013-0002 EPCRA-05-2013-0004
) MM-05-2013-0002
Phillips 66 Company and) Proceeding to Assess a Civil Penalty Under
WRB Refining, LP) Section 109(b) of the Comprehensive
Roxana, Illinois,) Environmental Response, Compensation and
) Liability Act, and Section 325(b)(2) of the
Respondents.) Emergency Planning and Community Right-
) to-Know Act of 1986

Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 109(b) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609(b), Section 325(b)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(b)(2) and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Chief of the Enforcement and Compliance Assurance Branch, Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondents are Phillips 66 Company, a Delaware corporation doing business in the State of Illinois and WRB Refining, LP doing business in the State of Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondents consent to the assessment of the civil penalty specified in this CAFO, and the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondents admit the jurisdictional allegations in this CAFO and neither admit nor deny the factual allegations in this CAFO.

8. Respondents waive their right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and their right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center (NRC) as soon as that person has knowledge of any release of a hazardous substance from the facility in an amount equal to or greater than the reportable quantity of the hazardous substance.

10. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Section 304 of EPCRA, 42 U.S.C. § 11004, provide a mechanism to alert federal, state and local agencies that a response action may be necessary to prevent deaths or injuries to emergency responders, facility personnel and the local community. A delay or failure to notify could seriously hamper the governments' response to an emergency and pose serious threats to human health and the environment.

11. Section 304(a)(1) of EPCRA, 42 U.S.C. § 11004(a)(1), requires that the owner or operator of a facility must immediately provide notice, as described in Section 304(b) of EPCRA, 42 U.S.C. § 11004(b), if a release of an extremely hazardous substance in quantities equal to or greater than a reportable quantity occurs from a facility at which hazardous chemicals

are produced, used or stored and such release requires notice under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

12. Under Section 304(b) of EPCRA, 42 U.S.C. § 11004(b), notice required under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), must be given immediately after the release by the owner or operator of a facility to the community emergency coordinator for the local emergency planning committee (LEPC) for any area likely to be affected by the release and to the state emergency response commission (SERC) of any state likely to be affected by a release.

13. Under 29 C.F.R. § 1910.1200(d)(3), chemicals listed in 29 C.F.R. Part 1910, Subpart Z are hazardous chemicals.

14. Section 109(b) of CERCLA, 42 U.S.C. § 9609(b) and Section 325(b)(2) of EPCRA, 42 U.S.C. § 11045(b)(2), authorize U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation of CERCLA Section 103, EPCRA Section 304. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$32,500 per day of violation that occurred after March 15, 2004 through January 12, 2009 and to \$37,500 per day of violation for violations that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

15. Respondents are a “person” as that term is defined under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

16. Respondents are a “person” as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

17. At all times relevant to this CAFO, Respondents were an owner or operator of the facility located 900 South Central Avenue, Roxana, Illinois (facility).

18. At all times relevant to this CAFO, Respondents were in charge of the facility.
19. Respondents' facility consists of buildings, structures, equipment, pipes or pipelines, storage container, or any site or area where a hazardous substance has been stored, placed, or otherwise come to be located.
20. Respondents' facility is a "facility" as that term is defined under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
21. Respondents' facility consists of buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites, and which are owned or operated by the same person.
22. Respondents' facility is a "facility" as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).
23. Sulfuric acid (CAS #7664-93-9) is a "hazardous substance" as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
24. Sulfuric acid (CAS #7664-93-9) has a reportable quantity of 1,000 pounds, as indicated at 40 C.F.R. Part 302, Table 302.4.
25. On August 5, 2010, at or about 7:25 a.m., a release occurred from Respondents' facility of approximately 48,000 pounds of sulfuric acid (the August 2010 release).
26. In a 24 hour time period, the August 2010 release of sulfuric acid exceeded 1,000 pounds.
27. During the August 2010 release, approximately 48,000 pounds spilled, leaked, emptied, discharged, or escaped into the land surface.
28. The August 2010 release is a "release" as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

29. Respondents had knowledge of the August 2010 release on August 5, 2010, at approximately 7:25 a.m.

30. On February 26, 2011, at or about 1:15 p.m., a release occurred from Respondents' facility of approximately 33,770 pounds of sulfuric acid (the February 2011 release).

31. In a 24 hour time period, the February 2011 release of sulfuric acid exceeded 1,000 pounds.

32. During the February 2011 release, approximately 33,770 pounds spilled, leaked, emptied, discharged, or escaped into the land surface.

33. The February 2011 release is a "release" as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

34. Respondents had knowledge of the February 2011 release on February 26, 2011, at approximately 1:15 p.m.

35. On July 21, 2011, at or about 10:30 p.m., a release occurred from Respondents' facility of approximately 19,964 pounds of sulfuric acid (the July 2011 release).

36. In a 24 hour time period, the July 2011 release of sulfuric acid exceeded 1,000 pounds.

37. During the July 2011 release, approximately 19,964 pounds spilled, leaked, emptied, discharged, or escaped into the land surface.

38. The July 2011 release is a "release" as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

39. Respondents had knowledge of the July 2011 release on July 21, 2011, at approximately 10:30 p.m.

40. Hydrogen sulfide (CAS #7783-06-4) has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 302, Table 302.4.

41. Hydrogen sulfide (CAS #7783-06-4) is listed as a toxic and hazardous substance under OSHA regulations at 29 C.F.R. Part 1910, Subpart Z, and 29 C.F.R. § 1910.1000, Table Z-1.

42. Hydrogen sulfide (CAS #7783-06-4) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

43. At all times relevant to this Complaint, Respondents produced, used, or stored hydrogen sulfide at the facility.

44. Hydrogen sulfide (CAS #7783-06-4) is an “extremely hazardous substance” according to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).

45. Hydrogen sulfide (CAS #7783-06-4) has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 355, Appendix A.

46. On July 4, 2011, at or about 7:30 a.m., a release occurred from Respondents’ facility of approximately 111 pounds of hydrogen sulfide (the hydrogen sulfide release).

47. In a 24 hour time period, the hydrogen sulfide release of hydrogen sulfide exceeded 100 pounds.

48. During the hydrogen sulfide release, approximately 111 pounds spilled, leaked, pumped, poured, emitted, discharged, or escaped into the ambient air and into the air.

49. The hydrogen sulfide release is a “release” as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

50. The hydrogen sulfide release is a “release” as that term is defined under Section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

51. Respondents had knowledge of the hydrogen sulfide release on July 4, 2011, at approximately 7:30 a.m.

52. The hydrogen sulfide release was one for which notice was required under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

53. The hydrogen sulfide release required notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

54. The hydrogen sulfide release was likely to affect Illinois.

55. At all times relevant to this CAFO, the Illinois Emergency Management Agency was the SERC for Illinois under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

56. The hydrogen sulfide release was likely to affect Madison County, Illinois.

57. At all times relevant to this CAFO, the Madison County LEPC was the LEPC for Madison County under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

Count 1

58. Complainant incorporates paragraphs 1 through 57 of this CAFO as if set forth in this paragraph.

59. Respondents notified the NRC of the August 2010 release on August 5, 2010, at 9:25 a.m.

60. Respondents did not immediately notify the NRC as soon as Respondents had knowledge of the August 2010 release.

61. Respondents' failure to immediately notify the NRC of the August 2010 release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

Count 2

62. Complainant incorporates paragraphs 1 through 57 of this CAFO as if set forth in this paragraph.

63. Respondents notified the NRC of the February 2011 release on February 26, 2011, at 3:55 p.m.

64. Respondents did not immediately notify the NRC as soon as Respondents had knowledge of the February 2011 release.

65. Respondents' failure to immediately notify the NRC of the February 2011 release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

Count 3

66. Complainant incorporates paragraphs 1 through 57 of this CAFO as if set forth in this paragraph.

67. Respondents notified the NRC of the July 2011 release on July 22, 2011, at 5:10 a.m.

68. Respondents did not immediately notify the NRC as soon as Respondents had knowledge of the July 2011 release.

69. Respondents' failure to immediately notify the NRC of the July 2011 release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

Count 4

70. Complainant incorporates paragraphs 1 through 57 of this CAFO as if set forth in this paragraph.

71. Respondents notified the NRC of the hydrogen sulfide release on July 5, 2011, at 4:30 p.m.

72. Respondents did not immediately notify the NRC as soon as Respondents had knowledge of the hydrogen sulfide release.

73. Respondents' failure to immediately notify the NRC of the hydrogen sulfide release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

Count 5

74. Complainant incorporates paragraphs 1 through 57 of this CAFO as if set forth in this paragraph.

75. Respondents notified the Illinois SERC of the hydrogen sulfide release on July 5, 2011, at 4:12 p.m.

76. Respondents did not immediately notify the SERC after Respondents had knowledge of the hydrogen sulfide release.

77. Respondents' failure to immediately notify the SERC of the hydrogen sulfide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

Count 6

78. Complainant incorporates paragraphs 1 through 57 of this CAFO as if set forth in this paragraph.

79. Respondents notified the LEPC of the hydrogen sulfide release on July 5, 2011, at 5:00 p.m.

80. Respondents did not immediately notify the LEPC after Respondents had knowledge of the hydrogen sulfide release.

81. Respondents' failure to immediately notify the LEPC of the hydrogen sulfide release is a violation of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

Civil Penalty

82. Complainant has determined that an appropriate civil penalty to settle this action is \$19,422 for the CERCLA violations. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, Respondents' agreement to perform a supplemental environmental project, and with respect to Respondents, their ability to pay, prior history of violations, economic benefit or savings resulting from the violations and any other matters as justice may require. Complainant also considered U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

83. Within 30 days after the effective date of this CAFO, Respondents must pay a \$19,422 civil penalty for the CERCLA violations. Respondents must pay the penalty by sending a cashier's or certified check by regular mail, payable to "EPA Hazardous Substance Superfund," to:

U.S. Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

For checks sent by express mail send a cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

U.S. Bank
Government Lockbox 979076 U.S. EPA Superfund Payments
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must note the following: Phillips 66 Company and WRB Refining, LP, the docket number of this CAFO and the billing document number 2751330B002.

84. Complainant has determined that an appropriate civil penalty to settle this action is \$5,802 for the EPCRA violations. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, Respondents' agreement to perform a supplemental environmental project, and with respect to Respondents, their ability to pay, prior history of violations, economic benefit or savings resulting from the violations and any other matters as justice may require. Complainant also considered EPCRA/CERCLA Enforcement Response Policy.

85. Within 30 days after the effective date of this CAFO, Respondents must pay a \$5,802 civil penalty for the EPCRA violations. Respondents must pay the penalty by sending a cashier's or certified check by regular mail, payable to "Treasurer, United States of America," to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

For checks sent by express mail send a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must note the following: Phillips 66 Company and WRB Refining, LP, the docket number of this CAFO and the billing document number 2751344E004.

86. A transmittal letter, stating Respondents' names, the case name, Respondents' complete address, the case docket numbers and the billing document number must accompany each payment. Respondents must send a copy of the checks and transmittal letters to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

James Entzminger (SC-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Cathleen Martwick (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

87. This civil penalty is not deductible for federal tax purposes.

88. If Respondents do not timely pay the civil penalty or any stipulated penalties due under paragraph 101, below, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

89. Pursuant to 31 C.F.R. § 901.9, Respondents must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondents must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

Supplemental Environmental Project

90. Respondents must complete two supplemental environmental projects (SEP) designed to protect the environment or public health by installing a K-tech level indicator in the acid sump and installing a concrete pad around the acid pump house.

91. At its Roxana, Illinois facility, Respondents must complete the SEPs as follows:

- a. By June 30 2013, Respondents will purchase and install a K-tech level indicator in the acid sump and bring the level indication signal into the control room DCS. This will allow the Alky Unit operators to remotely monitor the sump level.
- b. By June 30, 2013, Respondents will install a concrete pad around the acid pump house. The concrete pad will be approximately 15 yards by 20 yards, will be sloped to the acid sump and will have a 2 foot high curb around the concrete pad. The concrete pad will be made of impervious material.

92. Respondents must spend at least \$75,000 to purchase and install the K-tech level indicator and \$50,000 to install the concrete pad.

93. Respondents certify as follows:

I certify that Phillips 66 Company and WRB Refining, LP are not required to perform or develop either SEP by any law, regulation, order, or agreement or as injunctive relief as of the date that I am signing this CAFO. I further certify that Phillips 66 Company and WRB Refining, LP have not received, and are not negotiating to receive, credit for either SEP in any other enforcement action.

I certify that Phillips 66 Company and WRB Refining, LP are not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as either SEP. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as either SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to U.S. EPA within two years of the date that I am signing this CAFO (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not expired.

94. U.S. EPA may inspect the facility at any time to monitor Respondents' compliance with this CAFO's SEP requirements.

95. Respondents must maintain copies of the data for all reports submitted to U.S. EPA according to this CAFO. Respondents must provide the documentation of any data to U.S. EPA within seven days of U.S. EPA's request for the information.

96. Respondents must submit a SEP completion report to U.S. EPA by July 31, 2013.

This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- d. Certification that Respondents have completed the SEP in compliance with this CAFO; and
- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

97. Respondents must submit all notices and reports required by this CAFO by first

class mail to James Entzminger of the Chemical Emergency Preparedness and Prevention Section at the address specified in paragraph 86, above.

98. In each report that Respondents submit as provided by this CAFO, they must certify that the report is true and complete by including the following statement signed by one of their officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

99. Following receipt of the SEP completion report described in paragraph 96, above, U.S. EPA must notify Respondents in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Respondents 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 101.

100. If U.S. EPA exercises option b, above, Respondents may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Respondents' objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondents a written decision on its objection. Respondents will comply with any requirements that U.S. EPA imposes in its decision. If Respondents do not complete the SEP as required by U.S. EPA's decision, Respondents will pay stipulated penalties to the United States under paragraph 101, below.

101. If Respondents violate any requirement of this CAFO relating to the SEP, Respondents must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondents did not complete the SEP satisfactorily according to the requirements of this CAFO, including the schedule in paragraph 91, Respondents must pay a penalty of \$75,670.
- b. If Respondents did not complete the SEP satisfactorily, but U.S. EPA determines that Respondent made good faith and timely efforts to complete the SEP and certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 92, Respondents will not be liable for any stipulated penalty under subparagraph a, above.
- c. If Respondents completed the SEP satisfactorily, but spent less than 90 percent of the total amount set forth in paragraph 92 (\$125,000), Respondents must pay a penalty of \$7,567.
- d. If Respondents did not submit timely the SEP completion report, Respondents must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty Per Violation Per Day</u>	<u>Period of Violation</u>
\$ 500	1st through 14th day
\$1,000	15th through 30th day
\$1,500	31st day and beyond

102. U.S. EPA’s determinations of whether Respondents completed the SEP satisfactorily and whether Respondents made good faith and timely efforts to complete the SEP will bind Respondents.

103. Respondents must pay any stipulated penalties within 15 days of receiving U.S. EPA’s written demand for the penalties. Respondents will use the method of payment specified in paragraphs 83 and 85, above, and will pay interest, handling charges and nonpayment penalties on any overdue amounts. The stipulated penalty will be divided with 77% to “EPA Hazardous Substance Superfund,” and 23% to the “Treasurer, United States of America”.

104. Any public statement that Respondents make referring to the SEP must include the following language, “Respondents undertook this project under the settlement of the United

States Environmental Protection Agency's enforcement action against Respondents for violations of CERCLA Section 103 and EPCRA Section 304.”

105. Nothing in this CAFO is intended to nor will be construed to constitute U.S. EPA approval of the equipment or technology installed by Respondents in connection with the SEP under the terms of this CAFO.

106. For federal income tax purposes, Respondents will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

General Provisions

107. This CAFO resolves only Respondents' liability for federal civil penalties for the violations alleged in this CAFO.

108. This CAFO does not affect the rights of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

109. Respondents certify that they are complying with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Section 304 of EPCRA, 42 U.S.C. § 11004.

110. This CAFO does not affect Respondents' responsibility to comply with CERCLA, EPCRA and other applicable federal, state and local laws and regulations.

111. This CAFO is a “final order” for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

112. The terms of this CAFO bind Respondents and their successors and assigns.

113. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

114. Each party agrees to bear its own costs and attorney's fees in this action.

115. This CAFO constitutes the entire agreement between the parties.

Phillips 66 Company and WRB Refining, LP, Respondents

27 September, 2012

Date

Jay D. Churchill *JDC*
Jay Churchill
Plant Manager
Phillips 66 Company

27 September, 2012

Date

Jay D. Churchill *JDC*
WRB Refining LP
By Phillips 66 Company, Operator
By: Jay Churchill, Wood River Refinery Manager

U.S. Environmental Protection Agency, Complainant

10/12/12

Date

Sharon Jaffess
Sharon Jaffess, Chief
Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5

10-17-12

Date

Richard C Karl
Richard C. Karl, Director
Superfund Division
U.S. Environmental Protection Agency
Region 5



OCT 22 2012

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of: Phillips 66 Company and WRB Refining, LP, Roxana, Illinois
Docket Nos. CERCLA-05-2013-0002 EPCRA-05-2013-0004 MM-05-2013-0002

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

10-19-12

Date

A handwritten signature in blue ink, appearing to read "S. Hedman".

Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

In the Matter of: Phillips 66 Company and WRB Refining, LP, Roxana, Illinois
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RECEIVED

OCT 22 2012

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY


Certificate of Service

I, James Entzminger, certify that I filed the original and a copy of the Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk, U. S. Environmental Protection Agency, Region 5, delivered a copy of the CAFO by intra-office mail to the Regional Judicial Officer, U.S. Environmental Protection Agency, Region 5, and mailed the second original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to Respondent by placing it in the custody of the United States Postal Service addressed as follows:

Donna Carvalho
Attorney
Phillips 66 Company
600 North Dairy Ashford Road
Houston, Texas 77079

Michael Bechtol
Phillips 66 Company
WRRB
P.O. Box 76
900 South Central Avenue
Roxana, Illinois 62048

on the 22 day of October, 2012


James Entzminger
U.S. Environmental Protection Agency
Region 5