



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2010 FEB -4 AM 9:32

1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

FILED
EPA REGION VIII
HEARING OFFICE

DOCKET NO.: CAA-08-2010-0007

IN THE MATTER OF:)
)
CONOCOPHILLIPS CO.) **FINAL ORDER**
)
RESPONDENT)

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 4th DAY OF February, 2010.

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Docket No.: CAA-08-2010-0007

2010 FEB -4 AM 9:32

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF)
)
ConocoPhillips Company,)
)
Respondent.)

**COMPLAINT AND
SETTLEMENT AGREEMENT**

Complainant, United States Environmental Protection Agency, Region 8 (EPA or Complainant), and Respondent, ConocoPhillips Company (Respondent) (collectively hereafter the Parties), by their undersigned representatives, hereby consent and agree as follows:

A. PRELIMINARY MATTERS

1. This Complaint and Settlement Agreement (Agreement) is entered into by Respondent and EPA to settle alleged violations of the Clean Air Act (CAA), specifically of 40 C.F.R. Part 71, Title V at two compressor stations owned and/or operated by Respondent.
2. This proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation, Termination or Suspension of Permits (Consolidated Rules) set forth at 40 C.F.R. Part 22. The U.S. Department of Justice has concurred with EPA Region 8's request for authorization to commence an administrative enforcement action in this matter.
3. This Agreement is entered into by the Parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. §22.13(b), and executed pursuant to 40 C.F.R. §22.18(b)(2) and (3) of the Consolidated Rules.
4. EPA has jurisdiction over this matter pursuant to §113(d)(1)(B) of the CAA, 42 U.S.C. §7413(d)(1)(B), as amended on November 15, 1990.

5. Respondent admits the jurisdictional allegations in this Agreement, but does not admit the specific factual allegations or legal conclusions made by the Complainant herein.
6. Respondent waives its rights to a hearing before any tribunal and to contest any issue of law or fact set forth in this Agreement.
7. Complainant asserts that settlement of this matter is in the public interest and Complainant and Respondent agree that entry of this Agreement and Final Order without further litigation and without adjudication of any issue of fact or law is the most appropriate means of resolving this matter.
8. This Agreement, which includes Appendix A, upon incorporation into a Final Order, applies to and is binding upon EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this agreement.
9. This Agreement contains all terms of the settlement agreed to by the Parties.
10. The following facilities to which this Agreement relates are on "Indian country" lands as defined at 18 U.S.C. § 1151:
 - a. Argenta Compressor Station is located in southwest quarter of the southeast quarter of Section 4, Township 33 North, Range 10 West within the exterior boundaries of the Southern Ute Indian Reservation in La Plata County, Colorado; and
 - b. Sunnyside Compressor Station is located in southwest quarter of the northwest quarter of Section 9, Township 33 North, Range 10 West within the exterior boundaries of the Southern Ute Indian Reservation in La Plata County, Colorado.

11. EPA issued a Compliance Order to Respondent on May 23, 2008 (Docket No. CAA-08-2008-0020) alleging violations of the Clean Air Act (CAA), specifically 40 C.F.R. Part 63, Subparts A and ZZZZ and 40 C.F.R. Part 71, Title V at the Argenta and Sunnyside Compressor Stations.
12. At the time the Compliance Order was issued, both facilities were considered “synthetic minor” for purposes of 40 C.F.R. Part 63, Subpart ZZZZ in their respective title V permits. However, EPA alleged in the Compliance Order that both facilities were in fact operating as major sources of hazardous pollutants for purposes of 40 C.F.R. Part 63, Subpart ZZZZ when considering more appropriate available emissions data.
13. Respondent submitted emission test data collected subsequent to the issuance of the Compliance Order, which calls into question whether the Argenta and Sunnyside Compressor Stations are in fact major sources for purposes of 40 C.F.R. Part 63, Subpart ZZZZ. Based on the currently-available information, EPA considers the major source status of the Argenta and Sunnyside Compressor Stations to be uncertain. However, with the installation of the oxidation catalyst control devices on the remaining uncontrolled engines at the two facilities and compliance with the associated emission limits and testing, monitoring, recordkeeping, and reporting requirements, as described in Section C.1 below, the emissions at the two facilities will be well below the major source threshold for hazardous air pollutants.
14. EPA agrees to not pursue the counts of 40 C.F.R. Part 63, Subparts A and ZZZZ violations in the Compliance Order. Respondent will abide by the terms of this settlement and if so, shall continue to be considered “synthetic minor” sources of hazardous air pollutants for purposes of 40 C.F.R. Part 63, Subpart ZZZZ.

15. The remaining 40 C.F.R., Part 71 violations in the Compliance Order are listed below, in addition to more recent violations discovered by EPA and not identified in the Compliance Order.

B. ALLEGED VIOLATIONS

1. Respondent is a Delaware corporation and therefore a “person” as defined in section 7602(e) of the CAA, 42 U.S.C. §7602.
2. Respondent owns and/or operates the facilities described in paragraph A.10, above.
3. As described below in more detail, Complainant alleges that Respondent violated the CAA by violating 40 C.F.R. Part 71 (Federal Operating Permit Programs) by failing to conduct periodic catalyst temperature and pressure drop monitoring, failing to file sufficient notifications for equipment replacements authorized by the facilities’ title V permits, delaying the installation of an oxidation catalyst control device and associated monitoring equipment for one engine, failing to follow the engine and catalyst manufacturer’s recommended maintenance procedures, failing to maintain catalyst inlet temperature at a minimum of 650 F degrees at all times at Argenta Compressor Station, and failing to submit timely test reports.

COUNT #1: Condition IV.R.7.(d)(ii)(B) of title V permit V-SU-0030-01.03 (and previous versions of this permit) for the Argenta Compressor Station requires that existing minor Prevention of Significant Deterioration (PSD) sources submit documentation to EPA with calculations to show that the potential to emit of the replacement engine, for each pollutant regulated under the Act (except pollutants listed in section 112(b) of the Act, 42 U.S.C. §7412(b)) is below the level defined as a major stationary source in 40 C.F.R. §52.21(b)(1) with the off-permit change notification for engine replacement.

Respondent's failures to submit this documentation with the off-permit change engine replacement notifications for E002¹ (August 30, 2006), E003 (September 20, 2005), E005 (March 22, 2006 and November 20, 2007), E006 (September 22, 2006), and E007 (December 2, 2005) are violations of condition IV.R.7.(d)(ii)(B) in the title V permit.

COUNT #2: Condition II.D.3 of title V permit V-SU-0030-01.04 for the Argenta Compressor Station specifies that the engine exhaust temperature at the inlet and outlet to the oxidation catalyst for E005 shall be measured at least once per week and that each temperature-sensing thermocouple shall be accurate to within plus or minus three degrees F. Condition II.E.1(a) of the permit requires that records be kept of all required temperature measurements. Respondent's episodic failure to measure and record engine exhaust temperature at the inlet and outlet to the oxidation catalyst at least once per week is a violation of condition II.D.3 and II.E.1.(a) of title V permit V-SU-0030-01.04. Furthermore, Respondent's inability to verify that the installed temperature-sensing thermocouples are accurate to within plus or minus three degrees F is also a violation of condition II.D.3.

¹ Respondent has developed a numbering convention for compressor engines at its two facilities for use in its title V permit that refers to a specific engine as E00#. That same convention is used within this Agreement.

COUNT #3: Conditions III.Q.(g)(iii)(A)(2) and IV.Q.7.(d)(iii)(B)(2) of the applicable

Sunnyside Compressor Station title V permits, V-SU-0032-02.01 and V-SU-0032-02.03 respectively, require that existing minor PSD sources submit documentation to EPA with calculations to show that the replacement engine, by itself, will not constitute a “major stationary source” as defined in 40 C.F.R. §52.21(b)(1)(i). Respondent’s failures to submit this documentation with the off-permit change engine replacement notifications for E001 (March 14, 2005), E002 (December 9, 2005), and E003 (February 20, 2007) are violations of conditions III.Q.(g)(iii)(A)(2) and IV.Q.7.(d)(iii)(B)(2) of applicable title V permits V-SU-0032-02.01 (for E001 and E002) and V-SU-0032-02.03 (for E003) respectively in the title V permits.

COUNT #4: Prior to the installation of replacement engines, Condition IV.Q.7.(d)(ii) of title V permit V-SU-0032-02.03 for the Sunnyside Compressor Station requires documentation of non-applicability for 40 C.F.R. Part 63, Subpart ZZZZ. Respondent failed to submit this documentation to EPA with the off-permit change engine replacement notification for E003 (February 20, 2007). Respondent’s failure to submit this documentation with the off-permit change engine replacement notification that was submitted is a violation of condition IV.Q.7.(d)(ii) of title V permit V-SU-0032-02.03.

COUNT #5: Condition IV.Q.4 of title V permit V-SU-0032-02.03 for the Sunnyside Compressor Station requires contemporaneous written notice to EPA of each like-kind engine replacement. The off-permit change engine replacement notification for the April 25, 2006 replacement of E003 was dated February 20, 2007. Respondent’s failure to submit this notification to EPA contemporaneously for the April 25, 2006 replacement of E003 is a violation of condition IV.Q.4 of title V permit V-SU-0032-02.03.

COUNT #6: Condition II.B.1 of title V permit V-SU-0032-02.02 for the Sunnyside Compressor

Station requires E003 to be equipped with an oxidation catalyst control system capable of reducing uncontrolled emissions of CO by at least 88% and CH₂O emissions by at least 90% at maximum operating rate. Title V permit V-SU-0032-02.02 had an effective date of December 16, 2005, but these controls were not installed until March 7, 2007.

Respondent's failure to install the required oxidation control system on E003 pursuant to the effective title V permit is a violation of condition II.B.1 of title V permit V-SU-0032-02.02.

COUNT #7: Condition II.D.3 of title V permit V-SU-0032-02.03 for the Sunnyside Compressor

Station specifies that the engine exhaust temperature at the inlet to the oxidation catalyst for E003 and E005 shall be measured at least once per week and that each temperature-sensing thermocouple shall be accurate to within plus or minus three degrees F.

Condition II.E.1.(a) of the permit requires that records be kept of all required temperature measurements. Respondent's episodic failures to measure and record engine exhaust temperature at the inlet to the oxidation catalyst at least once per week are violations of conditions II.D.3 and II.E.1.(a) of title V permit V-SU-0032-02.03. Furthermore, Respondent's inability to verify that the installed temperature-sensing thermocouples are accurate to within plus or minus three degrees F is also a violation of condition II.D.3.

COUNT #8: Condition II.D.4 of title V permit V-SU-0032-02.03 for the Sunnyside Compressor

Station specifies that the pressure drop across the oxidation catalyst shall be measured monthly and the pressure sensing devices shall be accurate to within plus or minus one tenth (0.1) inches of water. Condition II.E.1.(a) of the permit requires that records be kept of all required pressure measurements. Respondent's episodic failures to measure

and record pressure drop across the oxidation catalyst are violations of conditions II.D.4 and II.E.1.(a) of title V permit V-SU-0032-02.03. Furthermore, Respondent's inability to verify that the installed pressure-sensing devices are accurate to within plus or minus 0.1 inches of water is also a violation of condition II.D.3.

COUNT #9: Condition II.B.5 of title V permit V-SU-0032-02.03 for the Sunnyside Compressor Station specifies that the pressure drop across the catalyst for units E003 and E005 shall not change by more than 10% at 100% load from the pressure drop across the catalyst measured during the initial performance test. Respondent's episodic failures to maintain the pressure drop across the catalyst within 10% from the pressure drop across the catalyst measured during the initial performance test for E001 and E005 are violations of condition II.B.5 of title V permit V-SU-0032-02.03.

COUNT #10: Condition II.F.3 of title V permit V-SU-0032-02.03 for the Sunnyside Compressor Station specifies that the semi-annual monitoring reports required by condition II.F.2 include any instances where the pressure drop across the catalyst is outside the limits established in Condition II.B. In semi-annual monitoring reports dated September 28, 2007 and March 31, 2008, the Respondent did not report any instances where the catalyst pressure drop was not within the limits established in Condition II.B. As noted in Count #9 above, such instances did occur and should have been reported as such in these semi-annual monitoring reports. Respondent's failures to report pressure drop deviations are violations of condition II.F.3 of title V permit V-SU-0032-02.03.

COUNT #11: Condition II.B.3 of title V permit V-SU-0030-01.04 for the Argenta Compressor Station requires the Respondent to follow, for each controlled engine and its respective oxidation catalyst, the manufacturer's recommended maintenance schedule and

procedures to ensure optimum performance of each engine and oxidation catalyst.

Respondent's failure to follow each engine and respective oxidation catalyst manufacturer's recommended maintenance schedule and procedures are violations of condition II.B.3 in the title V permit.

COUNT #12: Condition II.B.4 of title V permit V-SU-0030-01.04 for the Argenta Compressor Station requires the engine exhaust temperature for units E003 and E005, at the inlet to each oxidation catalyst, shall be maintained at all times the engine operates at no less than 650°F and no more than 1300°F. Respondent's episodic failures to keep the inlet oxidation catalyst temperature within this range are violations of condition II.B.4 in the title V permit.

COUNT #13: Condition II.B.5 of title V permit V-SU-0030-01.04 for the Argenta Compressor Station requires specific corrective measures be taken if the measurement of the temperature differential across the oxidation catalyst reveals no temperature change or reveals a temperature change of greater than 25 °F from the original installation conditions. Respondent's episodic failures to follow the specific corrective measures when no temperature change over the oxidation catalyst is measured are violations of condition II.B.5 in the title V permit.

COUNT #14: Condition II.F.1. of title V permit V-SU-0030-01.04 for the Argenta Compressor Station requires the Respondent to submit to EPA a written report of the results of the initial performance tests required in condition II.C.1. of this permit. This report is required to be submitted within 60 (sixty) calendar days of the date of testing completion. Respondent's failure to submit an initial performance test report for a new initial

performance test for E005 to EPA within sixty calendar days of testing completion is a violation of condition II.F.1 in the title V permit.

COUNT #15: Condition II.B.6 of title V permit V-SU-0032-02.03 for the Sunnyside

Compressor Station requires the Respondent to follow, for each controlled engine and its respective oxidation catalyst, the manufacturer's recommended maintenance schedule and procedures to ensure optimum performance of each engine and oxidation catalyst.

Respondent's failure to follow each engine and respective oxidation catalyst manufacturer's recommended maintenance schedule and procedures are violations of condition II.B.6 in the title V permit.

COUNT #16: Condition II.F.1. of title V permit V-SU-0030-01.04 for the Argenta Compressor

Station requires the Respondent to submit to EPA a written report of the results of the initial performance tests required in condition II.C.1. of this permit. This report is required to be submitted within 90 (ninety) calendar days of the date of testing completion. Respondent's failure to submit an initial performance test report for a new initial performance test for E001 to EPA within ninety calendar days of testing completion is a violation of condition II.F.1 in the title V permit.

C. OTHER REQUIREMENTS UNDER THIS AGREEMENT

C.1. Compressor Engines

- (a) The remaining uncontrolled reciprocating internal combustion engines (RICE) at the Argenta and Sunnyside Compressor Stations shall be retrofitted with oxidation catalyst control systems capable of reducing uncontrolled emissions of carbon monoxide (CO) by at least 88% and formaldehyde emissions by at least 90% at maximum operating rate (90% to 110% of engine capacity at site elevation).² This includes E001, E002, E006, and E007 at the Argenta Compressor Station (as identified in the title V permit) and E002 and E003 at the Sunnyside Compressor Station (as identified in the title V permit).³ Any replacement engines shall also be equipped with oxidation catalysts for these engines capable of meeting the same requirements of Section C.1 herein.
- (b) The remaining uncontrolled RICE described above in C.1(a) above shall be retrofitted with thermocouples upstream (before) the catalyst to monitor inlet temperatures of the catalyst for each RICE.
- (c) The remaining uncontrolled RICE described above in C.1(a) shall be retrofitted with pressure-measuring gauges before and after the catalyst in order to monitor pressure drop across the catalyst.

² This requirement is not a numerical emission limitation. Rather, this is a requirement that the oxidation catalyst system to be installed is designed to meet these specifications at a minimum for the make and model of engine at each facility. The emission limits that each engine is subject to are listed in the respective title V permit, as described in Paragraph C.1.(f).

³ The title V permit for Sunnyside Station lists E003 as being controlled by an oxidation catalyst, but Respondent installed this catalyst on E001 instead.

(d) The catalyst inlet temperature requirements and catalyst pressure drop requirements specified in the effective title V permit shall also apply to the remaining uncontrolled RICE described above in C.1(a). These requirements can be modified in the title V permit as allowed for in 40 C.F.R. part 71 (or in a non-title V permit once one is issued) and at the discretion of EPA.

(e) The Respondent shall follow, for each remaining uncontrolled RICE described above in C.1(a) and its respective catalyst, the manufacturer's recommended maintenance schedule and procedures to ensure optimum performance of each engine and catalyst. These requirements can be modified in the title V permit as allowed for in 40 C.F.R. part 71 (or in a non-title V permit once one is issued) and at the discretion of EPA.

(f) The emission limits for CO and formaldehyde specified in the effective title V permit that are applicable to controlled RICE shall also apply to the remaining uncontrolled RICE described above in C.1(a).⁴ These requirements can be modified in the title V permit as allowed for in 40 C.F.R. part 71 (or in a non-title V permit once one is issued) and at the discretion of EPA. Emission limits shall not be relaxed to reflect emission rates higher than the reasonable capability of a properly maintained and operated RICE and its respective oxidation catalyst.

(g) The testing, monitoring, recordkeeping, and reporting requirements specified in the effective title V permit that are applicable to controlled RICE shall also apply to the

⁴ The current emission limits in the Argenta Station title V permit are 2.9 lb/hr and 1.0 gram/horsepower-hour for CO and 0.15 lb/hr and 0.05 gram/horsepower-hour for formaldehyde. The current emission limits in the Sunnyside Station title V permit are 0.9 lb/hr for CO and 0.1 lb/hr for formaldehyde.

remaining uncontrolled RICE described above in C.1(a) and its respective catalyst. These requirements can be modified in the title V permit as allowed for in 40 C.F.R. part 71 (or in a non-title V permit once one is issued) and at the discretion of EPA.

(h) By no later than six months after the date of the Final Order, or by July 1, 2010, whichever comes later, Respondent shall install oxidation catalysts, thermocouples, and pressure gauges, as specified in paragraphs C.1.(a)-(c) and begin complying with requirements specified in paragraph C.1.(d), (e), and (g).

(i) Initial performance tests to show compliance with paragraph C.1.(f) shall be conducted no later than nine months after the date of the Final Order, or by October 1, 2010, whichever comes later, and in accordance with the testing requirements for controlled RICE in the effective title V permit for the respective facility.

(j) Within 60 calendar days after the retrofit project for the remaining uncontrolled RICE described above in C.1(a) is completed, Respondent shall provide a report to EPA that certifies completion of the retrofit project at the Argenta and Sunnyside Compressor Stations and an accompanying spreadsheet that identifies each unit retrofitted, its site location, make, model, and serial number of the RICE, make and model of the catalyst, the date the retrofit or replacement was completed, the estimated emission reductions, and the approximate cost of each retrofit.

C.2. Pneumatic Controllers Retrofit or Replacement

(a) Respondent shall retrofit or replace all existing “high-bleed” Pneumatic Controllers at the Argenta and Sunnyside Compressor Stations and at existing wells

feeding into these facilities owned by Respondent listed in Appendix "A" with "low-bleed" or "no bleed" Pneumatic or Electric-Pneumatic Controllers. For purposes of this Agreement, a "high-bleed" Pneumatic or Electric-Pneumatic Controller is any Controller that has the capacity to bleed in excess of 6 standard cubic feet (scf) of natural gas per hour (i.e., 50,000 scf/year) in normal operation, and a "low-bleed" Pneumatic or Electric-Pneumatic Controller is a Controller that bleeds natural gas at a lesser rate than a "high-bleed" Controller. During the performance of the retrofit/replacement project, Respondent shall, to the extent practicable, repair or replace leaking gaskets, tubing fittings, and seals, and all work will be completed so as to minimize potential emissions associated with the retrofit/replacement project.

(b) By no later than six months after the date of the Final Order, or by July 1, 2010, whichever comes later, Respondent shall install "low-bleed" or "no-bleed" Pneumatic or Electric-Pneumatic Controllers at the Argenta and Sunnyside Compressor Stations. By no later than eight months after the date of the Final Order, or by September 1, 2010, whichever comes later, Respondent shall install "low-bleed" or "no-bleed" Pneumatic or Electric-Pneumatic Controllers at existing wells for the Argenta and Sunnyside Compressor Stations owned by Respondent listed in Appendix "A".

(c) Within 60 calendar days after the retrofit/replacement project is completed, Respondent shall provide a report to EPA that certifies completion of the retrofit replacement project at the Argenta and Sunnyside Compressor Stations and at existing wells for the facilities owned and/or operated by Respondent listed in Appendix

“A”, and an accompanying spreadsheet in the format set forth in Appendix “A”⁵, that identifies each unit retrofitted or replaced, its site location, its service, the date the retrofit or replacement was completed, the estimated bleed rate reductions and corresponding estimates of both annual VOC reductions and amount of natural gas conserved, and the approximate cost of each retrofit or replacement.

C.3. Leak Detection Program

(a) Respondent shall implement a program to detect and repair leaking equipment components at its Argenta and Sunnyside Compressor Stations (the Program). At a minimum, the Program shall address detecting and repairing leaks at each pump, pressure release device, open-ended valve or line, flange, and compressor. The program shall use an infrared camera capable of detecting emissions of volatile organics.

(b) By no later than three months after the date of the Final Order, Respondent shall submit a protocol outlining the specifics for the Program, including the technical procedures for monitoring with the infrared camera, a schedule for conducting semi-annual monitoring, defining when a “leak” is detected, repair schedule for leaking equipment (including delay of repair), and recordkeeping format. The semi-annual monitoring shall be conducted a minimum of five calendar months apart.

(c) Respondent will begin implementing the Program upon approval of the protocol by EPA, with a start date specified in the approved schedule for conducting monitoring.

⁵ Appendix A specifies the type of controller, equipment piece, and number of controllers located at the Argenta and Sunnyside Compressor Stations. The remaining information shall be provided with the report to EPA certifying completion of the retrofit/replacement project. For the wells, only the lease/well name and location is currently specified. The remaining information will be provided with the report to EPA certifying completion of the retrofit/replacement project.

(d) EPA shall be notified in writing of the specific dates at least 30 days prior to all scheduled monitoring. In the event monitoring cannot be performed on the scheduled date, Respondent shall notify EPA at least one week prior and reschedule the monitoring for a later date that still meets the frequency requirements described in C.3.(b) above.

(e) By no later than thirty calendar days subsequent to any required monitoring, Respondent will submit reports of the monitoring results. At a minimum, the reports shall include the information specified in the approved protocol for the Program.

(f) In the event that EPA determines that the Program is not meeting its intended goal of efficiently identifying and repairing equipment component leaks, Respondent shall submit to EPA a modified protocol for approval at EPA's request. Respondent can also submit a modified protocol for approval to EPA at any time. The existing approved protocol shall remain effective until such time a modified protocol is approved by EPA.

C 4. Permitting Requirements

(a) By no later than 90 calendar days after the date of the Final Order, or by June 1, 2010, whichever comes later, Respondent shall submit applications to amend the existing title V Permits for Argenta and Sunnyside Stations to incorporate all installation, operation, testing, monitoring, recordkeeping, and reporting requirements set forth in Section C.1 and C.3 of this Agreement. These conditions shall remain in the title V permits as "applicable requirements" (as defined in part 70 and part 71) under this Agreement, until such time they are incorporated into a non-title V permit, where they shall then become "applicable requirements" under the non-title V permit.

(b) Not later than 60 calendar days (unless extended by EPA in writing) after EPA either promulgates a regulation establishing a federal minor source permit program or approves a minor source permit program to be implemented by the Southern Ute Indian Tribe, whichever comes first, Respondent shall apply for such a permit and the application shall incorporate all installation, operation, testing, monitoring, recordkeeping, and reporting requirements set forth in Section C.1 and C.3 of this Agreement.

C.5. Notices

Unless otherwise specified herein, whenever Respondent's notifications, submissions, or communications are required by this Agreement, they shall be made in writing and mailed or hand-delivered addressed as follows:

Cynthia J. Reynolds, Director
U.S. EPA Region 8 (8ENF-AT)
Air & Toxics Technical Enforcement Program
1595 Wynkoop St.
Denver, CO 80202-1129

D. CIVIL PENALTY

1. Pursuant to an analysis of the facts and circumstances of this case with the statutory factors described in section 113(d)(1)(B) of the CAA, 42 U.S.C. §7413(d)(1)(B), EPA has determined that an appropriate civil penalty to settle this action is the amount of one-hundred and seventy-five thousand dollars (\$175,000).
2. Respondent consents to the issuance of a Final Order and consents for the purposes of settlement to the payment of the civil penalty in the amount of one-hundred and seventy-five thousand dollars (\$175,000) in the manner described below in this paragraph:

- a. **Payment is due within 30 calendar days from the date written on the Final Order, to be** issued by the Regional Judicial Officer, that adopts this Complaint and Settlement Agreement. If the due date falls on a weekend or legal federal holiday, then the due date becomes the next business day. The date the payment is made is considered to be the date processed by the Bank described below. Payments received by 11:00 AM EST are processed on the same day, those received after 11:00 AM are processed on the next business day.
- b. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, for the amount, **payable to "Treasurer, United States of America," to:**

CHECK PAYMENT:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

OVERNIGHT MAIL:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson
314-418-4087

WIRE TRANSFER:

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York

ABA = 021030004

Account = 68010727

SWIFT address = FRNYUS33

33 Liberty Street

New York, NY 10045

Field Tag 4200 of the Fedwire message should read AD 68010727
Environmental Protection Agency”

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving US currency

PNC Bank

808 17th Street, NW

Washington, DC 20074

Contact B Jesse White 301-887-6548

ABA = 051036706

Transaction Code 22 – checking

Environmental Protection Agency

Account 310006

CTX Format

ON LINE PAYMENT:

There is now an On Line Payment Option, available through the Dept. of Treasury.
This payment option can be accessed from the information below:

WWW.PAY.GOV

Enter sfo 1.1 in the search field. Open form and complete required fields.

A copy of the check, or wire transfer, shall be sent simultaneously to:

Hans Buenning (8ENF-AT)

and

Tina Artemis

U.S. EPA Region 8

Regional Hearing Clerk (8RC)

Technical Enforcement Program

U.S. EPA Region 8

1595 Wynkoop St.

1595 Wynkoop St.

Denver, CO 80202-1129

Denver, CO 80202-1129

- c. Payment of the penalty in this manner does not relieve Respondent of its obligations to comply with the requirements of the CAA statute and regulations.

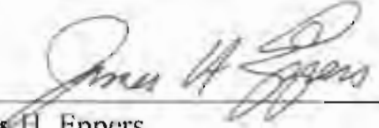
E. TERMS AND CONDITIONS

1. Failure by Respondent to comply with any of the terms of this Agreement shall constitute a breach of the Agreement and may result in referral of the matter to the Department of Justice for enforcement of this Agreement and for such other relief as may be appropriate.
2. Nothing in this Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Agreement.
3. Each undersigned representative of the Parties to this Agreement certifies that he or she is fully authorized by the party represented to bind the party to the terms and conditions of this Agreement and to execute and legally bind that party to this Agreement.
4. The Parties agree to submit this Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.
5. This Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the Parties, shall be a complete, full and final settlement of the violations alleged in this Agreement.

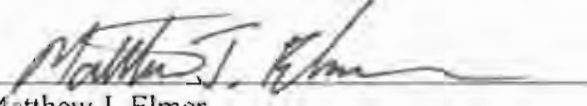
6. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this Agreement.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY REGION 8,
Complainant.**

Date: JAN 29 2010 
Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

Date: JAN 27 2010 
James H. Eppers
Enforcement Attorney
U.S. EPA, Region 8

**CONOCOPHILLIPS COMPANY,
Respondent.**

Date: 1-20-10 By: 
Matthew J. Elmer
Manager, San Juan Business Unit Operations

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMPLAINT AND CONSENT AGREEMENT/FINAL ORDER** in the matter of **CONOCOPHILLIPS CO., DOCKET NO.: CAA-08-2010-0007** was filed with the Regional Hearing Clerk on February 4, 2010.

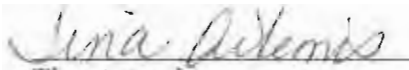
Further, the undersigned certifies that a true and correct copy of the documents were delivered to, Jim Eppers, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on February 4, 2010, to:

Stephen G. Ellison
Senior Counsel
ConocoPhillips Company
2084 McLean
600 North Dairy Ashford
Houston, TX 77079-1175

E-mailed to:

Michelle Angel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

February 4, 2010


Tina Artemis
Paralegal/Regional Hearing Clerk

