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NATURAL RESOURCE DEFENSE COUNCIL

FACSIMILE TRANSMITTAL SHEET

TO:	Burika Durr	FROM:	Ann Alexander
FAX NUMBER:	(202) 233-0121	DATE:	12/7/2007
RE:	Conoco Phillips, PSD Appeal No. 07-02	TOTAL NO. OF PAGES INCLUDING COVER:	7
		PHONE NUMBER:	(312) 780-7434

URGENT CONFIDENTIAL PLEASE REPLY

NOTES/COMMENTS:



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NATURAL RESOURCES DEFENSE COUNCIL
ENVIRONMENTAL APPEALS BOARD

December 7, 2007

Via facsimile and United States Mail

Ms. Eureka Durr
Clerk of the Board
Environmental Appeals Board
U.S. Environmental Protection Agency
1341 G Street, N.W., Suite 600
Washington, DC 20005

Re: In the Matter of ConocoPhillips, PSD Appeal No. 07-02

Dear Ms. Durr:

Enclosed please find an original and 5 copies of Petitioners' Response to Supplement to Motion for Expedited Consideration in the captioned matter.

Very truly yours,

Ann Alexander
Ann Alexander

Enc.

cc: attached service list



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BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

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ENVIR. APPEALS BOARD

IN THE MATTER OF:)
 CONOCOPHILLIPS)
 COMPANY)

APPEAL NUMBER: 07-02
 APPLICATION NUMBER: 06050052
 FACILITY ID NUMBER: 119090AAA

RESPONSE TO SUPPLEMENT TO MOTION FOR EXPEDITED CONSIDERATION

Petitioners American Bottom Conservancy and Sierra Club ("Petitioners") submit this response to the Supplement to Motion for Expedited Consideration ("Supplement") submitted by Respondent ConocoPhillips.

Petitioners do not object to expedited consideration of this matter. However, as the Board cautioned in the case cited by Respondent, In re: Hawaii Electric Light Company, Inc., 10 E.A.D. 219 (E.A.B. 2001), "Of course, any such priority consideration must be consistent with the Board's obligation to give appropriate consideration to the issues presented to it for resolution." *Id.* at 233. Accordingly, any grant of expedited review by the Board should not impact its consideration of the merits, notwithstanding Respondent's conflation of substantive issues on appeal with its procedural request for expedited consideration. See Supplement at 5-7. All such issues have been fully briefed, and Petitioners will not further address them here (except to note that Respondent's one additional substantive argument in the Supplement at 7-8, that ConocoPhillips should not have to comply with law concerning carbon dioxide emissions because other refineries have not done so, should not be given credence).

Similarly, the Board's decision whether to grant oral argument as requested by Petitioners should not be impacted by any decision to grant expedited review. Rather, the

Board's decision should turn wholly on whether it believes oral argument would assist in clarifying the issues.

Petitioners appreciate that the automatic stay of Respondent's Prevention of Significant Deterioration ("PSD") permit may cause Respondent inconvenience. Certainly, the United States Environmental Protection Agency likely appreciated the possibility of such inconvenience when promulgating regulations mandating the automatic stay, but determined that such inconvenience is outweighed by the necessity of ensuring that PSD permits are issued in full compliance with applicable law.

December 7, 2007

Respectfully submitted,



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**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

IN THE MATTER OF:)
CONOCOPHILLIPS)
COMPANY)

APPEAL NUMBER: 07-02
APPLICATION NUMBER: 06050052
FACILITY ID NUMBER: 119090AAA

NOTICE

PLEASE TAKE NOTICE that I have sent, by hand, to the Clerk of the Environmental Appeals Board an original and 5 copies of a RESPONSE TO SUPPLEMENT TO MOTION FOR EXPEDITED CONSIDERATION on behalf of Petitioners American Bottom Conservancy and Environmental Integrity Project, a copy of which is herewith served upon each of the representatives identified in the attached service list.

Respectfully submitted,



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November 26, 2007

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