



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
CITY VIEW PLAZA II, SUITE 7000
GUAYNABO, PUERTO RICO 00968-8069

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

September 25, 2012

David A. Speaker, Esq.
Senior Counsel, Environmental
Chevron Phillips Chemical Company LP
10001 Six Pines Drive
The Woodlands, Texas 77380

RE: Chevron Phillips Chemical Puerto Rico Core LLC
Docket No. CWA-02-2012-3351

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2012 SEP 26 A 11:30
REGIONAL HEARING
CLERK

Dear David:

Enclosed is a Consent Agreement and Final Order (CA/FO) in the above-referenced matter. The Final Order was fully executed on September 24, 2012.

Please note that the penalty of \$37,500 is required to be paid in full and received by EPA at the address identified in the payment section of the CA/FO no later than forty-five days after September 24, 2012.

Should you have any questions, please do not hesitate to contact me at (787) 977-5822 or via e-mail at durango.roberto@epa.gov.

Sincerely,

Roberto M. Durango, Esq.
Assistant Regional Counsel

Enclosure

cc: Karen Maples
Regional Hearing Clerk (w/enclosures)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

In the Matter of:

**CHEVRON PHILLIPS CHEMICAL
PUERTO RICO CORE LLC**

State Road 710, Km. 1.3
Guayama, Puerto Rico 00784.

NPDES Permit Number PR0000850
MSGP Tracking Number PRR05BK49

RESPONDENT

Proceeding pursuant to Section 309(g) of the Clean
Water Act, 33 U.S.C. § 1319(g)

**CONSENT AGREEMENT
AND FINAL ORDER**

**DOCKET NUMBER
CWA-02-2012-3351**

**U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2012 SEP 26 A 11: 30
REGIONAL HEARING
CLERK**

I. PRELIMINARY STATEMENT

1. This is a civil administrative proceeding for the assessment of a civil penalty instituted pursuant to Section 309(g) of the Clean Water Act ("CWA" or "the Act"), 33 U.S.C. § 1319(g).
2. The following Findings of Fact are made and Order issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by the Act, as amended, 33 U.S.C. § 1251 *et. seq.*, and in particular Section 309(g) of the Act, 33 U.S.C. § 1319(g). This authority has been duly delegated by the Administrator to the Regional Administrator of Region 2 of EPA, which authority has been duly redelegated to the undersigned Director of the Caribbean Environmental Protection Division ("CEPD") of Region 2 of EPA.
3. EPA is simultaneously initiating and concluding this proceeding for the assessment of a civil penalty, pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. §1319(g), as well as 40 C.F.R. § 22.13(b) of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" ("CROP"), which set forth procedures for simultaneous commencement and conclusion of administrative civil penalty assessment proceedings through issuance of a consent agreement and final order ("CA/FO") pursuant to 40 C.F.R. §§ 22.18 (b)(2) and (3).

II. FINDINGS OF FACT

1. Chevron Phillips Chemical Puerto Rico Core LLC ("Respondent") is a limited liability corporation, and is a person pursuant to Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
2. At all times relevant to this CA/FO, Respondent operated a final holding pond, a storm water pond and a wastewater treatment plant ("WWTP"), located at State Road 710, Km. 1.3, Guayama, Puerto Rico 00784 (the "Facility").
3. Beginning in approximately August 2008, Respondent ceased production operations, and began decommissioning and dismantling activities at the Facility.
4. Decommissioning and dismantling of the Facility is near completion.
5. On September 23, 2009, EPA issued a National Pollutant Discharge Elimination System ("NPDES") permit to Respondent for the discharges of treated wastewater composed of: (a) process wastewater; (b) groundwater from recovery wells; (c) tank water draws; (d) maintenance wastewater; (e) cooling tower blowdown; (f) sanitary wastewater; and (g) contaminated storm water.
6. The treated wastewater is discharged through outfall 001 into Las Mareas Bay, a water of the United States.
7. The Permit became effective on January 1, 2010, and will expire on December 31, 2014.
8. The NPDES permit number is PR0000850.
9. On September 29, 2008, EPA published the re-issuance of the Storm Water Multi-Sector General Permit (the "2008 MSGP") in the Federal Register (73 Fed. Reg. 56,572).
10. The 2008 MSGP became effective on September 29, 2008, and will expire on September 29, 2013.
11. Parts 1.1.2 and 1.1.3 of the 2008 MSGP set forth the types of allowable storm water and allowable non-storm water discharges into waters of the United States.
12. Part 1.1.4 of the 2008 MSGP provides the limitations of coverage for certain types of storm water and non-storm water discharges into waters of the United States.

13. Part 4 of the 2008 MSGP requires Respondent to conduct inspections at all storm water discharge outfalls located at the Facility.
14. On January 5, 2009, Respondent submitted a Notice of Intent ("NOI") for coverage under the 2008 MSGP for the Facility.
15. By letter dated January 5, 2009, EPA notified Respondent that it had received the NOI, and that coverage under the 2008 MSGP would begin on February 4, 2009.
16. The 2008 MSGP Tracking Number assigned to Respondent is PRR05BK49.
17. The 2008 MSGP authorizes Respondent to discharge pollutants in storm water associated with industrial activity through outfalls 002, 003, 004, and 005, into Las Mareas Bay.
18. Respondent is therefore subject to the provisions of the CWA, 33 U.S.C. § 1251 *et seq.*
19. By letter dated July 1, 2010, Respondent notified EPA of an unanticipated by-pass of the WWTP that took place for approximately 2 hours during an excessive rain event on June 24, 2010. The by-pass consisted of overflows from the storm water pond into outfall 002.
20. By letter dated August 8, 2011, Respondent notified EPA of an unanticipated by-pass of the WWTP that took place during excessive rain events on August 3, 2011, August 4, 2011, August 5, 2011, August 6, 2011, August 7, 2011, and August 8, 2011, for approximately 120 hours. The by-pass consisted of overflows from the storm water pond into outfall 002.
21. By letter dated September 19, 2011, Respondent notified EPA of an unanticipated by-pass of the WWTP that took place during an excessive rain event on September 14, 2011 and September 15, 2011, for approximately 29 hours. The by-pass consisted of overflows from the storm water pond into outfall 002.
22. By letter dated September 26, 2011, Respondent notified EPA of an unanticipated by-pass of the WWTP that took place during an excessive rain event on September 19, 2011, September 20, 2011 and September 21, 2011, for approximately 34 hours. The by-pass consisted of overflows from the storm water pond into outfall 002.
23. By letter dated November 4, 2011, Respondent notified EPA that it had increased the pumping capacity from the final holding pond and storm water pond into the

Equalization Tank 800 to better manage storm water from the former process areas and to reduce and/or eliminate the possibility of future by-passes and/or overflow events.

24. On November 9, 2011, a duly-authorized EPA enforcement officer conducted Compliance Evaluation Inspections of the Facility, whereby EPA requested that Respondent submit certain documents relating to compliance with the NPDES Permit, the 2008 NPDES General Permit for Discharges from Large and Small Construction Activities, and the 2008 MSGP.
25. As described in more detail in the Inspection Reports, dated April 10, 2012, a review of the documents Respondent submitted revealed that it did not perform certain inspections, as required by Part 4 of the 2008 MSGP, among others.
26. Based on the findings from the inspection and a review of the information Respondent provided, EPA issued an Administrative Compliance Order (ACO), Docket Number CWA-02-2012-3102, on December 29, 2011, ordering Respondent to come into compliance with its individual NPDES permit and the 2008 MSGP.
27. By email dated June 11, 2012, Respondent notified EPA that the implementation of best management practices at the Facility resulted in the elimination of risk of by-pass from the storm water pond and final holding pond into storm water outfall 002.
28. Respondent has substantially met all compliance measures contained in the ACO and has consistently updated EPA regarding the status of final completion with the ACO.

III. CONCLUSIONS OF LAW

29. The overflows from the storm water pond were discharged through outfall 002 into Las Mareas Bay without an NPDES permit, in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).
30. Respondent failed to perform certain inspections, as required by Part 4 of the 2008 MSGP, in violation of Section 402 of the Act, 33 U.S.C. § 1342.
31. EPA has jurisdiction over the subject matter of this action pursuant to Section 309 of the Act, 33 U.S.C. § 1319, and over the Respondent.

IV. CONSENT AGREEMENT

32. Paragraphs 1 through 31 (Sections II and III, above) are re-alleged and incorporated herein by reference.
33. EPA and Respondent agree that it is in the public interest to resolve the issues alleged in this CA/FO without further litigation and without the expense and effort that litigation entails.
34. Based upon the foregoing and pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), and the CROP, it is hereby agreed by and between EPA and Respondent, and Respondent voluntarily and knowingly agrees as follows:

V. TERMS OF SETTLEMENT

35. For the purpose of this proceeding, Respondent:
- a. Admits the jurisdictional allegations of this CA/FO;
 - b. Neither admits nor denies the factual allegations contained herein;
 - c. Waives its right to contest the allegations, as well as its right to a judicial or administrative hearing, or to appeal this CA/FO; and
 - d. Consents to the payment of the civil penalty in the amount of thirty-seven thousand five hundred dollars (\$37,500), as stated in Paragraph 36 below.

VI. PAYMENT OF CIVIL PENALTY

36. Respondent shall pay a civil penalty in the amount of thirty-seven thousand, five hundred dollars (\$37,500) to the "Treasurer of the United States of America".
37. The check (cashier's or certified check only) shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Payment methods are described below:

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

WIRE TRANSFERS:

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 "D 68010727 Environmental Protection Agency"

OVERNIGHT MAIL:

U.S. Bank

1005 Convention Plaza

Mail Station SL-MO-C2GL

ATTN Box 979077

St. Louis, MO 63101

Contact: Natalie Pearson

314-418-4087

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 – 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.

Respondent shall also send copies of this payment to each of the following:

Roberto M. Durango, Esq.

Assistant Regional Counsel – Caribbean Team

U.S. Environmental Protection Agency, Region 2

City View Plaza II—Suite 7000

#48 RD. 65 km 1.2

Guaynabo, Puerto Rico 00968-8069

Chevron Phillips Chemical Puerto Rico Core LLC.

Consent Agreement and Final Order

Docket Number CWA-02-2012-3351

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and

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, New York 10007.

The payment must be received at the above address on or before forty-five (45) calendar days after the date of signature of the Final Order (Section VIII) at the end of this document (the date by which payment must be received shall hereafter be referred to as the "due date").

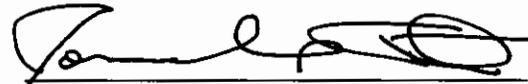
38. Failure to pay the penalty in full according to the above provisions will result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for Collection.
39. Further, if the payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within ninety (90) days of the due date.
40. In addition, pursuant to Section 309(g)(9) of the Clean Water Act, 33 U.S.C. § 1319(g)(9), if payment is not received by the due date, a quarterly nonpayment penalty will be imposed for each calendar quarter during which such nonpayment persists. The quarterly nonpayment penalty is 20% of the aggregate amount of penalties and quarterly nonpayment penalties, which are unpaid as of the beginning of such quarter. Respondent may also be required to pay attorneys fees and costs for collection proceedings in connection with nonpayment.
41. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from Respondent's federal or Commonwealth of Puerto Rico taxes.

VII. GENERAL PROVISIONS

42. The provisions of this CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns, including but not limited to, subsequent purchasers. No transfer of ownership or operation shall relieve Respondent of its obligation to comply with this CA/FO.

43. The Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Director or the Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the accompanying Final Order.
44. Except for matters resolved by this CA/FO as set forth herein, nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.
45. This CA/FO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.
46. This CA/FO constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations by the Respondent alleged herein. Nothing in this CA/FO is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent. Compliance with this CA/FO shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.
47. Each undersigned representative of the parties to this CA/FO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CA/FO and to execute and legally bind that party to it.
48. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this CA/FO.

For the Complainant, the United States Environmental Protection Agency:

BY: 
JOSE C. FONT

DATE: Sept 24, 2012

Acting Director
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency, Region 2
City View Plaza II – Suite 7000
#48 RD. 65 km 1.2
Guaynabo, Puerto Rico 00968-8069

VIII. FINAL ORDER

The Regional Administrator of the United States Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

DATED: Sept 24, 2012



Handwritten signature of Jose C. Font in black ink, consisting of a stylized 'J' and 'F'.

JOSE C. FONT
Acting Director
Caribbean Environmental Protection Division
U.S. EPA, Region 2
City View Plaza II-Suite 7000
#48 RD. 65 km 1.2
Guaynabo, Puerto Rico 00968-8069

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of:

CHEVRON PHILLIPS CHEMICAL
PUERTO RICO CORE LLC

RESPONDENT

CONSENT AGREEMENT
AND FINAL ORDER

DOCKET NUMBER
CWA-02-2012-3351

CERTIFICATE OF SERVICE

I hereby certify that, on the date noted below, the foregoing fully executed **Consent Agreement and Final Order**, bearing the above-referenced docket number was sent in the following manner:

Original and Copy by **Overnight**:

Karen Maples
Regional Hearing Clerk
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

Copy by **Certified Mail and PDF**:

David A. Speaker, Esq.
Senior Counsel, Environmental
Chevron Phillips Chemical Company LP
10001 Six Pines Drive
The Woodlands, Texas 77380
832-813-4108
Fax: 832-813-6060

Edwin R. Cruz, Esq.
Pietrantoní Méndez & Alvarez LLC
Popular Center Suite 1901
208 Ponce de León Ave.
San Juan, PR 00918
Tel. (787)274-5242; Fax:(787)274-1470

Dated: 9/25/2012


Aileen Sánchez, Program Support Assistant
EPA, Region 2, Office of Regional Counsel