



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

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16 SEP 12 AM 10:02 OFFICE OF  
REGIONAL COUNSEL

HEARINGS CLERK  
EPA -- REGION 10

Reply To The  
Attention Of: ORC-113

The Honorable Barbara A Gunning  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Mail Code M1200  
Washington, D.C. 20460

Re: In the Matter of: Tesoro Refining and Marketing Company, LLC  
Docket No. CAA-10-2016-0044

Dear Judge Gunning:

Complainant is submitting a final ADR process status report regarding settlement in this matter.

EPA and Tesoro Refining and Marketing Company, LLC (Tesoro) have reached settlement in this matter. Enclosed is a copy of the signed Consent Agreement and Final Order (CAFO), which has been filed with the Region 10 Hearing Clerk.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Robert E. Hartman".

Robert Hartman  
Assistant Regional Counsel  
Counsel for Complainant

Enclosure



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HEARINGS CLERK  
EPA - REGION 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	
	)	
TESORO REFINING & MARKETING COMPANY LLC	)	DOCKET NO. CAA-10-2016-0044
	)	CONSENT AGREEMENT
Anacortes, Washington	)	
	)	
Respondent.	)	
	)	
	)	

I. AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 113(d) of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. § 7413(d).

1.2. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA hereby issues, and Tesoro Refining & Marketing Company LLC ("Respondent") hereby agrees to the issuance of, the Final Order attached to this Consent Agreement.

## **II. PRELIMINARY STATEMENT**

2.1. EPA initiated this proceeding for the assessment of a civil penalty pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), by issuing a Complaint and Notice of Opportunity for Hearing ("Complaint") against Respondent on April 14, 2016. Pursuant to 40 C.F.R. § 22.18(b), this proceeding shall be concluded when the Final Order becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 ("Complainant") has been delegated the authority pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), to sign consent agreements between EPA and the party against whom an administrative penalty for violations of the CAA is proposed to be assessed.

2.3. EPA and the United States Department of Justice jointly determined, pursuant to 42 U.S.C. § 7413(d) and 40 C.F.R. § 19.4, that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding and seeks a penalty greater than \$320,000, is appropriate for an administrative penalty assessment.

2.4. In the Complaint, EPA alleged that Respondent's failure to comply with the requirements of 40 C.F.R. Part 68 constitute violations of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and therefore subject Respondent to the assessment of penalties under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

2.5. The complete factual and jurisdictional allegations for proposing the assessment of civil penalty are set forth in the Complaint and are incorporated herein by reference.

## **III. TERMS OF SETTLEMENT**

3.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

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LLC  
Docket Number: CAA-10-2016-0044  
Consent Agreement  
Page 2 of 6

U.S. Environmental Protection Agency  
1200 Sixth Avenue, Suite 900, ORC-113  
Seattle, Washington 98101  
(206) 553-1037

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3.2. For the purpose of this proceeding Respondent neither admits nor denies the specific factual allegations contained in the Complaint. By entering into this Consent Agreement and consenting to entry of the Final Order, Respondent does not admit any issues of fact or law, and this Consent Agreement shall not be used as evidence of any legal or factual admission by Respondent.

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3.3. In settlement of this action, Respondent agrees to pay a civil penalty of \$325,000 (the "Penalty").

3.4. Respondent agrees to pay the Penalty within 30 days of the effective date of the Final Order.

3.5. Payment under this Consent Agreement and the Final Order may be paid by check, mail or overnight delivery, wire transfer, ACH, or online payment. Payment instructions are available at: <https://www.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

Respondent must note on the check the title and docket number of this actions.

3.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 3.5. to the Regional Hearing Clerk and EPA at the following two addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Mail Stop ORC-113  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101  
[Young.teresa@epa.gov](mailto:Young.teresa@epa.gov)

Javier Morales  
U.S. Environmental Protection Agency  
Mail Stop OCE-101  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101  
[Morales.javier@epa.gov](mailto:Morales.javier@epa.gov)

3.7. If Respondent fails to pay any portion of the Penalty in full by its due date, the entire unpaid balance of Penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), to collect the assessed penalty under the CAA. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

3.8. If Respondent fails to pay any portion of the Penalty in full by its due date, Respondent shall be responsible for payment of the following amounts:

3.8.1. Interest. Any unpaid portion of the Penalty shall bear interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2) from the effective date of the Final Order, provided, however, that no interest shall be payable on any portion of the Penalty that is paid within 30 days of the effective date of the Final Order contained herein.

3.8.2. Attorneys' Fees, Collection Costs, Nonpayment Penalty. Pursuant to 42 U.S.C. § 7413(d)(5), should Respondent fail to pay the Penalty and interest on a timely basis, Respondent shall also be required to pay the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

3.9. The Penalty, including any additional cost incurred under Paragraph 3.8., represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

3.10. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document

3.11. Except as described in Paragraph 3.8., each party shall bear its own costs and attorneys' fees in bringing or defending this action.

3.12. For the purposes of this proceeding, Respondent waives any right to contest the allegations and its right to appeal the Final Order accompanying this Consent Agreement.

3.13. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

3.14. This Consent Agreement fully resolves Respondent's liability for Federal civil penalties for the violations and facts alleged in the Complaint.

3.15. The above provisions in Part III are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

August 31, 2016

FOR RESPONDENT:

James Tangaro  
VP, Antioch Refinery

Name, Title

TESORO REFINING & MARKETING  
COMPANY LLC

VAV

DATED:

8/31/2016

FOR COMPLAINANT:

Edward J. Kowalski

EDWARD J. KOWALSKI, Director  
Office of Compliance and Enforcement  
EPA Region 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

)  
) DOCKET NO. CAA-10-2016-0044  
)

TESORO REFINING &  
MARKETING COMPANY LLC

)  
) **FINAL ORDER**  
)

Anacortes, Washington

)  
)  
) Respondent.  
)

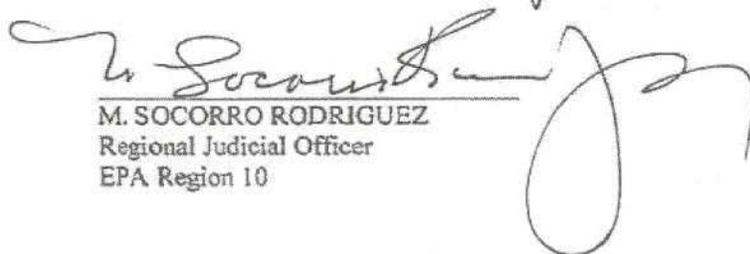
1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has re-delegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under CAA for the violations alleged in the Complaint. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of CAA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 8<sup>th</sup> day of September, 2016.

  
M. SOCORRO RODRIGUEZ  
Regional Judicial Officer  
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER**, In the Matter of: **Tesoro Refining & Marketing Company LLC**, Docket No.: **CAA-10-2016-0044**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Robert Hartman, Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 10, Mail Stop ORC-113  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Peter Modlin  
GIBSON DUNN & CRUTCHER LLP  
555 Mission Street  
San Francisco, CA 94105-0921

Vanessa Vail  
Corporate Counsel  
Tesoro Companies, Inc.  
191000 Ridgewood Parkway  
San Antonio, TX 78259

DATED this 8 day of September, 2016.

  
TERESA YOUNG  
Regional Hearing Clerk  
EPA Region 10

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CERTIFICATE OF SERVICE

The undersigned certifies that the original of the Final Alternative Dispute Resolution process Status Report, In the Matter of: Tesoro Refining and Marketing Company, LLC, Docket No. Docket No. CAA-10-2016-0044, was filed with the Regional Hearing Clerk and served on the addresses in the following manner on the date specified below:

Copy By Electronic and Regular Mail To:

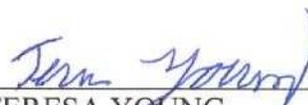
The Honorable Barbara A Gunning  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Mail Code M1200  
Washington, D.C. 20460

Copy By Electronic and Regular Mail To:

Peter S. Modlin, Esq.  
Gibson, Dunn & Crutcher LLP  
555 Mission Street, Suite 3000  
San Francisco, CA 94105

Vanessa Vail  
Corporate Counsel  
Tesoro Companies, Inc.  
191000 Ridgewood Parkway  
San Antonio, TX 78259

DATED THIS 12 day of September, 2016

  
TERESA YOUNG  
Regional Hearing Clerk  
EPA Region 10

