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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:  
ConocoPhillips Company,  
Respondent.

Docket No. TSCA-10-2008-0031

CONSENT AGREEMENT

1. This administrative proceeding is simultaneously being commenced and concluded by issuance of this Consent Agreement along with the accompanying Final Order. The authority for this procedure is set forth at 40 C.F.R. § 22.13(b). This Consent Agreement contains terms for the settlement of claims between the United States Environmental Protection Agency (EPA) and ConocoPhillips Company (Respondent). The pursuit of these claims by EPA is authorized by Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615.

2. For the purpose of this proceeding, Respondent admits the jurisdictional allegations contained herein. While neither admitting nor denying the specific factual allegations set forth in Paragraph 3 below, Respondent waives the right to contest those allegations in this proceeding. Respondent also waives the right to appeal the accompanying Final Order.

3. Respondent owns and operates a petroleum refinery facility located at 3901 Unick Road in Ferndale, Washington. On April 10, 2007, EPA conducted an inspection of this facility. A bank of PCB capacitors located in the "Crude Unit" of the facility had been disconnected from service by Respondent. The capacitors did not contain PCB labels. Further, there were no records indicating

Consent Agreement

ConocoPhillips Company  
TSCA-10-2008-0031

1 the date that the capacitors were disconnected from service, and the projected location and future use  
2 of the capacitors. The failure to mark the PCB capacitors with a PCB label at the time the capacitors  
3 were removed from use is a violation of 40 C.F.R. §§ 761.35(a)(1) and 761.40(a)(5). The failure to  
4 maintain records beginning at the time the PCB capacitors were removed from use is a violation of  
5 40 C.F.R. §§ 761.35(a)(2)(i) and 761.35(a)(2)(ii). The actions of Respondent which failed to  
6 conform to the above-cited regulations are unlawful according to Section 15(1) of TSCA, 15 U.S.C.  
7 § 2614(1).

8 4. Respondent consents to the assessment and payment of a civil penalty in the amount of one  
9 thousand six hundred dollars (\$1,600). This penalty amount has been arrived at through a  
10 calculation that is consistent with the factors prescribed by Section 16(a)(2)(B) of TSCA, 15 U.S.C.  
11 § 2615(a)(2)(B), and the penalty policy of EPA. ◀

12 5. The payment of this penalty shall be made by Respondent within thirty (30) days of the  
13 filing of the Final Order. This payment shall be by cashier's or certified check made payable to the  
14 order of "Treasurer, United States of America." The check shall be submitted to: United States  
15 Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, PO Box 979007,  
16 St. Louis, MO 63197-9000. Along with payment, Respondent shall provide a transmittal letter  
17 which sets forth the information contained in the caption of this case, including the case title and  
18 docket number, together with a description of the obligation being satisfied by Respondent. At the  
19 time of payment, Respondent shall also provide a copy of the check and transmittal letter to Clifford  
20 J. Villa, Assistant Regional Counsel, and to Carol Kennedy, Regional Hearing Clerk. The mailing  
21 address for Mr. Villa and Ms. Kennedy is: United States Environmental Protection Agency, 1200  
22 Sixth Avenue, Suite 900, ORC-158, Seattle, Washington 98101.

23 6. Should Respondent fail to pay the penalty assessed herein in full by its due date, the entire  
24 unpaid balance of penalty and accrued interest shall become immediately due and owing. Should  
25 such a failure to pay occur, Respondent may be subject to a civil action to collect the assessed  
26 penalty under TSCA. In any such collection action, the validity, amount, and appropriateness of the  
27 penalty is not subject to review.

28 Consent Agreement

ConocoPhillips Company  
TSCA-10-2008-0031

1 7. Pursuant to Section 16(a)(4) of TSCA, 15 U.S.C. § 2615(a)(4), should Respondent fail to  
2 pay any portion of the penalty assessed herein in full by its due date, Respondent shall be responsible  
3 for payment of interest on any unpaid portion of the assessed penalty shall at the rate established by  
4 the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the  
5 accompanying Final Order, provided, however, that no interest shall be payable on any portion of  
6 the assessed penalty that is paid within 30 days of the effective date of the Final Order.

7 8. This Consent Agreement is binding upon Respondent, including all officers, directors,  
8 servants, employees, agents, successors, and assigns of Respondent.

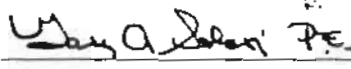
9 9. Each party shall bear its own costs in bringing or defending this action.

10 10. EPA and Respondent agree to the accompanying Final Order as presented to the Regional  
11 Judicial Officer.

12  
13 United States Environmental  
14 Protection Agency

ConocoPhillips Company

15   
16 Clifford J. Villa  
17 Assistant Regional Counsel

  
18 HSE Manager  
19 Jorndal Refinery

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Consent Agreement

ConocoPhillips Company  
TSCA-10-2008-0031

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY


In the Matter of: )  
ConocoPhillips Company; )  
Respondent. )

Docket No. TSCA-10-2008-0031

FINAL ORDER

It is hereby ordered that ConocoPhillips Company (Respondent) comply with all terms of the Consent Agreement executed by the United States Environmental Protection Agency (EPA) and Respondent in this matter. This compliance obligation is effective upon the date of filing of the Consent Agreement along with this Final Order.

This Final Order resolves only that cause of action that has been alleged by EPA in the Consent Agreement. This Final Order does not waive, extinguish, or otherwise affect the obligation of Respondent to comply with all applicable provisions of the Toxic Substances Control Act, and the regulations promulgated thereunder.

  
Richard G. McAllister  
Regional Judicial Officer  
EPA Region 10

Nov. 1, 2007  
Date

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: ConocoPhillips Company, DOCKET NO.: TSCA-10-2008-0031** was filed with the Regional Hearing Clerk on November 2, 2007.


On November 2, 2007 the undersigned certifies that a true and correct copy of the document was delivered to:

Clifford Villa, Esquire  
US Environmental Protection Agency  
1200 Sixth Avenue, ORC-158  
Seattle, WA 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 on November 2, 2007, to:

Cheryl Cobb  
Specialist West Coast  
ConocoPhillips Company  
3900 Kilroy Airport Way  
Suite 210  
Long Beach, CA 90806

DATED this 2<sup>nd</sup> day of November 2007.

  
\_\_\_\_\_  
Carol Kennedy  
Regional Hearing Clerk  
EPA Region 10

# CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

## OFFICIAL USE

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ConocoPhillips

Sent To

Cheryl Cobb

Street, Apt. No.,  
or PO Box No.

Specialist West Coast

3900 Kilroy West Coast

City, State, ZIP+4

Suite 210

Long Beach, CA 90806