

**ENVIRONMENTAL PROTECTION AGENCY REGION X**

**IN THE MATTER OF:** )

**Portland Harbor Superfund Site** )

**Arkema, Inc. (formerly ATOFINA Chemicals, Inc.),** )  
**Chevron U.S.A., Inc., Gunderson, Inc., Northwest** )  
**Natural Gas, City of Portland, Port of Portland, Time** )  
**Oil Co., ConocoPhillips Company (formerly** )  
**Tosco Corporation), Union Pacific Railroad Company,** )  
**Oregon Steel Mills, Inc.** )

**U.S. EPA Docket Number**  
**CERCLA-10-2001-0240**

**AMENDMENT NO. 2**

**Proceeding Under Sections 104, 122(a), and 122(d)(3)** )  
**of the Comprehensive Environmental Response,** )  
**Compensation, and Liability Act (CERCLA),** )  
**as amended, 42 U.S.C. §§ 9604, 9622(a), 9622(d)(3).** )

**ADMINISTRATIVE SETTLEMENT AGREEMENT AND  
ORDER ON CONSENT FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY**

The undersigned hereby unanimously agree the ADMINISTRATIVE ORDER ON CONSENT FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY issued on September 28, 2001 is AMENDED as follows:

**CAPTION**

For CERCLA purposes the title, Administrative Order on Consent for Remedial Investigation/Feasibility Study is amended to "Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study."

**I. INTRODUCTION**

The Section is amended to add the sentence:

For CERCLA purposes, all references to "Consent Order" or "Order" are amended to "Settlement Agreement."

## **XXI. RESERVATION OF RIGHTS**

The first sentence of Section XXI(4) is deleted.

Sections XXIX and XXX are added, as follows:

### **XXIX. COVENANT NOT TO SUE BY EPA**

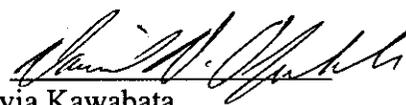
In consideration of the actions that will be performed and the payments that will be made by Respondents under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work and Response Costs, as defined in Section XXX. below. This covenant not to sue shall take effect upon the effective date and is conditioned upon the complete and satisfactory performance by Respondents of all obligations under this Settlement Agreement, including, but not limited to, payment of Response Costs pursuant to Sections XXII, as amended by Amendment No. 1 and XXIII. This covenant not to sue extends only to Respondents and does not extend to any other person.

### **XXX. CONTRIBUTION**

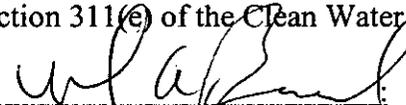
The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Respondents are entitled, as of the effective date, to protection from contribution actions or claims as provided by Sections 113(f)(2) of CERCLA, 42 U.S.C. §§ 9613(f)(2), for “matters addressed” in this Settlement Agreement. The “matters addressed” in this Settlement Agreement are the work performed and required to be performed under this Administrative Settlement as required by Section VII (Work to be Performed) (“Work”) and all costs paid and required in the future to be paid under Section XXII, as amended by Amendment No. 1, (Reimbursement of EPA and Tribal Response Costs) and Section XXIII (Reimbursement of DEQ Response Costs) (“Response Costs”). The Parties Agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Respondents have, as of the effective date, resolved their liability to the United States for the “matters addressed.” Nothing in this Settlement

Agreement precludes the United States or Respondents from asserting any claims, causes of action, or demands for indemnification, contribution, or cost recovery against any persons not parties to this Settlement Agreement. Nothing herein diminishes the right of the United States, pursuant to Sections 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

It is so ORDERED and AGREED this      day of 27, 2006.

By:   
~~for~~ Sylvia Kawabata  
Site Assessment and Environmental Cleanup Unit #  
U.S. EPA, Region X

For purposes of Section 311(e) of the Clean Water Act:

By:   
Michael A. Bussell, Director  
Office of Compliance and Enforcement

RESPONDENT hereby consents to the issuance of this Amendment No. 2 to the Administrative Settlement Agreement and Order on Consent, and agrees to abide by each and every provision to Settlement Agreement, Docket No. CERCLA 10-2004-0009, as amended.

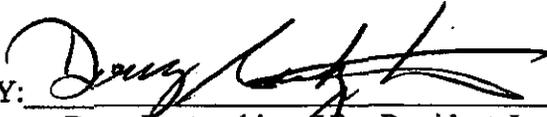
Agreed this \_\_\_ day of \_\_\_\_\_, 2006.

For ConocoPhillips Company  
(formerly TOSCO Corporation)

BY: William A. Kitchen DATE: 4-11-06  
Name: William A. Kitchen  
Title: mgr. Risk Mgt & Remediate

RESPONDENT hereby consents to the issuance of this Amendment No. 2 to the Administrative Settlement Agreement and Order on Consent, and agrees to abide by each and every provision to Settlement Agreement, Docket No. CERCLA 10-2004-0009, as amended.

For Arkema Inc. (formerly ATOFINA Chemicals, Inc.)

BY:  DATE: 4/26/06  
Doug Loutzenhiser, Vice President, Legacy Site Services LLC as agent for Arkema Inc.  
*Executive*  
*DL*

RESPONDENT hereby consents to the issuance of this Amendment No. 2 to the Administrative Settlement Agreement and Order on Consent, and agrees to abide by each and every provision to Settlement Agreement, Docket No. CERCLA 10-2004-0009, as amended.

For Chevron U.S.A., Inc.

BY: Robert John DATE: 4/24/06

Name: Robert John

Title: Business Unit Manager  
Superfund and Property Management  
Chevron Environmental Management Company

RESPONDENT hereby consents to the issuance of this Amendment No. 2 to the Administrative Settlement Agreement and Order on Consent, and agrees to abide by each and every provision to Settlement Agreement, Docket No. CERCLA 10-2004-0009, as amended.

For Gunderson, Inc.  
LLC.

BY:  DATE: 4/11/06  
Name: T.J. SASS  
Title: PRESIDENT

RESPONDENT hereby consents to the issuance of this Amendment No. 2 to the Administrative Settlement Agreement and Order on Consent, and agrees to abide by each and every provision to Settlement Agreement, Docket No. CERCLA 10-2004-0009, as amended.

For Northwest Natural Gas

BY: Margaret D. Kirkpatrick DATE: 7-7-06  
Name: Margaret D. Kirkpatrick  
Title: Vice President, General Counsel

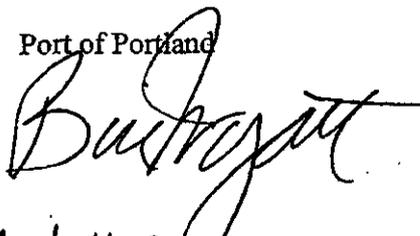
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For City of Portland

BY:  DATE: April 20, 2006  
Name: Sam Adams  
Title: Commissioner of Public Utilities

RESPONDENT hereby consents to the issuance of this Amendment No. 2 to the Administrative Settlement Agreement and Order on Consent, and agrees to abide by each and every provision to Settlement Agreement, Docket No. CERCLA 10-2004-0009, as amended.

For Port of Portland



BY: April 11, 2006 DATE:

Name: Bill Wyatt

Title: Executive Director

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For Union Pacific Railroad Company

BY: *Michael L. Whitcomb* DATE: 4-21-06  
Name: Michael L. Whitcomb  
Title: AVP - Law Department

RESPONDENT hereby consents to the issuance of this Amendment No. 2 to the Administrative Settlement Agreement and Order on Consent, and agrees to abide by each and every provision to Settlement Agreement, Docket No. CERCLA 10-2004-0009, as amended.

For Time Oil Co.

BY:  DATE: 4/10/06  
Name: Richard Gordon  
Title: General Counsel + ASST Secy.

RESPONDENT hereby consents to the issuance of this Amendment No. 2 to the Administrative Settlement Agreement and Order on Consent, and agrees to abide by each and every provision to Settlement Agreement, Docket No. CERCLA 10-2004-0009, as amended.

For Oregon Steel Mills, Inc.

BY:  DATE: 4/2/06  
Name: Ray Adams  
Title: CEO