

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

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IN THE MATTER OF:) Docket No. *CAA-5-2002-0018*
))
Phillips Pipe Line Company,) Proceeding to Assess an
at its) Administrative Penalty
East St. Louis Terminal,) under Section 113(d) of the
Cahokia, Illinois) Clean Air Act,
) 42 U.S.C. § 7413(d)
Respondent.)

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On September 26, 2002, U.S. EPA filed the complaint in this action against Respondent, Phillips Pipe Line Company (Phillips), a corporation with headquarters located at 252 East Adams Building, Bartlesville, Oklahoma. This complaint addresses violations at Phillips' East St. Louis Terminal facility located at 3300 Mississippi Avenue in Cahokia, Illinois.

3. The complaint alleges that Phillips violated Section 112 of the Act, 42 U.S.C. § 7412, and 40 C.F.R. § 63.423(a), by failing to equip gasoline storage tank 2001 according to the requirements in 40 C.F.R. § 60.112b(a)(1) through (4), at its East St. Louis Terminal facility in Cahokia, Illinois.

4. The parties have agreed to a settlement of the alleged violations through the entry of this Consent Agreement and Final Order (CAFO). 40 C.F.R. § 22.18(b) and (c).

Stipulations

5. Phillips admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint.

6. Phillips waives its right to contest the allegations in the complaint, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

7. Phillips certifies that it is complying fully with National Emission Standards for Hazardous Air Pollutants (NESHAP) for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) at 40 C.F.R. §§ 63.420 through 63.429 (Subpart R).

8. The parties consent to the terms of this consent agreement and final order (CAFO).

9. The parties agree that settling this action without further litigation; upon the terms in this CAFO, is in the public interest.

Civil Penalty

10. In consideration of Phillips' high degree of cooperation and proposed supplemental environmental project

(SEP), U.S. EPA agrees to mitigate the proposed penalty of \$140,570 to \$46,380.50.

11. Phillips must pay the \$46,380.50 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO.

12. Phillips must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

13. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Mony Chabria, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

14. This civil penalty is not deductible for federal tax purposes.

15. If Phillips does not pay timely the civil penalty, or any stipulated penalties due under paragraph 30, below, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

16. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717. Phillips will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Phillips will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

Supplemental Environmental Project

17. Phillips must complete a supplemental environmental project (SEP) designed to protect the environment and public health by controlling volatile organic carbons (VOCs) emitted

from the process vents on the soil vapor extraction system. The SEP is more specifically described in the scope of work (hereinafter, the "Scope of Work") attached as Exhibit A and incorporated into this CAFO by reference.

18. At its East St. Louis Terminal facility, Phillips must complete the SEP as follows:

a. No later than April 1, 2003, Phillips will install an electric catalytic oxidizer on its Soil Vapor Extraction System, as more specifically described in the Scope of Work attached as Exhibit A.

19. Phillips must spend at least \$109,000 to purchase and install the equipment and \$71,885 to operate the equipment each year for 3 years.

20. Phillips must continuously use or operate the catalytic oxidizer for 3 years following its installation.

21. Phillips certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Phillips further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

22. U.S. EPA may inspect the facility at any time to monitor Phillips' compliance with this CAFO's SEP requirements.

23. Phillips must maintain copies of the underlying research and data for all reports submitted to U.S. EPA according to this CAFO. Phillips must provide the documentation of any

underlying research and data to U.S. EPA within seven days of U.S. EPA's request for the information.

24. Phillips must submit the notifications and reports required by the scope of work to U.S. EPA according to the schedule in Exhibit A.

25. Phillips must submit a SEP completion report to U.S. EPA within 60 days after completion of the SEP. This report must contain the following information:

- a. detailed description of the SEP as completed;
- b. description of any operating problems and the actions taken to correct the problems;
- c. itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- d. certification that Phillips has completed the SEP in compliance with this CAFO; and
- e. description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

26. Phillips must submit all notices and reports required by this CAFO by first class mail to:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

27. In each report that Phillips submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, the information is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

28. Following receipt of the SEP completion report described in paragraph 25 above, U.S. EPA must notify Phillips in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Phillips 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 30.

29. If U.S. EPA exercises option b. above, Phillips may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Phillips' objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Phillips a written decision on its objection. Phillips will comply with any requirements that U.S. EPA imposes in its

decision. If Phillips does not complete the SEP as required by U.S. EPA's decision, Phillips will pay stipulated penalties to the United States under paragraph 30 below.

30. If Phillips violates any requirement of this CAFO relating to the SEP, Phillips must pay stipulated penalties to the United States as follows:

a. Except as provided in subparagraph b, below, if Phillips did not complete the SEP satisfactorily according to this CAFO, Phillips must pay a stipulated penalty of \$94,189.50.

b. If Phillips did not complete the SEP satisfactorily, but U.S. EPA determines that Phillips: (i) made good faith and timely efforts to complete the SEP; and (ii) certified, with supporting documents, that it spent at least 90 percent of the required amount on the SEP, Phillips will not be liable for any stipulated penalty.

c. If Phillips satisfactorily completed the SEP, but spent less than 90 percent of the required amount on the SEP, Phillips must pay a stipulated penalty of the difference between the amount spent and \$324,665.

d. If Phillips failed to submit timely the SEP completion report required by paragraph 25 above, Phillips must pay a stipulated penalty of \$500 for each day after the report was due until it submits the report.

e. If Phillips failed to submit timely any other report required by paragraph 24 above, Phillips must pay a stipulated penalty of \$500 for each day after the report was due until it submits the report.

31. U.S. EPA's determinations of whether Phillips satisfactorily completed the SEP and whether it made good faith, timely efforts to complete the SEP will bind Phillips.

32. Phillips must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Phillips will use the method of payment specified in paragraphs 11-13, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

33. Any public statement that Phillips makes referring to the SEP must include the following language, "Phillips undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Phillips for violations of the NESHAP for Gasoline Distribution Facilities at 40 C.F.R. § 63.423(a)."

General Provisions

34. This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged in the complaint.

35. Nothing in this CAFO restricts U.S. EPA's authority to seek Phillips' compliance with the Act and other applicable laws and regulations.

36. This CAFO does not affect Phillips' responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

37. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Phillips' "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

38. The terms of this CAFO bind Phillips, and its successors, and assigns.

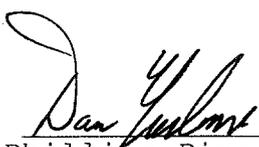
39. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

40. Each party agrees to bear its own costs and fees in this action.

41. This CAFO constitutes the entire agreement between the parties.

U.S. Environmental Protection Agency, Complainant

Date: 11/25/02 By: 
Stephen Rothblatt, Acting Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

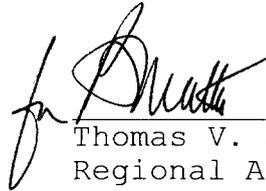
Date: 11-19-02 By: 
Phillips Pipe Line Company,
Respondent 

CONSENT AGREEMENT AND FINAL ORDER
Phillips Pipe Line Company
Docket No.

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date: 11-25-02



Thomas V. Skinner
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

EXHIBIT A

Scope of Work Catalytic Oxidizer

Equipment/Technology

A catalytic oxidizer will be installed at the Phillips Pipeline Company facility located at 3300 Mississippi Avenue, Cahokia, Illinois, in order to treat hydrocarbon vapor streams produced by soil remediation (soil vapor extraction) and wastewater treatment (air stripping). The unit to be installed is an electric powered Model EC1500 catalytic oxidizer manufactured by EnviroSupply & Service, Inc., of Irvine, California. The unit is capable of treating hydrocarbon vapor streams up to 7,000 parts per million (or 20% of the lower explosive limit) at rates of 1,500 cubic feet per minute. A vapor stream of 1,000 ppm at 1,500 cfm is anticipated. The unit thermally oxidizes vapor phase hydrocarbons using a palladium monolith catalyst operated at a temperature of approximately 650 degrees Fahrenheit. The unit's rated destruction efficiency ranges from 95 to 98 percent and utilizes an exhaust heat exchanger to preheat influent vapor and improve the unit's energy efficiency. The unit is equipped with a programmable controller that monitors and controls operating parameters based on operator established set points and has a 144 kilowatt electric heater which heats the influent vapor stream to operating temperature, utilizing approximately 105 kilowatts/hour. Once heated, vapor phase hydrocarbons pass through the catalyst where they are thermally oxidized and discharged to the atmosphere through an exhaust stack. The unit features over-temperature controls, air mixture controls, flame arresting, moisture separator, and telemetry for alarm notification.

Notifications and Reports

- Phillips will notify U.S. EPA in writing within 30 days of the commencement of the installation of the SEP.
- Phillips will notify U.S. EPA in writing within 30 days of the commencement of commercial operation of the SEP.
- Phillips will notify U.S. EPA at least 5 days prior to any testing of the SEP.
- Within 30 days following any tests on the SEP, Phillips will submit the results of those tests to U.S. EPA.
- Within 180 days following the start of commercial operation of the SEP, and semi-annually thereafter, Phillips will submit a report on the performance of the SEP which includes, but is not limited to, the hours of operation, total downtime, control efficiency, operating temperature of the control device, and tons of VOCs and HAPs removed.

In the Matter Phillips Pipe Line Company
Docket No. CAA-05-2002-0018

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CERTIFICATE OF FILING AND MAILING

I, Betty Williams, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-05-2002-0018 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Phillips Pipe Line Company and its Counsel by placing them in the custody of the United States Postal service addressed as follows:

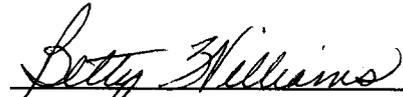
Mr. David Ysebaert, President
Phillips Pipe Line Company
600 N. Dairy Ashford
Cherokee Building 2092
Houston, Texas 74079

Stephen Ellison, Senior Counsel
ConocoPhillips
McLean 1096
600 N. Dairy Ashford
Houston, Texas 77079-1175

I also certify that a copy of the Consent Agreement and Final Order was sent by First Class Mail to:

Julie Armitage, Acting Manager
Compliance and Enforcement Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

on the 25th Day of November, 2002


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320 0006 0178 3813 David Ysebaert, President

70010320 0006 0178 3875 - Stephen Ellison, Senior Counsel