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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. )  
)  
TPI PETROLEUM, INC., )  
DIAMOND SHAMROCK REFINING )  
COMPANY, L.P., DIAMOND )  
SHAMROCK REFINING AND )  
MARKETING COMPANY, )  
SIGMOR PIPELINE COMPANY, and )  
TPI PIPELINE CORPORATION, )  
)  
Defendants. )

CIVIL ACTION NO.: 00 CV 10151 BC  
JUDGE: DAVID M. LAWSON

FILED  
MAR 27 3 09 PM '01  
CLERK COURT  
U.S. DIST. MICH.  
EAST. DIST.  
RAY CITY

STIPULATED ORDER APPROVING ENTRY OF CONSENT DECREE  
AND WITHDRAWING THE CITY OF ALMA'S MOTION TO INTERVENE

Now comes Plaintiff the United States of America ("United States"), on behalf of the United States Environmental Protection Agency, and Defendants TPI Petroleum, Inc., Diamond Shamrock Refining Co., Diamond Shamrock Refining and Marketing Co, Sigmor Pipeline Co., and TPI Pipeline Corp. ("Defendants"), and Potential Intervener, the City of Alma ("City of Alma"), who hereby stipulate as follows:

1. The United States filed a Motion for Entry of a Consent Decree in the above-captioned action after the public comment period ended.
2. Potential Intervener City of Alma filed a Motion to Intervene, which Motion has been briefed and argued before the Court.
3. The Court has taken the City of Alma's Motion to Intervene under advisement.

80-5-2-1-2199

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EASTERN DISTRICT OF MICHIGAN  
RAY CITY

4. The United States, the Defendants and the City of Alma agree that it would be appropriate for an order entering the Consent Decree to contain the following language, and the Court hereby approves the Consent Decree subject to the following:

“The Complaint does not allege, and the Consent Decree does not resolve or limit, any liability of Defendants for sediment contamination in Horse Creek and the Pine River, nor does the Consent Decree bar potential future claims for remediation of sediment contamination.

“The Consent Decree resolves the alleged liability of Defendants for remediation of groundwater contamination only to the extent such contamination was caused by the specific violations in the Complaint, including but not limited to violations alleged in Claims 25 and 32. The Consent Decree does not bar potential future claims for groundwater remediation based on any violations other than those alleged in the Complaint.”

5. The City of Alma will withdraw its Motion to Intervene and will not further object to the entry of the Consent Decree.

6. Upon entry of this Stipulated Order, the City of Alma’s Motion to Intervene shall be deemed withdrawn, and the Motion of the United States for Entry of the Consent Decree shall be deemed granted.

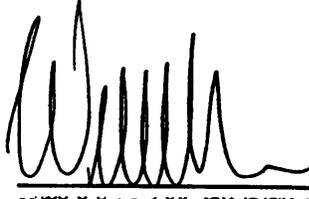
SO ORDERED.

March 27, 2001  
DATE

**David M. Lawson**  
\_\_\_\_\_  
DAVID M. LAWSON  
United States District Judge

SO STIPULATED:

  
ANNETTE M. LANG  
Trial Attorney  
Environmental Enforcement Section  
Environment and Natural Resources Division  
United States Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611  
(202) 514-4213  
Attorney for Plaintiff

  
WILLIAM H. FREEDMAN  
R. RAYMOND ROTHMAN  
McCutchen, Doyle, Brown & Enersen  
355 S. Grand Ave.  
Suite 4400  
Los Angeles, CA 90071  
(213) 680-6426  
Attorneys for Defendants

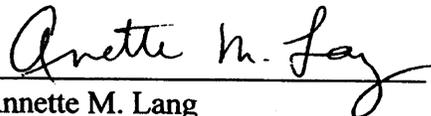
  
CHARLES M. FORTINO  
Fortino, Plaxton, Moskal & Costanzo, P.C.  
175 Warwick Dr.  
P.O. Box 578  
Alma, MI 48801  
(517) 463-2104  
Attorney for the City of Alma

**CERTIFICATE OF SERVICE**

I hereby certify that on this 15<sup>th</sup> day of March 2001, I caused a true copy of the foregoing of the Stipulated Order Regarding Withdrawal of the City of Alma' Motion to Intervene and Entry of Consent Order to be served by first class mail, postage prepaid on the following counsel:

William H. Freedman, Esq.  
R. Raymond Rothman, Esq.  
McCutchen, Doyle, Brown & Enersen  
355 S. Grand Ave.  
Suite 4400  
Los Angeles, CA 90071

Charles M. Fortino, Esq.  
Fortino, Plaxton, Moskal & Costanzo, P.C.  
175 Warwick Dr.  
P.O. Box 578  
Alma, MI 48801

  
Annette M. Lang

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

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Plaintiff, )  
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SHAMROCK REFINING AND )  
MARKETING COMPANY, )  
SIGMOR PIPELINE COMPANY, and )  
TPI PIPELINE CORPORATION, )  
)  
Defendants. )

CIVIL ACTION NO.: 00-CV-10151- BC

JUDGE: David M. Lawson

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US DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
BAY CITY

CONSENT DECREE

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Pipeline Company, and TPI Pipeline Corporation (collectively, the “Slotted Guidepole Defendants” or the “SGP Defendants”) and sought injunctive relief against the SGP Defendants asserting that the SGP Defendants had violated the “no visible gap” requirements of the New Source Performance Standards (“NSPS”) of the CAA for Ka and Kb tanks, 40 C.F.R. §§ 60.112a(a)(1)-(2), and 60.112b(a)(1)-(2), and, with respect to the Alma Refinery, the corollary requirements under the Michigan State Implementation Plan (“SIP”), Mich. Admin. Code 336.1604, and, with respect to the Corpus Christi product terminal owned by Sigmor Pipeline Company, the corollary requirements under the Texas SIP, Tex. Admin. Code tit.30 § 115.112;

WHEREAS, in May of 1999, TPI advised the United States that TPI intended to shut down the Alma Refinery, and, in light of that stated intention, TPI ceased refining operations at the Alma Refinery through a shutdown process that commenced on approximately September 1, 1999, and continued through approximately October 31, 1999;

WHEREAS, TPI developed a shutdown plan for the Alma Refinery, addressing, inter alia, issues regarding the shutdown and the subsequent decommissioning of process units and tanks;

WHEREAS, neither this Consent Decree nor any actions taken hereunder shall constitute an admission by TPI, Diamond Shamrock Refining Company, L.P., Sigmor Pipeline Company, Diamond Shamrock Refining and Marketing Company, and TPI Pipeline Corporation, of the occurrence of or of liability for the violations alleged in the complaint;

WHEREAS, the United States, TPI, and the Slotted Guidepole Defendants agree to the entry of this Decree without any adjudication or admission of facts or law, except as provided in Paragraph 1;

WHEREAS, the United States, TPI, and the Slotted Guidepole Defendants agree, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated in good faith, that implementation of this Consent Decree will avoid prolonged and complicated litigation, and that this Consent Decree is fair, reasonable, and in the public interest;

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

**I. JURISDICTION AND VENUE**

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345 and 1355; Section 113(b) of the CAA, 42 U.S.C. § 7413(b); Section 3008(a) of RCRA, 42 U.S.C. § 6928(a); Section 309(b) of the CWA, 33 U.S.C. § 1319(b); and Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b). Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), (c), and 1395(a); Section 113(b) of the CAA, 42 U.S.C. § 7413(b); Section 3008(a) of RCRA, 42 U.S.C. § 6928(a); Section 309(b) of the CWA, 33 U.S.C. §§ 1319(b), and Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b). The Complaint states a claim upon which relief may be granted. Solely for the purposes of this Consent Decree and the underlying complaint, TPI and the SGP Defendants waive all objections and defenses that they may have to jurisdiction of the Court and to venue in the District. TPI and the SGP Defendants consent to and shall not challenge entry of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

**II. DEFINITIONS**

2. Unless otherwise expressly provided herein, terms used in this Consent Decree that are defined in the Clean Air Act, as amended ("CAA"), 42 U.S.C. §§ 7401 et seq., the Resource Conservation and Recovery Act, as amended ("RCRA"), 42 U.S.C. § 6901 et seq., the Clean Water Act, as amended ("CWA"), 33 U.S.C. §§ 1251 et seq., and the Safe Drinking Water Act, as amended

("SDWA"), 42 U.S.C. §§ 300f et seq., and the regulations promulgated under those statutes, shall have the meanings contained therein. In addition, the following definitions shall apply to the terms contained within this Consent Decree:

a. "Alma Refinery" shall mean the petroleum refinery, including all structures and land, owned by TPI and located at 1925 East Superior St., Alma, Michigan.

b. "Consent Decree" or "Decree" shall mean this Consent Decree and all attachments hereto, and all modifications, pursuant to Paragraphs 35 and 66 and Section XX.

c. "Consent Order" shall mean the Consent Order entered into between TPI and MDEQ, numbered WMD 111-07-99, effective October 5, 1999, and attached hereto as Exhibit 1.

d. "Day" or "day" shall mean a calendar day unless expressly stated to be a working day. "Working Day" shall mean a day other than a Saturday, Sunday, or federal and/or Michigan state holiday. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal and/or Michigan state holiday, the period shall run until the close of business of the next Working Day.

e. "Defendants" shall mean TPI and the Slotted Guidepole Defendants.

f. "Diamond Shamrock Refining Co." shall mean Diamond Shamrock Refining Company, L.P., its successors and assigns, and its officers, directors, and employees in their capacities as such.

g. "Diamond Shamrock Refining and Marketing Co." shall mean Diamond Shamrock Refining and Marketing Company, its successors and assigns, and its officers, directors, and employees in their capacities as such.

h. "MDEQ" shall mean the Michigan Department of Environmental Quality and any successor departments or agencies of the State of Michigan.

i. "Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral. "Subparagraph" shall mean a portion of a Paragraph identified by lower case letters and any subdivisions thereof.

j. "Parties" shall mean the United States, TPI, Diamond Shamrock Refining Co., Diamond Shamrock Refining and Marketing Co., Sigmor Pipeline Co., and TPI Pipeline Corp.

k. "Section" shall mean a portion of this Consent Decree identified by a roman numeral. "Subsection" shall mean a portion of a Section identified by upper case letters.

l. "Sigmor Pipeline Co." shall mean Sigmor Pipeline Company, its successors and assigns, and its officers, directors, and employees in their capacities as such.

m. "Slotted Guidepole Defendants" or "SGP Defendants" shall mean Diamond Shamrock Refining Co., Diamond Shamrock Refining and Marketing Co., Sigmor Pipeline Co., and TPI Pipeline Corp.

n. "TPI" shall mean TPI Petroleum, Inc., its successors and assigns, and its officers, directors, and employees in their capacities as such.

o. "TPI's NPDES Permit" shall mean the National Pollutant Discharge Elimination System permit issued by MDEQ on April 9, 1996, and numbered MI0001066, as well as any modifications or renewals thereof.

p. "TPI's Stormwater Permit" shall mean the storm water permit issued by MDEQ on June 15, 1999, under a Certificate of Coverage numbered MIS410110, as well as any modifications or renewals thereof.

q. "TPI's UIC Permit" shall mean the underground injection control permit issued by U.S. EPA on August 16, 1994, and numbered MI-057-1I-0002, as well as any modifications or renewals thereof.

r. "TPI Pipeline Corp." shall mean TPI Pipeline Corporation, its successors and assigns, and its officers, directors, and employees in their capacities as such.

s. "U.S. EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

### **III. APPLICABILITY AND BINDING EFFECT**

3. This Consent Decree shall apply to and be binding upon the United States, on behalf of U.S. EPA, and upon the Defendants, their successors and assigns, and their officers, directors, and employees in their capacities as such, and all other persons and entities as provided for in Fed. R. Civ. P. 65(d). In any action to enforce this Decree, the Defendants shall not raise as a defense the failure of its officers, directors, agents, servants, contractors, employees or any other persons or entities provided for in Fed. R. Civ. P. 65(d) to take any actions necessary to comply with the provisions hereof except to the extent provided in Section XVI ("Force Majeure").

4. No change in ownership or corporate status relating to the Defendants including, but not limited to, any transfer of assets or real or personal property, will in any way alter Defendants' responsibilities under this Consent Decree, or the responsibilities of any successor or assign of any Defendant.

5. Until termination of this Decree, TPI shall give written notice and a copy of this Consent Decree to any successors in interest at least thirty (30) days prior to the transfer or conveyance of ownership, title to, easement, operation of or other interest in the Alma Refinery. TPI

shall condition any transfer or conveyance, in whole or in part, of ownership of, operation of, or other interest in, the Alma Refinery upon the successful execution of the terms and conditions of this Decree. Any deed, title, leasehold, or other instrument by which TPI transfers or conveys control or operation of the Alma Refinery, or any interest in the Alma Refinery, shall contain a notice that the interest being transferred or conveyed is subject to the requirements of this Consent Decree, and shall set forth the case caption, the civil action number, and the Court having jurisdiction.

6. Simultaneously with providing the notice required in Paragraph 5, TPI shall provide written notice of such transfer or conveyance to each person or entity of the United States specified in Section XVIII ("Notices and Submissions"). In the event of any such transfer or conveyance of ownership or other interest in the Alma Refinery, TPI shall not be released from the obligations or liabilities of this Consent Decree unless the transferee has the financial and technical ability to assume and has contractually agreed to assume these obligations and liabilities, and the Court has approved the release of said obligations or liabilities.

7. Until termination of Section V of this Decree, Diamond Shamrock Refining Co. shall give written notice and a copy of this Consent Decree to any successors in interest at least thirty (30) days prior to the transfer or conveyance of ownership, title to, easement, operation of or other interest in the tanks identified in Exhibit 2, which are located at the Three Rivers refinery in Three Rivers, Texas, the Corpus Christi crude terminal in Corpus Christi, Texas, and the McKee crude terminal in Sunray, Texas. Diamond Shamrock Refining Co. shall condition any transfer or conveyance, in whole or in part, of ownership of, operation of, or other interest in, the tanks identified in Exhibit 2, upon the successful execution of the terms and conditions of Section V of this Decree. Any deed, title, leasehold, or other instrument by which Diamond Shamrock Refining

Co. transfers or conveys control or operation of the tanks identified in Exhibit 2 shall contain a notice that the interest being transferred or conveyed is subject to the requirements of Section V of this Consent Decree, and shall set forth the case caption, the civil action number, and the Court having jurisdiction. Simultaneously with providing the notice required in this Paragraph, Diamond Shamrock Refining Co. shall provide written notice of such transfer or conveyance to each person or entity of the United States specified in Section XVIII.

8. Until termination of Section V of this Decree, Diamond Shamrock Refining and Marketing Co. shall give written notice and a copy of this Consent Decree to any successors in interest at least thirty (30) days prior to the transfer or conveyance of ownership, title to, easement, operation of or other interest in the tanks identified in Exhibit 3, located at the Laredo product terminal in Laredo, Texas. Diamond Shamrock Refining and Marketing Co. shall condition any transfer or conveyance, in whole or in part, of ownership of, operation of, or other interest in, the tanks identified in Exhibit 3, upon the successful execution of the terms and conditions of Section V of this Decree. Any deed, title, leasehold, or other instrument by which Diamond Shamrock Refining and Marketing Co. transfers or conveys control or operation of the tanks identified in Exhibit 3 shall contain a notice that the interest being transferred or conveyed is subject to the requirements of Section V of this Consent Decree, and shall set forth the case caption, the civil action number, and the Court having jurisdiction. Simultaneously with providing the notice required in this Paragraph, Diamond Shamrock Refining and Marketing Co. shall provide written notice of such transfer or conveyance to each person or entity of the United States specified in Section XVIII.

9. Until termination of Section V of this Decree, Sigmor Pipeline Co. shall give written notice and a copy of this Consent Decree to any successors in interest at least thirty (30) days prior

to the transfer or conveyance of ownership, title to, easement, operation of or other interest in the tanks identified in Exhibit 4, located at the Corpus Christi product terminal in Corpus Christi, Texas, and the Harlingen product terminal in Harlingen, Texas. Sigmor Pipeline Co. shall condition any transfer or conveyance, in whole or in part, of ownership of, operation of, or other interest in, the tanks identified in Exhibit 4, upon the successful execution of the terms and conditions of Section V of this Decree. Any deed, title, leasehold, or other instrument by which Sigmor Pipeline Co. transfers or conveys control or operation of the tanks identified in Exhibit 4 shall contain a notice that the interest being transferred or conveyed is subject to the requirements of Section V of this Consent Decree, and shall set forth the case caption, the civil action number, and the Court having jurisdiction. Simultaneously with providing the notice required in this Paragraph, Sigmor Pipeline Co. shall provide written notice of such transfer or conveyance to each person or entity of the United States specified in Section XVIII.

10. Until termination of Section V of this Decree, TPI Pipeline Corp. shall give written notice and a copy of this Consent Decree to any successors in interest at least thirty (30) days prior to the transfer or conveyance of ownership, title to, easement, operation of or other interest in the tanks identified in Exhibit 5, located at its crude oil pump stations in Wasson, Oklahoma, Red River, Texas, and Garber, Oklahoma, and its product terminals in Bay City, Michigan, and Freedom, Michigan. TPI Pipeline Corp. shall condition any transfer or conveyance, in whole or in part, of ownership of, operation of, or other interest in, the tanks identified in Exhibit 5, upon the successful execution of the terms and conditions of Section V of this Decree. Any deed, title, leasehold, or other instrument by which TPI Pipeline Corp. transfers or conveys control or operation of the tanks identified in Exhibit 5 shall contain a notice that the interest being transferred or conveyed is subject

to the requirements of Section V of this Consent Decree, and shall set forth the case caption, the civil action number, and the Court having jurisdiction. Simultaneously with providing the notice required in this Paragraph, TPI Pipeline Corp. shall provide written notice of such transfer or conveyance to each person or entity of the United States specified in Section XVIII.

**IV. COMPLIANCE AT THE ALMA REFINERY**

**A. GENERAL**

11. Effective from the date of entry of this Decree until termination of this Subsection IV.A, TPI shall comply with all applicable requirements of the CAA, and its implementing regulations, all applicable requirements of the CWA, its implementing regulations, TPI's NPDES permit, TPI's Stormwater Permit, the SDWA, its implementing regulations, TPI's UIC Permit, RCRA, and RCRA's implementing regulations, at TPI's Alma Refinery.

12. On a quarterly basis commencing in the first calendar quarter after entry of this Decree and continuing until termination of this Subsection IV.A, TPI shall submit a report to the Office of Regional Counsel of U.S. EPA Region 5 which provides a summary of the status of TPI's shutdown and decommissioning of the Alma Refinery and of all occurrences at the Alma Refinery that are required to be reported pursuant to any environmental act, regulation or permit. This report shall be submitted by certified mail postmarked no later than the thirtieth (30) day following the end of the quarter to which the report relates.

**B. CONSENT ORDER BETWEEN TPI AND MDEQ**

13. The Consent Order attached as Exhibit 1 is hereby incorporated into this Consent Decree. The terms and provisions of the Consent Order shall be fully enforceable by the United States. TPI shall provide copies of all correspondence, plans, notices, or other documents submitted