Enclosure – EPA Comments on the ConocoPhillips-Wilmington Proposed Permit

1) Compliance Schedules / NOVs

According to the District's website, the refinery has multiple outstanding notices of violation that may pertain to federal applicable requirements (see table below). For facilities that are not in compliance with all applicable requirements at the time of permit issuance, 40 CFR 70.6(c)(3) and District Rule 3004(a)(1)(C) requires that the permit contain 1) a schedule of compliance that contains an enforceable sequence of actions with milestones leading to compliance, and 2) a schedule for submission of semi-annual certified reports to document progress toward achieving compliance. For each outstanding or unresolved NOV, the District should either include any necessary compliance schedules in the permit or explain in the Statement of Basis why one is not necessary.

Notice No.	Violation Date	Violation Description
P48708	10/4/2007	Facility emissions from electrostatic precipitator stack exceeded rule limits in violation of rule 401 and permit condition F9.1.
P48707	9/6/2007	Leak at wastewater sep. cover exceeding 500 ppm; Wastewater sep. cover with opening, or holes; equip. operating contrary to permit cond. & not in good oper. cond.; light serv. leak in excess of 50,000 ppm leak @ PRD >; process drain w/o water seal.
P48122	2/18/2008	Failure to Comply with Conditions S15.2 and Administrative Condition #2 of Section E in the Permit to Operate, ID# 800363.
P48120	12/31/2007	Failure to comply with conditions S15.2, S15.3, 15.8, 15.9, 15.10 and Administrative Condition #2 of Section # in the Permit to Operate, ID# 800363.

2) Support Facility Issue/LARMT

A. The Statement of Basis states that ConocoPhillips operates a Marine Terminal (LARMT) (Facility I.D. 111642) in support of both Caron and Wilmington refinery operations. Finished products produced at the Wilmington refinery are transferred via the ConocoPhillips Torrance Tank Farm (ID 111814) to three bulk loading terminals: ConocoPhillips Colton Terminal – East (ID18503), ConocoPhillips Colton Terminal – West (ID 800364), and ConocoPhillips LA Terminal (ID800365). The statement of basis indicates that LARMT received an exemption from title V permitting requirements, the Toorance Tank Farm and Colton Terminal – West were issued title V permits in 2001 and the Colton Terminal – East and the LA Terminal have both submitted applications for title V permits.

The District should determine whether the LARMT, Torrance Tank Farm, Colton Terminal – East, Colton Terminal – West and LA Terminal facilities are either (1) part of the same stationary source and/or (2) support facilities of the ConocoPhillips-Wilmington refinery.

The facilities would be considered as part of the refinery if any or all of the facilities are (1) located on one or more contiguous or adjacent properties with the refinery, (2) under

the control of ConocoPhillips, and (3) have the same Standard Industrial Classification (SIC) code as the refinery.

Even if these facilities are not considered to be part of the refinery itself, they may still be considered support facilities of the refinery. Support facilities are typically those that convey, store, or otherwise assist in the production of the principal product or group of products produced or distributed, or services rendered. (See 45 FR 52695, August 7, 1980.) EPA considers a "support facility" as part of the primary facility, even if the support facility operates under a different SIC code. A support facility should be considered to be part of the primary activity that relies most heavily on its support. (See Id.; 62 FR 30289, June 3, 1997, discussing EPA's intent to apply the NSR approach to source determinations under 40 C.F.R. Part 70).

B. The Statement of Basis states that the LARMT was exempted from Title V permitting requirements by accepting federally enforceable permit conditions that limit the facility's PTE below the Title V applicability emission thresholds. Our records indicate that LARMT was issued a Title I NSR permit at some time in the past. If the LARMT was issued a major source PSD or nonattainment NSR permit, the facility is subject to Title V permitting (See 70 FR 71612, 71689- 71691, November 29, 2005.) independent of whether or not it is determined to be a support facility as discussed above. Please clarify whether the LARMT was issued a major source PSD or nonattainment NSR permit for any pollutant, and, thus, is subject to Title V permitting. Please note that in this type of situation, limiting the potential to emit of a facility can not be used to keep a facility from being subject to title V.

The SCAQMD will complete an analysis determining whether or not this source may be exempted from Title V by a certain date, and share the results with EPA. Given the District's efforts to issue the refinery permits as soon as possible and its current schedule for doing so, we expect the determinations to be completed and sent to us by July 31, 2009.

3) Consent Decree

A. On December 5, 2005, a Consent Decree was entered in the case of United States, et al. v. ConocoPhillips Company (Civil Action No. H-05-0258) by the United States District Court for the Southern District of Texas. (See 70 FR 7120, February 10, 2005.) The Consent Decree is a settlement between the United States, et al., and ConocoPhillips over alleged Clean Air Act and EPCRA/CERCLA violations. The ConocoPhillips refineries covered in the Consent Decree include the Carson and Wilmington refineries in California.

The Consent Decree requires ConocoPhillips to submit complete applications to the applicable state/local permitting agency to incorporate the emission limits and standards in the Consent Decree into federally enforceable permits to ensure that the underlying emission limit or standard survives the termination of the Consent Decree. (See paragraphs 256 to 259.) For requirements that are effective as of the date of lodging of the Consent Decree, permit applications were due by June 30, 2005. For Consent Decree

requirements that become effective after the date of lodging, permit applications are due no later than 90 days after the effective date or establishment of any emission limits and standards in the Consent Decree.

Please identify the specific applications that have been submitted to the District as required by the Consent Decree, the emission units that were covered in the applications, and the specific emission limits and standards from the Consent Decree that have been incorporated into the Title V permit.

B. Consent Decree requirements that have not been met and certified by ConocoPhillips must be included in a compliance schedule pursuant to 40 CFR 70.6(c)(3). The compliance schedule should include each Consent Decree requirement that applies to the Carson refinery that has not yet been met and a timetable for fulfilling these requirements. EPA will work with the SCAQMD to identify the specific Consent Decree requirements that must be incorporated into the compliance schedule of the Title V permit.

It is our understanding that the SCAQMD will include a facility-wide condition in the permit that requires ConocoPhillips to comply with all conditions in the Consent Decree. We also understand that the District will include as part of the statement of basis a table, provided by the refinery, of emission standards and limitations from the Consent Decree as well as dates of compliance for the requirements not yet fulfilled. Finally the SCAQMD will add a condition to the permit requiring the refinery submit semi-annual updates of the specific requirements in the table.

4) Applicable Requirements: Missing and Inadequate Level of Detail

A. NSPS Subpart GGG

Please clarify in the permit and/or the statement of basis whether the following emission units are subject to NSPS Subpart GGG. Where the regulation applies, the applicable requirements must be included in the permit for the emission units as appropriate. For the emission units where the regulation does not apply, the statement of basis should clarify the non-applicability.

Type	Device No.	Process	Process/ System	PTC issued?
Fugitives	D1671	FCC	P1S1	--
Fugitives	D1565	FCC	P1S1	PTC issued 6/12/07
Fugitives	D1569	Hydrotreating	P2S1	--
Fugitives	D1571	Hydrotreating	P2S2	--
Fugitives	D1589	Alkylation & Polymerization	P6S1	PTC issued 10/11/03
Fugitives	D1590	Alkylation & Polymerization	P6S2	--
Fugitives	D1599	Treating/Stripping	P9S1	--
Fugitives	D1800	Storage Tanks	P13S2	--
Fugitives	D1801	Storage Tanks	P13S6	PTC issued 4/16/01
Fugitives	D1802	Storage Tanks	P13S7	PTC issued 4/16/01
Fugitives	D1803	Storage Tanks	P13S8	--

Fugitives	D1804	Storage Tanks	P13S9	--
Fugitives	D1621	Isomerization	P18S1	--
Compressor	D15	FCC	P1S1	PTC issued 6/12/07
Compressor	D1503	FCC	P1S1	PTC issued 6/12/07
Compressor	D1426	Hydrotreating	P2S2	--
Compressor	D1427	Hydrotreating	P2S2	--
Compressor	D1510	Hydrotreating	P2S3	--
Compressor	D93	Hydrotreating	P2S4	PTC issued 9/21/04
Compressor	D104	Hydrotreating	P2S5	--
Compressor	D105	Hydrotreating	P2S5	--
Compressor	D174	Catalytic Reforming	P3S1	--
Compressor	D122	Catalytic Reforming	P3S3	--
Compressor	D123	Catalytic Reforming	P3S3	--
Compressor	D249	Hydrocracking	P5S1	--
Compressor	D250	Hydrocracking	P5S1	--
Compressor	D251	Hydrocracking	P5S1	--
Compressor	D252	Hydrocracking	P5S1	--
Compressor	D1522	Hydrocracking	P5S1	--
Compressor	D1437	Hydrocracking	P5S1	--
Compressor	D1438	Hydrocracking	P5S1	--
Compressor	D324	Alkylation & Polymerization	P6S1	--
Compressor	D1621	Isomerization	P18S1	--

B. NSPS Subpart III

According to ConocoPhillips –Wilmington's SOB, Table 8-2, the refinery emits toxic air contaminants acetaldehyde, acrolein, 1,3-butadiene, formaldehyde, methyl ethyl ketone and styrene. These are listed chemicals affected by subpart III. Please clarify whether these chemicals are products, co-products, by-products, or intermediates from oxidation reactor(s) and/or recovery system(s).

C. NSPS Subpart NNN

According to ConocoPhillips –Wilmington's SOB, Table 8-2, the refinery emits toxic air contaminants acetaldehyde, benzene, 1,3-butadiene, ethylbenzene, ethylene glycol monomethyl ether, formaldehyde, hexane, m-xylene, methyl t-butylether, methanol, methyl ethyl ketone, methyl isobutyl ketone, naphthalene, perchloroethylene, styrene, toluene, trichloroethylene, xylenes, and o-xylene. These chemicals are affected by subpart NNN. Please clarify whether these chemicals are products, co-products, by-products, or intermediates from distillation unit(s) and/or recovery system(s).

D. NSPS Subpart RRR

According to ConocoPhillips –Wilmington's SOB, Table 8-2, the refinery emits toxic air contaminants acetaldehyde, benzene, 1,3-butadiene, chlorodiflouromethane, ethylbenzene, ethylene glycol monobutyl ether, ethylene glycol monomethyl ether, ethylbenzene, formaldehyde, hexane, m-xylene, methyl t-butylether, methanol, methyl ethyl ketone, methyl isobutyl ketone, naphthalene, perchloroethylene, styrene,

toluene, xylenes, and o-xylene. These chemicals are affected by subpart RRR. Please clarify whether these chemicals are products, co-products, by-products, or intermediates from reactor process(es) and recovery system(s).

E. NESHAPS Subpart UUU

1. The template for 40CFR 63 Subpart UUU #1 is dated 4/11/2002, whereas the same template in the proposed permit for the Ultramar refinery was dated 2/9/2005. Please update the Subpart UUU templates and other templates in the ConocoPhillips-Wilmington refinery permit to reflect the most recent version of the underlying regulation.

2. Please correct Condition 7 on page 14 of section J of the proposed permit so that it refers to ppm limits to the correct % O_2 correction.

3. Please explain in the Statement of Basis that the references in Section K of the permit to 40 CFR 63 Subpart UUU #1, 40 CFR 63 Subpart UUU #2 and 40 CFR 63 Subpart UUU #3 refer to the Subpart UUU templates in Section J of the permit.

F. General Provisions

1. General provisions (Subpart A) of 40 CFR Part 60 (NSPS) are listed in the table of applicable requirements in section K of the permit, but are not found elsewhere in the permit. Please list this as an underlying requirement where applicable or explain in the Statement of Basis why these requirements are streamlined for each case where this would apply. The SCAQMD has agreed to include in the permit references to 40 CFR 60 Subpart A where applicable.

2. General provisions (Subpart A) of 40 CFR Part 63 (NESHAPS) are listed in the MACT templates for Subparts CC and UUU in section J of the permit, but are not found table of applicable requirements in section K of the permit. Please include 40 CFR 63 Subpart A as an applicable requirement in section K of the permit. The SCAQMD has agreed to include 40 CFR 63 Subpart A in the table of applicable requirements found in section K of the proposed permit.

=== End EPA Comments ===