

**RECEIVED**  
CLERK'S OFFICE

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**MAR 17 2004**

**STATE OF ILLINOIS**  
**Pollution Control Board**

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 CONOCOPHILLIPS Company, a Delaware )  
 Corporation )  
 )  
 Respondent. )

PCB NO. 04-161  
(Enforcement)

**NOTICE OF FILING**

To: Donna H. Carvalho  
Senior Counsel  
McLean 1106  
600 North Dairy Ashford  
P.O. Box 4783  
Houston, TX 77079

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, an APPEARANCE, MOTION FOR RELIEF FROM HEARING REQUIREMENT, a COMPLAINT and a STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

JAMES E. RYAN  
Attorney General of the  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY: *Sally A. Carter*  
SALLY A. CARTER  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: March 15, 2004

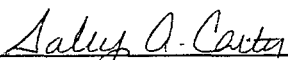
**CERTIFICATE OF SERVICE**

I hereby certify that I did on March 15, 2004, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, APPEARANCE, MOTION FOR RELIEF FROM HEARING REQUIREMENT, COMPLAINT and STIPULATION AND PROPOSAL FOR SETTLEMENT:

To: Donna H. Carvalho  
Senior Counsel  
McLean 1106  
600 North Dairy Ashford  
P.O. Box 4783  
Houston, TX 77079

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601

  
\_\_\_\_\_  
Sally A. Carter  
Assistant Attorney General

This filing is submitted on recycled paper.

MAR 17 2004

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. )  
)  
CONOCOPHILLIPS Company, )  
a Delaware Corporation, )  
)  
Respondent. )

STATE OF ILLINOIS  
Pollution Control Board

PCB NO. 04-161  
(Enforcement)

APPEARANCE

I, SALLY A. CARTER, Assistant Attorney General of the State of Illinois, hereby file my appearance in the proceeding on behalf of the Plaintiff, PEOPLE OF THE STATE OF ILLINOIS.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL

MATTHEW J. DUNN, Chief  
Environmental Enforcement Division

BY: Sally A. Carter  
SALLY A. CARTER  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: 3/15/04

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
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PEOPLE OF THE STATE OF ILLINOIS, )  
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 a Delaware Corporation, )  
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 Respondent. )

PCB NO. 04-161  
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MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to subsection 32(c)(2) of the Illinois Environmental Protection Act ("the Act"), 415 ILCS 5/31(c)(2) (2002), moves that the Illinois Pollution Control Board ("the Board") grant the PEOPLE OF THE STATE OF ILLINOIS and CONOCOPHILLIPS Company relief from the hearing requirement in the above-captioned matter. In support of this motion, Complainant states as follows:

1. Simultaneously with the filing of this motion, the Complainant is filing a Complaint with the Board, alleging that the Respondent caused the release of hydrocarbon vapor and sulfur dioxide into the atmosphere.
2. The People of the State of Illinois and the Respondent, ConocoPhillips, have reached agreement on all outstanding issues in this matter.
3. This agreement is memorialized and presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion. The terms of this agreement were finalized prior to December 31, 2003.
4. The parties, the People of the State of Illinois and ConocoPhillips, agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and request relief from such a hearing as provided pursuant to subsection 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2002).

WHEREFORE, Complainant, People of the State of Illinois, hereby respectfully requests that the Board grant this Motion for Relief from the Hearing Requirement between ConocoPhillips Company and the People of the State of Illinois, as set forth in subsection 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2002).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN  
ATTORNEY GENERAL

MATTHEW J. DUNN, Chief  
Environmental Enforcement Division

BY: Sally A Carter  
SALLY A. CARTER  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
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Dated: 3/15/04

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CONOCOPHILLIPS Company, )  
a Delaware Corporation, )  
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Respondent. )

PCB NO. 04-161  
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**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondent, CONOCOPHILLIPS, as follows:

**COUNT I**

**AIR POLLUTION**

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2002).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2002), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. The Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2002), after providing the Respondent with notice and opportunity for a meeting with the Illinois EPA.

4. At all times relevant to this Complaint, ToscoPetro Corporation, a subsidiary of Tosco Corporation ("Tosco") owned and operated the Wood River Refinery located at 900 South Central Avenue, Roxana, Madison County, Illinois 62084. Tosco is a Nevada corporation authorized to do business in Illinois.

5. On September 17, 2001, Phillips Petroleum Company acquired the Tosco Corporation and its assets, including the Wood River Refinery. On September 1, 2002, Phillips Petroleum Company merged with Conoco Inc. to form ConocoPhillips Company ("ConocoPhillips" or "Respondent"). ConocoPhillips is a Delaware corporation authorized to do business in Illinois. Its registered agent is C.T. Corporation, 208 South LaSalle Street, Chicago, Illinois 60604-1136.

6. The refinery processes approximately 295,000 barrels of crude oil per day into gasoline, aviation fuels, diesel oils, lubricating oils, heavy fuel oils, asphalt, and propane. Emission units at the facility include distilling unit #2. Tosco was issued operating permit No. 72110616 for distilling unit #2 on July 29, 1993.

7. Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), provides:

No person shall:

- a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act;

\* \* \*

8. Section 3.115 of the Act, 415 ILCS 5/3.115 (2002), defines "air pollution" as follows:

"AIR POLLUTION" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as

to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

9. Section 3.165 of the Act, 415 ILCS 5/3.165 (2002), defines "contaminant" as follows:

"CONTAMINANT" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

10. Section 201.141 of the Board's Air Pollution regulations, 35 Ill. Adm. Code 201.141, provides:

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

11. On February 3, 2001, Tosco experienced two separate releases due to the over pressurization in the deisohexanizer column of distilling unit #2. This resulted in the release of 250,000 pounds of gasoline-range hydrocarbon vapor, including 780 pounds of benzene and 2,900 pounds of hexane on two separate occasions.

12. The emissions released on February 3, 2001, resulted in the nearby communities of Wood River and Roxana experiencing strong odors. Numerous residents complained of the strong smell of gas associated with the release. One citizen of Wood River was transported to a local hospital for medical treatment.

13. Tosco submitted its follow-up written report to the Illinois EPA on February 13, 2001. In this report, Tosco indicated that one release occurred from 0332 hours to 0441 hours and the next release from 0509 hours to 0524 hours.

14. Tosco determined that the February 3, 2001, release was caused by the installation of an incorrect valve in the instrument air system and the failure of the regulator that supplies instrument air to the column pressure control valve.



15. On April 28, 2001, a fire occurred in the upper column area of the same unit. Material from a leaking pump ignited, consuming 12,000 gallons of light gas oil and 600 gallons of light naphtha. 1,200 pounds of sulfur dioxide were released during the fire. The fire lasted approximately 16½ hours and two fire departments had to respond and assist in fighting the fire.

16. Tosco determined that the April 28, 2001, fire was due to foreign objects making its way to the pump and ultimately causing the failure of the pump's seal.

17. The February 3, 2001, release of 250,000 pounds of hydrocarbon vapor, including 780 pounds of benzene and 2,900 pounds of hexane to the atmosphere and the April 28, 2001, release of 1,200 pounds of sulfur dioxide to the atmosphere has caused or tended to cause air pollution in the State.

18. By allowing the release of 250,000 pounds of hydrocarbon vapor, including 780 pounds of benzene and 2,900 pounds of hexane, and the release of 1,200 pounds of sulfur dioxide, the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002) and 35 Ill. Adm. Code 201.141.

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), awarding to Complainant its costs and reasonable attorney fees; and

F. Granting such other relief as the Board may deem appropriate.

## COUNT II

### PERMIT VIOLATION

1-17. The Plaintiff realleges and incorporates herein paragraphs 1 through 17 of Count I as paragraphs 1 through 17 of this Count II.

18. Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), provides:

No person shall:

Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, without a permit granted by the [Illinois Environmental Protection] Agency, or in violation of any conditions imposed by such permit;

19. Standard condition 7 of operating permit no. 72110616 provides:

The permittee shall maintain all equipment covered under this permit in such a manner that the performance of such equipment shall not cause a violation of the Environmental Protection Act of regulations promulgated thereunder.

20. By allowing the release of 250,000 pounds of hydrocarbon vapor, including 780 pounds of benzene and 2,900 pounds of hexane, and the release of 1,200 pounds of sulfur dioxide, the Respondent has violated the Act and thus, Standard Condition 7 of operating permit no. 72110616.

21. By violating Standard Condition 7 of operating permit no. 72110616, the Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002).

### PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent:

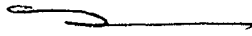
- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), awarding to Complainant its costs and reasonable attorney fees; and
- F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN  
ATTORNEY GENERAL

MATTHEW J. DUNN, Chief  
Environmental Enforcement Division

BY:   
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: 3/15/04

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**STIPULATION AND PROPOSAL FOR SETTLEMENT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency ("Illinois EPA"), and Respondent, CONOCOPHILLIPS COMPANY, have agreed to the making of this Stipulation and Proposal for Settlement and submit it to the Illinois Pollution Control Board ("Board") for approval. The parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties if a hearing were held. The parties further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in any other proceeding regarding the claims asserted in the Complaint except as otherwise provided herein. If the Board approves and enters this Stipulation, Respondent agrees to be bound by the Stipulation and not to contest its validity in any subsequent proceeding to implement or enforce its terms.

I.

**JURISDICTION**

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 *et seq.* (2002).

II.

**AUTHORIZATION**

The undersigned representatives for each party certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

III.

**STATEMENT OF FACTS**

**A. Parties**

1. Simultaneously with the filing of the Stipulation and Proposal for Settlement, a Complaint will be filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 42(d) and (e) of the Act, 415 ILCS 5/42(d) and (e)(2002), against the Respondent, ConocoPhillips Company.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2002).

3. At all times relevant to the Complaint, ToscoPetro Corporation, a subsidiary of Tosco Corporation ("Tosco") owned and operated the Wood River Refinery located at 900 South Central Avenue, Roxana, Madison County, Illinois ("refinery").

4. Tocso is a Nevada corporation authorized to do business in Illinois.

5. On September 17, 2001, Phillips Petroleum Company acquired the Tosco

Corporation and its assets, including the Wood River Refinery. On September 1, 2002, Phillips Petroleum Company merged with Conoco Inc. to form ConocoPhillips Company ("ConocoPhillips" or "Respondent").

6. ConocoPhillips is a Delaware corporation authorized to do business in Illinois. Its registered agent is C.T. Corporation, 208 South LaSalle Street, Chicago, Illinois 60604-1136.

**B. Site Description**

1. The refinery processes approximately 295,000 barrels of crude oil per day into gasoline, aviation fuels, diesel oils, lubricating oils, heavy fuel oils, asphalt, and propane. Emission units at the facility include distilling unit #2. The refinery was issued operating permit No. 72110616 for distilling unit #2 on July 29, 1993.

2. On February 3, 2001, Tosco experienced two separate releases due to the over pressurization in the deisohexanizer column of distilling unit #2. This resulted in the release of 250,000 pounds of gasoline-range hydrocarbon vapor, including 780 pounds of benzene and 2,900 pounds of hexane on two separate occasions.

3. The emissions released on February 3, 2001, resulted in the nearby communities of Wood River and Roxana experiencing strong odors. Numerous residents complained of the strong smell of gas associated with the release. One citizen of Wood River was transported to a local hospital for medical treatment.

4. Tosco submitted its follow-up written report to the Illinois EPA on February 13, 2001. In this report, Tosco indicated that one release occurred from 3:32 a.m. to 4:41 a.m. and the next release from 5:09 a.m. to 5:24 a.m.

5. Tosco determined that the February 3, 2001, release was caused by the installation of an incorrect valve in the instrument air system and the failure of the regulator that

supplies instrument air to the column pressure control valve.

6. On April 28, 2001, a fire occurred in the upper column area of the same unit. Material from a leaking pump ignited, consuming 12,000 gallons of light gas oil and 600 gallons of light naphtha. 1,200 pounds of sulfur dioxide were released during the fire. The fire lasted approximately 16½ hours and two local fire departments were requested by the refinery to respond and assist in fighting the fire.

7. Tosco determined that the April 28, 2001, fire was due to foreign objects making their way to the pump and ultimately causing the failure of the pump's seal.

**C. Allegations of Non-Compliance**

Complainant contends that the Respondent violated the following provisions of the Act and Board Regulations:

Count I:

1. The February 3, 2001, release of 250,000 pounds of hydrocarbon vapor, including 780 pounds of benzene and 2,900 pounds of hexane to the atmosphere and the April 28, 2001, release of 1,200 pounds of sulfur dioxide to the atmosphere has caused or tended to cause air pollution in the State.

2. By allowing the release of 250,000 pounds of hydrocarbon vapor, including 780 pounds of benzene and 2,900 pounds of hexane, and the release of 1,200 pounds of sulfur dioxide, the Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002) and 35 Ill. Adm. Code 201.141.

Count II:

1. By allowing the release of 250,000 pounds of hydrocarbon vapor, including 780 pounds of benzene and 2,900 pounds of hexane, and the release of 1,200 pounds of sulfur dioxide, the Respondent violated the Act and thus, Standard Condition 7 of operating permit no.

72110616.

2. By violating Standard Condition 7 of operating permit no. 72110616, the Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002).

**D. Admission of Violations**

The Respondent represents that it has entered into this Stipulation and Proposal for Settlement for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondent does not affirmatively admit the allegations of violation within the Complaint, and this Stipulation should not be interpreted as including such admission.

**E. Compliance Activities to Date**

Respondent equipped the upper column bottom pumps, P-3918 with suction screens to catch foreign objects. In addition, the Respondent replaced the failed air regulator on the DIH column overhead pressure control valve and installed physical stops on the valve handle of the instrument air/nitrogen 4-way valve.

**IV.**

**APPLICABILITY**

This Stipulation shall apply to and be binding upon the Complainant and the Respondent, and any officer or agent of the Respondent, as well as any successors or assigns of the Respondent. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers or agents to take such action as shall be required to comply with the provisions of this Stipulation.

**V.**

**COMPLIANCE WITH OTHER LAWS AND REGULATIONS**

This Stipulation in no way affects the responsibilities of the Respondents to comply with



any other federal, state or local laws or regulations including, but not limited to, the Act and the Board Regulations, 35 Ill. Adm. Code, Subtitles A through H.

## VI.

### **IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c)(2002), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the parties state the following:

1. Complainant contends that the injury to, or interference with, the protection of the health, general welfare, and physical property of the People would be characterized as a potential for air pollution and the degree of injury would be dependent upon the extent of the pollution and the degree of exposure to that pollution;
2. The parties agree that the refinery is of social and economic benefit;
3. The refinery is located in an industrial area adjacent to residential areas. The refinery existed at this location before the existing residential areas developed;
4. The parties agree that for the purposes of this Stipulation and Proposal for Settlement complying with the Act and regulations is technically practicable and economically

reasonable; and

5. The Respondent promptly implemented measures subsequent to the alleged violations that are the subject of the Complaint in this matter in order to operate in compliance with the Act and the Board's Air Pollution Regulations.

## VII.

### CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2002), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the violator in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the violator because of delay in compliance with requirements;
4. the amount of monetary penalty which will serve to deter further violations by the violator and to otherwise aid in enhancing voluntary compliance with this Act by the violator and other persons similarly subject to the Act; and
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the violator.

In response to these factors, the parties state as follows:

1. The alleged violations, specifically the Respondent's release of gasoline-range hydrocarbon vapor, including benzene and hexane occurred on February 3, 2001, or on a date better known to the Respondent. The Respondent's release of sulfur dioxide occurred on April 28, 2001, or on a date better known to the Respondent;
2. In advance of as well as in response to notices of noncompliance issued by the Illinois EPA, the Respondent worked with the Illinois EPA to resolve its concerns. In an attempt

to ensure compliance with the Act in the future, the Respondent equipped the upper column bottom pumps, P-3918 with suction screens to catch foreign objects. In addition, the Respondent replaced the failed air regulator on the DIH column overhead pressure control valve and installed physical stops on the valve handle of the instrument air/nitrogen 4-way valve;

3. The economic benefit of Respondent's noncompliance is the savings realized by not having in place suction screens to catch foreign objects in the upper column bottom pumps, P-3918, not appropriately maintaining the failed air regulator on the DIH column overhead pressure control valve and not having installed physical stops on the valve handle of the instrument air/nitrogen 4-way valve;

4. Complainant has determined that a penalty of thirty-five thousand three hundred and eighty-six dollars (\$35,386.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. On January 24, 2002, the Board accepted a Stipulation and Proposal for Settlement between the People of the State of Illinois and Tosco for Tosco's disposal of lead contaminated sandblast sand, a hazardous waste, to a non-hazardous waste disposal site, the Roxana Landfill.

## VIII.

### TERMS OF SETTLEMENT

#### **A. Monetary Payment**

1. The Respondent shall pay a penalty in the sum of thirty-five thousand three hundred and eighty-six dollars (\$35,386.00) to the Environmental Protection Trust Fund within thirty (30) days after the date the Board adopts and accepts this Stipulation. The penalty described in this Stipulation shall be paid by certified check payable to the Illinois EPA,

designated to the Illinois Environmental Protection Trust Fund and submitted to:

Illinois Environmental Protection Agency  
Fiscal Services Section  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

The name and number of the case and ConocoPhillips Wood River Refinery Federal Employer Identification Number (FEIN), 73-0400345, shall appear on the check. A copy of the certified check or money order and the transmittal letter shall be sent to:

Sally Carter  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62702

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2002), interest shall accrue on any payment not paid within the time period prescribed above at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003 (2002). Interest on any unpaid payment shall begin to accrue from the date the payment is due and continue to accrue until the date payment is received. When partial payment(s) are made, such partial payment shall be first applied to any interest on unpaid payment then due and owing. All interest on payment owed shall be paid by certified check or money order, payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund and delivered to the address and in the manner described above.

3. For purposes of payment and collection, the Respondent may be reached at the following address:

Gina P. Nicholson  
Manager, Health, Safety & Environmental  
Wood River Refinery  
900 South Central Avenue  
P.O. Box 76  
Roxana, IL 62084

4. In the event of default, the Complainant shall be entitled to all available relief including, but not limited to, reasonable costs of collection and reasonable attorney's fees.

**B. Future Use**

Notwithstanding any other language in this Stipulation to the contrary, this Stipulation may be used against the Respondent in any subsequent enforcement action as evidence of a past adjudication of violation of the Act and the Board Regulations promulgated thereunder, for purposes of Sections 39(i) and/or 42(h) of the Act, 415 ILCS 5/39(i) and/or 5/42(h)(2002).

**C. Correspondence, Reports and Other Documents**

Any and all correspondence, reports and any other documents required under this Stipulation, except for payments pursuant to Section VIII. of this Stipulation, shall be submitted as follows:

As to the Complainant

Sally Carter  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62702

Maureen Wozniak  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

As to the Respondent

Gina P. Nicholson  
Manager, Health, Safety & Environmental  
Wood River Refinery  
900 South Central Avenue  
P.O. Box 76  
Roxana, IL 62084

Donna H. Carvalho  
Senior Counsel

Legal Environmental Group  
Conoco Phillips  
McLean 1106  
600 North Dairy Ashford  
Houston, TX 77079

**D. Right of Entry**

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Attorney General, her agents and representatives, shall have the right of entry into and upon the Respondent's facility which is the subject of this Consent Order, at all reasonable times for the purposes of carrying out inspections. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives may take photographs, samples, and collect information, as they deem necessary.

**E. Cease and Desist**

The Respondent shall cease and desist from future violations of the Act and Board Regulations, including but not limited to those sections of the Act and Board Regulations that were the subject matter of the Complaint as outlined in Section III.C. of this Stipulation.

**F. Release from Liability**

In consideration of the Respondent's payment of the \$35,386.00 penalty and upon the Pollution Control Board's acceptance and approval of the terms of this Stipulation and Proposal for Settlement, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed simultaneously with the filing of this Stipulation and Proposal for Settlement. The Complainant reserves, and this Consent Order is without prejudice to, all rights of the State of Illinois against the Respondent

with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois or the Illinois EPA may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

**G. Enforcement of Stipulation and Proposal for Settlement**

1. Upon the entry of the Board's Order approving and accepting this Stipulation and Proposal for Settlement, that Order is a binding and enforceable order of the Illinois Pollution Control Board and may be enforced as such through any and all available means.
2. Respondent agrees that notice of any subsequent proceeding to enforce and Board Order approving and accepting this Stipulation and Proposal for Settlement may be made by mail and waives any requirement of service of process.
3. The parties agree that, if the Board does not approve and accept this Stipulation and Proposal for Settlement, then neither party is bound by the terms herein.
4. It is the intent of the Complainant and Respondent that the provisions of this Stipulation and Proposal for Settlement and any Board Order accepting and approving such shall be severable, and should any provision be declared by a court of competent jurisdiction to be inconsistent with state or federal law, and therefore unenforceable, the remaining clauses

shall remain in full force and effect.

WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS,

LISA M. MADIGAN  
Attorney General  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/  
Asbestos Litigation Division

BY: \_\_\_\_\_

THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

DATE: 3/15/04

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

BY: \_\_\_\_\_

JOSEPH E. SVOBODA  
Chief Legal Counsel

DATE: 2/19/04

CONOCOPHILLIPS PETROLEUM COMPANY  
a Delaware Corporation

BY: \_\_\_\_\_

HERMAN SEEDORF  
Plant Manager

DATE: 3/9/04