

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

COMPLAINT NO. R2-2009-0076

ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF
CONOCOPHILLIPS
SAN FRANCISCO REFINERY AT RODEO
CONTRA COSTA COUNTY

The Assistant Executive Officer of the California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter "Water Board"), hereby gives notice that:

1. ConocoPhillips (hereinafter "Discharger") has discharged wastewater in violation of provisions of law for which the Water Board may impose civil liability pursuant to California Water Code (CWC) Section 13385(a)(2) and Section 13323. This Complaint proposes to assess \$490,000 in penalties for the violations cited. The deadline for written comments on this Complaint is February 8, 2010.
2. The Discharger operates a petroleum refinery with an average crude-run throughput of approximately 75,000 barrels per day. The refinery receives crude oil and other feedstocks by tankers or pipelines, and delivers refined products to customers via tanker/barge, rail cars, trucks, and pipelines. Crude oil is processed at the site to produce gasoline, diesel fuel, jet fuel, butane, fuel oil, and other petroleum products. Sulfur and petroleum coke are produced as by-products.
3. The Discharger's wastewater treatment plant treats about 2.7 million gallons per day (mgd) of process wastewater, boiler blowdown, cooling tower blowdown, sanitary wastewater, sour water stripper bottoms, groundwater, stormwater runoff, offsite wastewater generated at other ConocoPhillips owned facilities and/or remediation activities conducted by the Discharger, and cargo hold washwater. Treated wastewater is discharged to San Pablo Bay via a deepwater diffuser.
4. This Complaint is issued to address 18 violations that occurred between January 1, 2008, and June 30, 2009. During this period, the Discharger was covered by Order No. R2-2005-0030, NPDES Permit CA 0005053.
5. Order No. R2-2005-0030 includes the following requirements:
 - a. Effluent Limitations B.3

"The survival of bioassay test organisms in 96-hour bioassays of undiluted effluent shall be:

- (1) An eleven (11)-sample median value of not less than 90 percent survival; and
- (2) An eleven (11)-sample 90th percentile value of not less than 70 percent survival

These acute toxicity limits are further defined as follows:

(1) 11-sample median limit:

Any bioassay test showing survival of 90 percent or greater is not a violation of this limit. A bioassay test showing survival of less than 90 percent represents a violation of this effluent limit, if five or more of the past ten or fewer bioassay tests also show less than 90 percent survival.

(2) 90th percentile limit:

Any bioassay test showing survival of 70 percent or greater is not a violation of this limit. A bioassay test showing survival of less than 70 percent represents a violation of this effluent limit, if one or more of the past ten or fewer bioassay tests also show less than 70 percent survival.”

b. Effluent Limitations B.5

“The discharge at E-002 shall not exceed the following limits:

<u>Constituent</u>	WQBEL		Interim Limits		<u>Units</u>
	<u>Daily Max</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	
...Copper	25	13	37		µg/L
Selenium	8.0	4.2	50		µg/L

....
 Interim limits shall remain in effect for cyanide and selenium until April 27, 2010, and for Copper, 4,4-DDE, Dieldrin, and PCBs until May 17, 2010, or until the Board amends the limits based on site-specific objectives or the Waste Load Allocations in the TMDLs....”

c. Effluent Limitations B.9

“The discharge from Outfall 002 shall not have residual chlorine greater than 0.0 mg/L.”

6. As shown in Table 1, the Discharger violated its effluent limitations seven times for acute toxicity, nine times for selenium, once for copper, and once for chlorine residual.
7. Unless waived, the Water Board will hold a hearing on this Complaint at its March 10, 2010, meeting at the Elihu M. Harris State Building, First Floor Auditorium, 1515 Clay Street, Oakland. The Discharger or its representative will have an opportunity to be heard and contest the allegations in this Complaint and the imposition of the civil liability. An agenda for the meeting will be mailed to the Discharger not less than 10 days before the hearing date.
8. At the hearing, the Water Board will consider whether to affirm, reject, or modify the proposed civil liability; to refer the matter to the Attorney General for recovery of judicial liability; or to take other enforcement actions.

ALLEGATIONS

1. This Complaint is based on the following:
 - a. From January 1, 2008, through June 30, 2009, the Discharger reported seven acute toxicity effluent limitation violations, and eleven violations of various other effluent limitations. Table 1 shows the dates and extent of these violations.
 - b. A violation occurs when the effluent has characteristics or contains pollutants at levels beyond the limits prescribed in the permit. Such a discharge may pollute surface waters, threaten public health, adversely affect aquatic life, or impair the recreational use or aesthetic enjoyment of surface waters.

MAXIMUM AND MINIMUM LIABILITY

1. Pursuant to CWC Section 13385(a), a discharger is subject to civil liability for violating any waste discharge requirement. The Water Board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:
 - a. \$10,000 for each day in which the violation occurs, and
 - b. \$10 for each gallon of discharge that is not susceptible to cleanup or is not cleaned up in excess of 1,000 gallons.

Pursuant to § 13385(h)(1), a mandatory minimum penalty of three thousand dollars (\$3,000) must be assessed for each serious violation.

Pursuant to § 13385(i)(1), a mandatory minimum penalty of three thousand dollars (\$3,000) must be assessed for each violation whenever the Discharger does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:

- Violates a waste discharge requirement effluent limitation
- Fails to file a report pursuant to § 13260
- Files an incomplete report pursuant to § 13260
- Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants

The maximum administrative civil liability the Water Board may impose for the violations is \$616,500,000, and the minimum penalty that the Water Board must impose is \$30,000 (see Table 1 for calculations).

If this matter is referred to the Attorney General for judicial enforcement, a higher liability of \$25,000 per day of violation and \$25 per gallon of discharge that is not susceptible to cleanup or is not cleaned up in excess of 1,000 gallons may be imposed.

CONSIDERATION OF FACTORS UNDER § 13385

1. In determining the amount of civil liability to be assessed against the Discharger, the Water Board has taken into consideration the factors described in CWC Section 13385(e). The factors described include:
 - The nature, circumstances, extent, and gravity of the violation or violations,
 - Whether the discharge is susceptible to cleanup or abatement,
 - The degree of toxicity of the discharge,
 - With respect to the discharger, the ability to pay and the effect on ability to continue in business,
 - Any voluntary cleanup efforts undertaken,
 - Any prior history of violations,
 - The degree of culpability,
 - The economic benefit or savings, if any, resulting from the violation, and
 - Other such matters as justice may require.

2. **The nature, circumstances, extent, and gravity of the violation or violations**

During the period from January 1, 2008, to June 30, 2009, there were seven acute toxicity violations, nine selenium violations, one copper violation, and one chlorine residual violation. All of these violations resulted in about 62 million gallons of wastewater discharged to San Pablo Bay that did not comply with permit conditions. The most common cause of these violations was improper operation and maintenance of the wastewater treatment plant.

 - a. Acute Toxicity and Copper - January, March, and May 2008

The most severe acute toxicity violations (January 7, 15, and 28, 2008) and copper violation (January 8, 2008) resulted in part from the Discharger overloading its treatment plant with oily solids from its equalization basins. The Discharger's three equalization basins are the first treatment units at its wastewater treatment plant. In these equalization basins, gravity separation of oil and solids occurs before wastewater is gravity fed (the rate of transfer is controlled by a butterfly valve) to oil and water separators.

On January 3-4, 2008, the Discharger experienced heavy rains at the refinery. Because its equalization basins had accumulated oily solids and the Discharger did not control the transfer rate of wastewater from its equalization basins to its oil and water separators, it flushed accumulated oil and oily solids to the bioplant. This resulted in oil coating the activated carbon surfaces in the Discharger's bioplant, which reduced adsorption of high molecular weight organic acids (naphthenic acids). This, in turn, resulted in discharges to San Pablo Bay of partially-treated wastewater that was toxic to aquatic life. Specifically, on January 7, 2008, the Discharger reported a fish survival rate from acute toxicity testing on rainbow trout (*Oncorhynchus mykiss*) of zero percent. Additionally, on January 6, 2008, the

Discharger's chronic toxicity testing on mysid shrimp (*Americamysis bahia*) showed an unusual high level of toxicity (20 toxicity units). While neither of these discharges are a violation of the Discharger's permit, they are significant because they indicate a potential for impacts to aquatic organisms and require Discharger to accelerate monitoring and investigate the cause. Further, over the last five years, with the exception of this high value, chronic toxicity has ranged from only 1 to 2 toxicity units. The Discharger also experienced elevated concentrations of total suspended solids that likely contributed to a copper violation on January 8, 2008.

Throughout the month of January 2008, the Discharger reported acute toxicity survival rates that were below the 90th percentile minimum survival rate of 70 percent (January 15 & 28, 2008, see Table 1). These acute toxicity violations likely relate to the Discharger overloading its bioplant with oily solids from the equalization basins that occurred earlier in the month.

The cause of the remaining acute toxicity violations, which were less severe (i.e., generally higher survival rates) than the four described above, are suspected to be caused by operational errors. The Discharger believes that routing large amounts of once-through cooling water to its wastewater treatment plant contributed to the March 31, 2008, acute toxicity violation. This occurred because the Discharger learned that one of its three heat exchangers that serve process units was responsible for fugitive volatile organic carbon emissions. To determine which heat exchanger it needed to fix, the Discharger took these three heat exchangers offline and began using once-through cooling water on March 20, 2008, which it discharged to its sewer system. This resulted in an increase of about 10°F in wastewater at its bioplant. This rapid temperature increase is believed to have contributed to the March 2008 acute toxicity excursion.

The Discharger again violated its acute toxicity limit in May 2008. While it could not identify a specific cause, the Discharger believes that operating a nitrogen deficient bioplant caused the May 2008 acute toxicity excursion and may also have contributed to the March 2008 violation. Operating the bioplant under nitrogen deficient conditions is problematic because for a wastewater treatment plant to function efficiently, it is essential to balance nutrient ratios to optimize wastewater treatment. The three most important nutrients for biological treatment are carbon, nitrogen, and phosphorus. In its investigation of acute toxicity violations, the Discharger learned that its bioplant did not contain enough nitrogen to optimize biological treatment of wastewater. As indicated above, this treatment inefficiency is believed to have contributed to acute toxicity violations in March and May 2008.

Gravity of Acute Toxicity Violations: The gravity of violating acute toxicity limits is significant since these limits are used to assess if the discharge contains toxic substances in concentrations that are lethal to or produce other detrimental responses in aquatic organisms. In this case, the Discharger conducts weekly acute toxicity testing on rainbow trout to ensure that there is no toxicity from mixtures of pollutants or pollutants for which effluent limits have not been established. As rainbow trout is used as an indicator organism for thousands of other aquatic organisms that inhabit San Francisco Bay, many of which are even more sensitive, a violation of this limitation points to significant impacts. That being said, the

effects were somewhat reduced because the Discharger discharges via a deepwater diffuser to San Pablo Bay. As such, the toxicity of these discharges were diluted by a factor of at least 10:1.

Gravity of Copper Violation: The copper violation slightly exceeded the maximum daily effluent limitation ($38 > 37\mu\text{g/L}$) so this in itself is not considered a serious violation.

b. Selenium, May and July 2008

The violations for selenium were caused by more unforeseeable conditions. To remove selenium, the Discharger installed a selenium removal plant that uses copper sulfate to co-precipitate selenium found in the refinery's stripped sour water stream prior to routing this stream to the wastewater treatment plant. Since the start-up of its selenium removal plant in July 1998, the Discharger had never violated its selenium effluent limitation until May 2008.

In May 2008, the Discharger experienced a change in the composition of waste (i.e., much higher levels of selenite) routed to its selenium removal plant from using peroxide to clean one of its heat exchangers. This particular heat exchanger was installed in 2007 and had a much different design than the other heat exchangers used by the Discharger. The other three heat exchangers that serve the Discharger's sour water strippers have a shell and tube design that can be steam cleaned. When the Discharger steam cleans heat exchangers, it discharges selenium predominantly in the form of selenocyanate, which the selenium treatment plant is designed to treat (i.e., copper sulfate will co-precipitate selenocyanate out of solution).

The more problematic heat exchanger uses titanium plates because it had to be installed in an area with limited space. The design of the titanium plate heat exchanger necessitated that the Discharger use peroxide for cleaning. When the Discharger used peroxide to clean this heat exchanger, this changed the form of selenium so that a larger portion was in the form of selenite, which the selenium removal plant is not designed to treat (i.e., copper sulfate will not co-precipitate selenite out of solution). This resulted in elevated selenium levels in the Discharger's effluent in May and July 2008.

Gravity of Selenium Violations: The main concern with selenium is the mass discharged because it is a bioaccumulative pollutant. So while the Discharger's selenium violations would be expected to contribute to impairment of San Francisco Bay, these episodic concentration violations are not considered severe because the Discharger was able to comply with its mass loading limit.

c. Chlorine Residual, April 2009

The Discharger's chlorine residual violation was caused by sand from the Discharger's media filters clogging its system at the point where sodium bisulfite is injected into treated wastewater to neutralize residual chlorine.

Gravity of Chlorine Residual Violation: The gravity of the chlorine residual violation is minor ($0.45 \text{ mg/L} > 0.0 \text{ mg/L}$) because though chlorine is acutely toxic to aquatic life, this

discharge was diluted by a factor of at least 10:1 upon discharge and into Bay waters with naturally occurring organic matter that quickly neutralizes chlorine. So any impact was short-term and limited in extent.

3. **Whether the discharge is susceptible to cleanup or abatement**

The discharges were not susceptible to cleanup because it quickly dispersed and mixed with bay water. However, corrective actions can be taken to minimize or abate the discharge. In January 2008, the Discharger reduced the impact of oily solids carryover that contributed to acute toxicity by (a) increasing skimming and physical removal of surface oil and solids, (b) adding fresh nitrifying bacteria to improve biological treatment, and (c) replacing carbon that was lost due to increased wasting with fresh carbon. To address the March 2008 acute toxicity violation, the Discharger added fresh carbon and reduced the rate of flow through the treatment plant to improve treatment efficiency. In May 2008, the Discharger addressed selenium violations by increasing the copper dosage at its selenium removal plant and addressed acute toxicity violations by injecting ammonium thiosulfate to the bioplant to optimize nutrient ratios, and therefore, improve treatment efficiency. In July 2008, the Discharger determined that selenium violations were due to excess selenite from cleaning one of its heat exchangers (see discussion above). To minimize the chances of additional selenium violations, the Discharger took this heat exchanger permanently offline in October 2008. Finally, the Discharger minimized impacts to the Bay from its chlorine exceedance by ceasing discharge. The Discharger removed a plug that was limiting its dosage of sodium bisulfite (used to remove chlorine) and resumed discharge once it had ensured that adequate dechlorination would take place.

4. **The degree of toxicity of the discharge**

Acute toxicity testing is a direct measurement of the toxicity of the discharge on juvenile fish. In this case, the Discharger continuously subjects rainbow trout, which is an indicator for thousands of other species that reside in San Francisco Bay, to its effluent for 96 hours. Therefore, the degree of toxicity of the discharge from these violations is high.

Copper is toxic to aquatic organisms. The acute water quality objective (translated from the dissolved form to the total recoverable form) is 14 µg/L, which is the level above which there would be toxicity to aquatic organisms. The Discharger reported a copper value of 38 µg/L (analyzed from a 24-hour composite sample). This is well above the acute water quality objective, which is based on an exposure time of one hour. Therefore, it would pose a threat to aquatic life.

The concern with selenium is that it is toxic to aquatic organisms and waterfowl. Selenium is also a bioaccumulative pollutant (i.e., the concentration of selenium increases as organisms consume food because it is ingested at a faster rate than it is lost). The toxic effect from selenium bioaccumulating in waterfowl is a decrease in egg viability and an increase in instances of embryo deformity. The most stringent water quality objective for selenium is 5.0 µg/L above which there would be toxicity to aquatic organisms and waterfowl. The Discharger reported selenium values ranging from 60 to 75 µg/L. These levels are well above the water quality objective, and therefore, would pose a threat to aquatic organisms and waterfowl.

Chlorine is extremely toxic to aquatic life. The most stringent water quality objective for chlorine is 0.013 mg/L, which is the level above which there would be toxicity to aquatic organisms. The Discharger reported a chlorine residual value of 0.45 mg/L. This is well above the water quality objective, and therefore, would pose a threat to aquatic life.

5. **The ability to pay and the effect on ability to continue in business**

The Discharger has sufficient assets to pay the proposed penalty. The Discharger is an international, integrated energy company. It is the third-largest integrated energy company in the United States and the second-largest petroleum refiner. It had 33,800 employees worldwide and assets of \$143 billion as of December 31, 2008.

6. **Any voluntary cleanup efforts undertaken**

The Discharger was not able to recover discharged partially-treated wastewater that did not meet effluent limits.

7. **Any prior history of violations**

The Discharger has a history of violating its effluent limits. The Water Board issued Complaint No. 2005-0052 for 41 effluent limit violations that occurred between July 1, 2003, and August 31, 2005. These violations included: 28 copper daily maximum limit violations, three acute toxicity violations (two 90th percentile, and one median), seven TSS violations (six daily maximum, and one monthly average), one chlorine residual instantaneous maximum limit violation, and two total organic carbon daily maximum limit violations. This complaint assessed \$111,000 in mandatory minimum penalties.

8. **The degree of culpability**

The Discharger's degree of culpability for the acute toxicity and copper violations is medium. This is because it is responsible for the proper operation and maintenance of its treatment plant and for ensuring that employees implement standard operating procedures in maintaining and operating equipment. The most common cause of the Discharger's violations was improper operation and maintenance. The acute toxicity and copper violations could have been prevented if the Discharger had established (a) appropriate protocols for managing flows between the equalization basin and oil and water separators to ensure that they don't hydraulically washout oily solids from the oil and water separators to the bioplant as occurred during the January 3-4, 2008, rain storm, and (b) a more robust program for assessing the performance of its bioplant (i.e., the Discharger should be regularly monitoring and assessing nutrient ratios to ensure that it is optimizing treatment).

The degree of culpability for the selenium violations is low. The Discharger had consistently complied with its effluent limitations for selenium since July 1998. And the cause of selenium exceedances (high levels of selenite) was unique to the cleaning operations associated with a newly installed titanium plated heat exchanger that the Discharger has since removed.

Finally, the degree of culpability for the chlorine residual exceedance is relatively low. This is because sand filters would not be expected to create such an operational difficulty and had not done so until this chlorine exceedance occurred.

9. The economic benefit of savings

The economic benefit or savings from these violations is minimal and estimated at \$19,100. This is because most of the violations could have been prevented through better contingency planning or more proactive operation and maintenance using current available resources. The only savings resulted from the avoided cost of ammonium thiosulfate for the bioplant over a three month period (March to May 2008) estimated to be about \$19,100.

10. Other such matters as justice may require

The Discharger reported the above violations promptly according to its permit requirements. Additionally, the Discharger has been responsive in implementing corrective measures to address these violations, and has been cooperative in providing information during the course of the Water Board's investigation of the incidents. Water Board and State Water Board staff time to prepare the Complaint and supporting evidence is 123 hours. Based on an average cost to the State of \$150 per hour, the total staff cost is \$18,450. If this matter proceeds to hearing, the Water Board Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this administrative civil liability complaint through hearing.

PROPOSED CIVIL LIABILITY

1. The Assistant Executive Officer therefore proposes a civil liability in the amount of \$490,000, which includes the required mandatory minimum penalty and staff costs. A mandatory minimum penalty of \$30,000 is adequate for selenium, copper, and chlorine residual violations because of the low gravity and/or culpability of those violations. A discretionary penalty of \$441,550 is proposed for the acute toxicity violations because of the significant gravity and medium culpability documented above.
2. The Discharger can waive its right to a hearing to contest the allegations contained in this Complaint by (a) paying the civil liability in full or (b) undertaking an approved supplemental environmental project and paying the remainder of the civil liability, all in accordance with the procedures and limitations set forth in the attached waiver.
2. This issuance of this Complaint is an enforcement action and is, therefore, exempt from the California Environmental Quality Act, pursuant to Title 14, California Code of Regulations, Section 15321.

Date

Thomas E. Mumley
Assistant Executive Officer

Attachments: Waiver of Hearing
Table 1
References

**WAIVER FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent ConocoPhillips (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R2-2009-0076 (hereinafter the "Complaint"). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served [with the complaint]. The person who has been issued a complaint may waive the right to a hearing."

OPTION 1: PAY THE CIVIL LIABILITY

(Check here if the Discharger waives the hearing requirement and will pay the civil liability in full.)

- a. I hereby waive any right the Discharger may have to a hearing before the Regional Water Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of \$490,000 by check that references "ACL Complaint No. R2-2009-0076." made payable to the State Water Pollution Cleanup and Abatement Account. Payment must be received by the Regional Water Board by **January 19, 2010** or the Regional Water Board may adopt an Administrative Civil Liability Order requiring payment.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Water Board receive significant new information or comments from any source (excluding the Water Board's Prosecution Team) during this comment period, the Regional Water Board's Assistant Executive Officer may withdraw the Complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Executive Officer of the Regional Water Board, and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

OPTION 2: REQUEST A TIME EXTENSION

(Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)

I hereby waive any right the Discharger may have to a hearing before the Regional Water Board within 90 days after service of the Complaint. By checking this box, the Discharger requests that the Regional Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Regional Water Board Advisory Team to approve the extension.

OPTION 3: ENGAGE IN SETTLEMENT DISCUSSIONS

(Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.)

I hereby waive any right the Discharger may have to a hearing before the Regional Water Board within 90 days after service of the Complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will contact the Regional Water Board Prosecution Team within 5 working days of submittal of this waiver to request that the Prosecution Team engage in settlement discussions to attempt to resolve the outstanding violation(s). As part of a settlement discussion, the Discharger may propose a supplemental environmental project to the extent such a project is authorized by law. By checking this box, the Discharger requests that the Regional Water Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Regional Water Board Advisory Team to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1c and d."

 OPTION 4: SUBMIT A SUPPLEMENTAL ENVIRONMENTAL PROJECT

(Check here if the Discharger waives the hearing requirement and will submit a proposed supplemental environmental project. If the proposal is rejected, the Discharger will pay the civil liability in full.)

- a. I hereby waive any right the Discharger may have to a hearing before the Regional Water Board.
- b. I certify that the Prosecution Team has authorized the Discharger to submit a proposed Supplemental Environmental Project in lieu of payment of a portion of the proposed liability and no more than \$235,775 of the proposed civil liability. I agree to submit the proposal and the remainder of the proposed civil liability within 60 days of the date of the Complaint. I understand that the proposal must conform to the requirements specified in the State Water Resources Control Board's Water Quality Enforcement Policy. If I receive written notice from the Prosecution Team that the Discharger has failed to timely submit a proposal or that the Prosecution Team has rejected the proposal, I certify that the Discharger will remit payment of the outstanding proposed civil liability by check that references "ACL Complaint No. R2-2009-0076." made payable to the San Francisco Bay Regional Water Quality Control Board within ten days of the notice. If payment is not timely received, the Regional Water Board may adopt an Administrative Civil Liability Order requiring payment.
- c. I understand the acceptance or rejection of the proposed supplemental environmental project and payment of the remainder of the proposed civil liability constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Water Board receive significant new information or comments from any source (excluding the Water Board's Prosecution Team) during this comment period, the Regional Water Board's Assistant Executive Officer may withdraw the Complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Regional Water Board or its Executive Officer, and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that

approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.

- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

(Print Name and Title)

(Signature)

(Date)

ATTACHMENT Table 1: Acute Toxicity Violations from January 1, 2008 through May 31, 2008

Date	Violation	Limit	Reported Value	Gallons Discharged	Primary Cause	Minimum Penalty	Maximum Penalty¹
01/07/2008	Acute Toxicity, 11-sample 90 th percentile, minimum survival	70	60	4,740,000	Overflow of oily solids from equalization basins	0	\$47,400,000
01/08/2008	Copper, daily maximum, µg/L	37	38	5,640,000	Overflow of oily solids from equalization basins	0	\$56,400,000
01/15/2008	Acute Toxicity, 11-sample 90 th percentile, minimum survival	70	35	2,630,000	Overflow of oily solids from equalization basins	0	\$26,300,000
01/15/2008	Acute Toxicity, 11-sample moving median, minimum survival	90	85	2,630,000	Overflow of oily solids from equalization basins	0	\$26,300,000
01/28/2008	Acute Toxicity, 11-sample 90 th percentile, minimum survival	70	25	7,650,000	Overflow of oily solids from equalization basins	0	\$76,500,000
03/31/2008	Acute Toxicity, 11-sample 90 th percentile, minimum survival	70	65	4,430,000	Re-routing of once-through cooling water and operating a nitrogen deficient bioplant	0	\$44,300,000
05/13/2008	Selenium, daily maximum, µg/L	50	69	2,680,000	Chemistry change in stripped sour water as a result of cleaning a heat exchanger	\$3,000	\$26,800,000
05/14/2008	Selenium, daily maximum, µg/L	50	75	2,670,000	Chemistry change in stripped sour water as a result of cleaning a heat exchanger	\$3,000	\$26,700,000
05/15/2008	Selenium, daily maximum, µg/L	50	69	2,660,000	Chemistry change in stripped sour water as a result of cleaning a heat exchanger	\$3,000	\$26,600,000
05/16/2008	Selenium, daily maximum, µg/L	50	71	2,720,000	Chemistry change in stripped sour water as a result of cleaning a heat exchanger	\$3,000	\$27,200,000
05/17/2008	Selenium, daily maximum, µg/L	50	75	2,810,000	Chemistry change in stripped sour water as a result of cleaning a heat exchanger	\$3,000	\$28,100,000
05/18/2008	Selenium, daily maximum, µg/L	50	60	3,320,000	Chemistry change in stripped	\$3,000	\$33,200,000

Date	Violation	Limit	Reported Value	Gallons Discharged	Primary Cause	Minimum Penalty	Maximum Penalty ¹
					sour water as a result of cleaning a heat exchanger		
05/19/2008	Acute Toxicity, 11-sample 90 th percentile, minimum survival	70	65	2,810,000	Operating a nitrogen deficient bioplant	0	\$28,100,000
05/22/2008	Acute Toxicity, 11-sample 90 th percentile, minimum survival	70	30	2,560,000	Operating a nitrogen deficient bioplant	0	\$25,600,000
07/01/2008	Selenium, daily maximum, µg/L	50	65	2,810,000	Chemistry change in stripped sour water	\$3,000	\$28,100,000
07/02/2008	Selenium, daily maximum, µg/L	50	62	2,880,000	Chemistry change in stripped sour water	\$3,000	\$28,800,000
07/03/2008	Selenium, daily maximum, µg/L	50	62	2,860,000	Chemistry change in stripped sour water	\$3,000	\$28,600,000
04/16/2009	Chlorine residual, instantaneous maximum, mg/L	0.0	0.45	3,150,000	A plug at the point where sodium bisulfite is added to neutralize chlorine	\$3,000	\$31,500,000
	Total Gallons			61,650,000	Total Amount	\$30,000	\$616,500,000

Note (1) The Maximum Penalty for each violation is \$10,000 per day per violation plus an additional liability of \$10 per gallon over 1,000 gallons.

References for ConocoPhillips ACL Order No. R2-2009-0076

From	Document	Date	ECM, CIWQS Place ID 255284, Document Handle Number
ConocoPhillips	Self-Monitoring Report, January 2008	February 29, 2008	889650
ConocoPhillips	Self-Monitoring Report, March 2008	April 30, 2008	889652
ConocoPhillips	Self-Monitoring Report, May 2008	June 27, 2008	889654
ConocoPhillips	Self-Monitoring Report, July 2008	August 29, 2008	889656
ConocoPhillips	Self-Monitoring Report, April 2009	May 29, 2009	889658
ConocoPhillips	Information Request, January 2008 Acute Toxicity	August 5, 2009	889644