



SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into as of this 5th day of ~~February~~ ^{March}, 2018 (the “Effective Date”), by and between Delaware City Refining Company LLC (“DCRC”), the State of Delaware and the Delaware Department of Natural Resources and Environmental Control (“DNREC” or the “Department”) (collectively the “Parties”) to resolve certain matters associated with DCRC’s operations at its petroleum refinery located in Delaware City, Delaware (the “Refinery”).

WHEREAS, DCRC owns and operates the Refinery;

WHEREAS, on May 31, 2013, the Secretary of DNREC issued Order No. 2013-A-0020 (the “2013 Order”), attached hereto as Exhibit A, governing the Department’s issuance to DCRC of Air Pollution Control Permit 95/0471 (the “Air Permit”);

WHEREAS, the Air Permit authorized DCRC to undertake minor modifications to existing air pollution control equipment for the control of organic vapors potentially displaced during the loading of crude oil onto marine vessels at the Refinery’s docks;

WHEREAS, the 2013 Order addresses the Secretary’s determination that the activities governed by the Air Permit are not subject to regulation under the Delaware Coastal Zone Act, 7 *Del.C. §7001 et seq.*;

WHEREAS, DNREC interprets the 2013 Order to authorize DCRC to ship crude oil loaded onto marine vessels at the Refinery’s docks only to the petroleum refinery located in Paulsboro, New Jersey, and owned by DCRC’s parent corporation (the “Paulsboro Refinery”);

WHEREAS, on March 9, 2017, DNREC issued to DCRC a Notice of Administrative Penalty Assessment and Secretary’s Order No. 2017-A-0009 (the “2017 Notice”), attached hereto as Exhibit B, alleging that DCRC violated the 2013 Order by shipping crude oil from the

Refinery to locations other than the Paulsboro Refinery, and further alleging that written statements from DCRC to DNREC concerning shipments of crude oil from the Refinery to locations other than the Paulsboro Refinery misrepresented the number of such shipments;

WHEREAS, DCRC filed with the Delaware Environmental Appeals Board (the "EAB") a Statement of Appeal, attached hereto as Exhibit C, contesting the 2017 Notice and disputing DNREC's interpretation of the 2013 Order as restricting the destination of shipments of crude oil loaded onto marine vessels at the Refinery's docks and expressly denying that DCRC undertook to misrepresent to DNREC information concerning the number of such shipments, and such appeal has been docketed by the EAB as EAB Appeal No. 2017-05 (the "EAB Appeal");

WHEREAS, the Parties have agreed that settlement of the matters addressed by this Agreement is in the best interest of the Parties, and that entry of this Agreement is the most appropriate means of resolving the matters addressed herein.

NOW THEREFORE, it is hereby stipulated and agreed as follows:

I. APPLICATION AND SCOPE

1. The provisions of this Agreement shall apply to and be binding upon the Parties and their officers, employees, agents, successors and assigns.

II. ADMINISTRATIVE PENALTY

2. In full and final resolution of all claims available to DNREC or the State of Delaware concerning the matters addressed or claims asserted in the 2017 Notice, DCRC agrees to pay one hundred thousand dollars (\$100,000.00) in penalty assessment and for DNREC cost recovery. DCRC shall submit to DNREC payment of the penalty in full within sixty (60) days of the Effective Date of this Agreement.

3. The payment by DCRC to DNREC pursuant to Paragraph 2 of this Agreement shall be made to DNREC by corporate check, payable to the State of Delaware, and mailed to the following address:

Ralph K. Durstein III
Deputy Attorney General
Delaware Office of the Attorney General
Environmental Unit - Third Floor
102 W. Water Street
Dover, Delaware 19904

III. REQUEST FOR COASTAL ZONE STATUS DECISION

4. Following the Effective Date of this Agreement, prior to making a future shipment of crude oil from the Refinery to a location other than the Paulsboro Refinery, DCRC must submit to DNREC a request for a Coastal Zone Act status decision, consistent with Rule 7.0 of the *Regulations Governing Delaware's Coastal Zone*, governing any future shipment of crude oil from the Refinery to locations other than the Paulsboro Refinery. DNREC would review and resolve any such status decision request in accordance with Rule 7.0.

IV. EFFECT OF SETTLEMENT

5. DCRC's satisfaction of the payment obligations under Paragraphs 2 and 3, and submittal to DNREC of a request for a Coastal Zone Act status decision in accordance with Paragraph 4 of this Agreement, shall resolve all civil, administrative and/or criminal liability of DCRC to DNREC or the State of Delaware for the matters addressed herein, including without limitation the alleged factual findings or violations identified, claims asserted and relief sought in or through the 2017 Notice (collectively, the "Claims").

V. GENERAL PROVISIONS

6. DCRC agrees to the resolution of the Claims without any admission as to any matter of fact or law other than as specifically set forth herein. DCRC expressly denies any allegation by DNREC that DCRC undertook to misrepresent to DNREC information concerning the number of shipments of crude oil from the Refinery to locations other than the Paulsboro Refinery. DCRC states that incorrect factual information regarding crude oil shipments was transmitted by DCRC to DNREC, and that DCRC subsequently unilaterally submitted corrected information upon identifying the factual mistake.

7. This Agreement shall be governed by, and interpreted under, the laws of the State of Delaware.

8. Nothing in this Agreement shall relieve DCRC of its obligation to comply with all applicable federal, state, and local laws and regulations. Other than as expressly provided for in Section IV, nothing contained in this Agreement shall be construed to prevent, alter, or limit DNREC's ability to seek or obtain other remedies or sanctions available under federal, state, or local statutes or regulations, in response to any violation by DCRC of applicable statutes and regulations, nor to limit any claims, rights or defenses otherwise available to DCRC, including with respect to any such alleged violations.

9. In consideration of the Parties' voluntary resolution through this Agreement of the issues governed by the 2017 Notice and the EAB Appeal, DCRC shall file with the EAB a notice withdrawing the EAB Appeal within five (5) days of the later of (a) making the penalty payment governed by Paragraphs 2 and 3 of this Agreement and (b) submitting to DNREC the request for Coastal Zone Act status decision in accordance with Paragraph 4 of this Agreement.

10. Third Parties.

a. This Agreement does not limit or affect the rights of DCRC, the State of Delaware or DNREC against any person or entity not party to this Agreement.

b. This Agreement shall not be considered to create rights in, or grant any cause of action to, any third party not a party to this Agreement, nor does it limit the rights of any person or entity not party to this Agreement against DCRC, except as otherwise provided by law.

11. This Agreement shall be binding upon the Parties to this action, and their successors and assigns. The undersigned representative of each Party to this Agreement is authorized by the Party whom he or she represents to enter into the terms of this Agreement and bind that Party to them.


12. This Agreement shall be effective when duly and fully executed on behalf of the Parties to this Agreement.

13. This Agreement may be modified only by the written consent of the Parties.

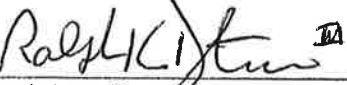
14. This Agreement is entered into notwithstanding any other agreement between the Parties and constitutes the entire agreement and settlement between the Parties. This Agreement supersedes any prior provisions or agreements, to the extent there is an irreconcilable conflict.

15. To the extent of any irreconcilable conflict between this Agreement and the requirements of federal and state law, the latter controls.

FOR THE STATE OF DELAWARE


By: 
Shawn M. Garvin, Secretary
Department of Natural Resources
and Environmental Control

Date: 3/5/18

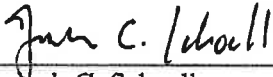
By: 
Ralph K. Durstein III
Deputy Attorney General
State of Delaware
Office of the Attorney General

Date: 3/5/18

FOR DELAWARE CITY REFINING COMPANY LLC

By: 
Jeffery Coleman
Refinery Manager
Delaware City Refining Company LLC

Date: 2-27-2018

By: 
Joseph C. Schoell
Drinker, Biddle and Reath LLP
Attorney for Delaware City Refining Company LLC

Date: 2-27-2018