

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,)	
the LOUISIANA DEPARTMENT OF)	
ENVIRONMENTAL QUALITY)	
and STATE OF WISCONSIN,)	
)	CIVIL ACTION NO. 3:10-cv-00563-bbc
Plaintiffs,)	
)	
v.)	
)	
MURPHY OIL USA, Inc.,)	
)	
Defendant)	
_____)	

SECOND AMENDMENT TO CONSENT DECREE

WHEREAS, the United States of America (hereinafter “the United States”); the Louisiana Department of Environmental Quality; the State of Wisconsin; and Murphy Oil USA, Inc. (hereinafter, “Murphy”) are parties to a Consent Decree entered by this Court on February 16, 2011 (hereinafter “the Consent Decree”);

WHEREAS, Calumet Superior, LLC (hereinafter “Calumet”) purchased from Murphy the refinery located in Superior, Wisconsin (hereinafter the “Superior Refinery”), and on September 30, 2011, the closing date for the sale of the Superior Refinery, Calumet assumed all of the rights, benefits, and obligations of the Consent Decree as they relate to the Superior Refinery, and which was memorialized in the First Amendment to this Consent Decree entered by this Court on May 2, 2012;

WHEREAS, on November 4, 2016, Calumet submitted a permit application to modify the emission limit applicable to the Superior Refinery’s Sulfur Recovery Plant (“SRP”), which permit was issued by the Wisconsin Department of Natural Resources on February 16, 2018 (“2018 Permit”);

WHEREAS, on or about November 8, 2017, Calumet changed its name to Superior Refining Company LLC (“Superior Refining”);

WHEREAS, the modified emission limit for the SRP increases the allowable SRP's throughput and emissions limit and is estimated to result in an increase in emissions of sulfur dioxide by approximately 1½ to slightly over 3 tons per year;

WHEREAS, the United States, the State of Wisconsin, and Superior Refining have agreed to (a) modify the Consent Decree's SRP emission limit to match the limit in the 2018 Permit, (b) include in the Consent Decree a requirement for the acquisition of a low-emission school bus to replace an older, higher-emitting diesel school bus for use by a local school district, as mitigation for the increased SRP emission limit;

WHEREAS, Paragraph 284 provides that the Consent Decree may only be modified by a written agreement signed by the applicable parties and filed with the Court, but that non-material modifications need not be approved by the Court. The changes to the Consent Decree made by this Second Amendment are considered non-material because there is no net emissions impact from the modification; and

WHEREAS, while no action is required by the Court, the parties file this modification to the Consent Decree in order to maintain a complete record of the Consent Decree and all modifications thereto.

NOW THEREFORE, the United States, the State of Wisconsin, and Superior Refining hereby agree that the Consent Decree is modified as follows:

1. Paragraph 44.b shall be modified to provide as follows:

b. PSD Compliance. Beginning not later than February 16, 2018, the Superior SRP shall limit SO₂ emissions from the SRP using a tail gas treatment unit and tail gas combustor, except during periods of Startup, Shutdown and Malfunction, as follows:

i. When the sulfur input rate to the SRP meets or exceeds 0.250 long tons of sulfur averaged in any hour, SO₂ emissions shall not exceed the limit in subparagraph (1) or (2), whichever is lower:

- (1) 218 ppmvd SO₂ at 0% oxygen on a 24-hour rolling average; or
- (2) The value calculated using the following equation:

$$E_{\text{BACT}} = [k_1 \times (-0.038 \times (\%O_2)^2 + 11.53 \times \%O_2 + 25.6)] - 100$$

Where:

E_{BACT} = Emission limit in ppmvd and corrected to 0% O_2 averaged over any 24-hour period

K_1 = 1.0

$\% \text{O}_2$ = O_2 concentration of the air/oxygen mixture supplied to the Claus burner, percent by volume (dry basis). If only ambient air is used for the Claus burner use 20.9% for $\% \text{O}_2$

- ii. Sulfur input to the SRP shall not exceed 40.0 long tons per day of Fresh Feed.

2. Mitigation Project. As mitigation for the increased SRP emission limit, Superior Refining shall:

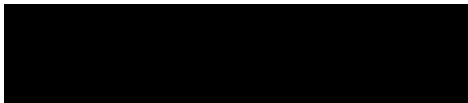
- a. Provide for the acquisition by a local school district in the Superior, Wisconsin area, one new low-emission compressed natural gas (“CNG”) or propane powered school bus, to replace one of the local school district’s existing higher-emission diesel school buses. The new school bus shall substantially improve emissions of nitrogen oxide (“NOx”) and particulate emissions (“PM”) from a diesel school bus operating in the same airshed as the Superior Refinery. The health impacts of NOx and PM emissions are similar to those of SO_2 , particularly respiratory impacts, as well as other similar health and environmental impacts (including acid rain, visibility, and other impacts). The health and environmental benefits of NOx and PM reductions from the acquisition of a CNG or propane powered school bus will thereby mitigate the effect of the increase in SO_2 emissions from the SRP.

- b. By no later than six months of the Date of Entry of this Second Amendment, Superior Refining shall notify EPA and the State of Wisconsin of the recipient school district for the CNG or propane powered buses, and the make, model, and other identifying information of the buses to be acquired. This Mitigation Project shall be completed within one year after the Date of Entry. In the next semi-annual report due under Paragraph 157 of the Consent Decree following completion of this Mitigation Project, Superior Refining shall include a description and certification that the project has been fully implemented pursuant to the provisions of this Paragraph. These dates may be extended by mutual agreement of the United States and the State of Wisconsin in writing.

c. The stipulated penalties provision in Paragraph 226 of the Consent Decree shall apply to the requirements of this Paragraph.

FOR PLAINTIFF THE UNITED STATES OF AMERICA:

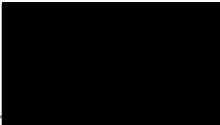
DATE



NATHANIEL DOUGLAS
Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
Washington, D.C.

5.9.19

DATE



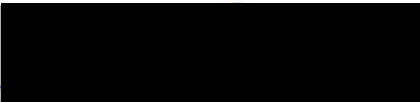
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SCOTT C. BLADER
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By:

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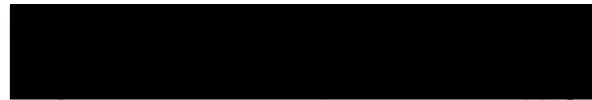
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**FOR PLAINTIFF THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY:**

April 15, 2019
DATE



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U.S. Environmental Protection Agency
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FOR PLAINTIFF THE STATE OF WISCONSIN:

JOSHUA L. KAUL
Attorney General of Wisconsin

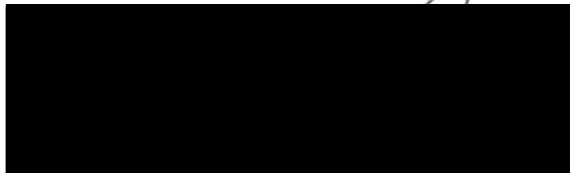
By:

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Apr: 110, 2019
DATE

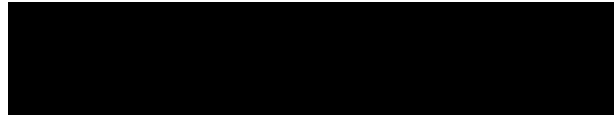
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**FOR DEFENDANT SUPERIOR REFINING
COMPANY LLC:**



Date: _____

JERRY MILLER
Vice President
Superior Refining Company LLC



Date: _____

~~SCOTT HOWARD~~ JEFFREY RINKER
Vice President
Superior Refining Company LLC