SUNOCO, INC.
CONSENT DECREE

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THE PROPOSAL

EPA approached DEP about possible Sunoco NSR violations case

Release of CBI letter: 4/3/00

“Disclosure to Authorized Representatives” letter, 40 C.F.R. sec. 2.301(h)(3): 4/14/00

EPA and DOJ discuss parameters of case conceptually with DEP
PROPOSAL

EPA examining past refineries turn-arounds, and increases in production and throughput

Assuming that violations would be found with further investigation and discovery in litigation

Settle with everyone without proving violations or litigation
THE PITCH

August 8, 2000: EPA & DOJ met with Sunoco, DEP, Philadelphia, Ohio, and OK to discuss a new enforcement paradigm

In exchange for emission reductions EPA would take a soft approach to enforcement

February 2, 2001: Sunoco Plenary Presentation with Sunoco’s 46-page PowerPoint on factual and legal defenses
After initial resistance, Sunoco agreed to at least try DOJ’s and EPA’s proposed process.

EPA & DOJ share documents and meet with DEP, Philadelphia AMS, Oklahoma, Ohio.

Parties identify “Marquis Issues”
- NSR and PSD violations at fluid catalytic cracking units (FCCU), heaters and boilers
- NSPS at flares
- LDAR
- Benzene NESHAP
THE PROCESS

- Years of large multi-party meetings, heated factual and legal arguments, settlement offers
- Many drafts of long C.D.
- EPA did a lot of good technical work on refineries across the country
THE PROBLEMS

- Over 5 years of negotiations
- Very complex issues without the definite facts found in discovery
- One federal government, three states, one city, one big corporation
- Balancing interests and concerns of parties
PROBLEMS

- Federal Preemption - violations found during negotiations may get rolled into C.D.
- Lengthy non-compliance under C.D. possible
- 160-page Consent Decree with 9 attachments
THE PRIZE

- Extensive injunctive relief
- Huge reductions in emissions
- EPA doing vast majority of work
- Large penalty
- Resolution of past violations without litigation
- Supplemental Environmental Projects
March 14, 2006: C.D. entered
- Injunctive relief
- SEPs
- Civil Penalty
- Stipulated Penalties
Injunctive Relief

See David Brown’s spreadsheet

Monitoring and Recording

12/31/08: Report on feasibility of SCR and Wet Gas Scrubber installation on the FCCU

3/21/10: Install NOx controls for 1,459 tons/year reduction
THE PHLARE
6/15/10: Install SCR and WGS on FCCU if feasible

If not installed, stipulated penalties:
- $1,800/day  6/15/10 – 6/19/11
- $1,900/day  6/20/11 – 6/24/12
- $2,000/day  6/25/12 – 6/29/13
- $2,103,300  total
PRODUCT

12/16/2012: Complete 4-year internal LDAR audit

6/30/2013: Install SCR and WGS on FCCU

3/21/2014: Install controls to reduce NOx by 2,189 tons/year
PRODUCT

- Supplemental Environmental Projects
  - $3,900,000 in SEPs
- Controls to reduce NOx by 112 tons
- $300,000 for PA project (KAMP)
- $400,000 for Philly ultra low sulfur fuel
- Redundant power supply to FCCU
- $1,200,000 diesel retrofit
- $50,000 Ohio SIP on line
THE PENALTY

$1,500,000  United States
$ 900,000  Pennsylvania
$ 500,000  Philadelphia
$ 50,000   Oklahoma
$ 50,000   Ohio
PENALTIES

- 22 Pages of stipulated penalties
- NOx, SO2, PM, CO emission reductions from the FCCUs
- SCR and/or WGS at Marcus Hook
- NSPS applicability and compliance
- Acid gas flaring
- LDAR & Benzene waste enhancements
THE PERMITTING

180 days after entry Sunoco shall submit applications to incorporate emissions limits and standards effective on date of entry.

Sunoco shall apply to incorporate all other requirements into permits.

Shall be done in accordance with state or local rules.
PERMITTING

General prohibition against Sunoco using emission reductions as netting reductions or offsets in permitting

Sunoco may use a total of 250 tpy NOx, 250 tpy SO2, 15 tpy PM if for Tier 2 gasoline or ultra-low sulfur diesel, and in a permit which meets certain limits