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Sent Via Electronic Mail by Agreement of the Parties

Chief
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
ATTN: Thomas Carroll
150 M Street NE, Room 5.113
Washington, DC 2004-7611

Chief, Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, IL 62706

Maureen Wozniak, Counsel
Illinois EPA
1021 N. Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276

Compliance Tracker (AE-17J)
Air Compliance and Compliance
Assurance Branch
U.S. EPA Region 5
770 W. Jackson Blvd
Chicago, Illinois 60604

Manager,
Compliance and Enforcement Section
Illinois EPA
1021 N. Grand Ave. East
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RE: Force Majeure Notifications
Pursuant to Paragraph 129 of Civil Action No. 3.18-cv-01484-SMY-GCS
Phillips 66 Company – Wood River Refinery

Dear Ladies and Gentlemen:

On March 9, 2020, Phillips 66 Company notified the Agencies listed above that a potential force majeure situation that was developing due to the transmission and spread of the novel coronavirus COVID-19 within the United States (U.S). This situation has continued to develop with most States and localities having stay at home orders. At the time the first notification was submitted, Phillips 66 noted that it had no known impacts.

Paragraph 129 of the above referenced Consent Decree (Civil Action **3.18-cv-01484-SMY-GCS**) requires

Phillips 66 to notify the United States and Illinois within twenty business days of any event which it knows or should have known could result in a delay or impediment to complying with the Consent Decree. This requirement prompted the initial submittal on March 9th noting the then potential concerns that could stem from the transmission of COVID-19. Phillips 66 Company is now following its initial notice with information related to the Company's ability to continue to implement the Lead Hazard Reduction Supplemental Environmental Project described in Consent Decree paragraphs 91-97 and Appendix B.

Per the Consent Decree, Phillips 66 must spend at least \$500,000 on lead abatement in homes by April 2021. Prior to the rapid spread and transmission of the COVID-19 virus within the United States and the resulting stay at home orders and economic impacts, Phillips 66 had made significant progress in implementing the project. By the fall of 2019, it had developed a process for identifying potential homes for abatement with the Illinois Department of Public Health (the "IDPH"), and located and hired a licensed lead abatement contractor. To date, over half of the allotted spend has been spent and/or committed to address issues found at 8 homes. Of these eight homes, the work has been completed at four. A ninth home has been identified for inspection.

Potential Delay

In late March 2020, Phillips 66 was notified by the IDPH that certifications for two of the workers being used by our licensed abatement contractor had expired. When reaching out to the contractor, Phillips 66 was informed that both individuals had been scheduled for recertification classes in March but that all Illinois recertification classes had been cancelled due to COVID-19 concerns. Since the IDPH notice, Illinois has enacted an emergency rule extending registrations for the current period. Information regarding this emergency rule can be found at <http://dph.illinois.gov/covid19/governor-pritzkers-executive-orders-and-rules>. The rule language is codified at 77 ILL.Adm.Code 845.1. The emergency rule went into effect on March 31, 2020 and reads as follows:

EMERGENCY

Due to the public health emergency related to the COVID-19 outbreak, the following shall apply to this Part:

- a) The license renewal and current certificate deadlines set forth in Sections 845.125(c), 845.125(d) and 845.130(b) are extended to August 28, 2020;
- b) The case management measures set forth in Section 845.80 are modified so that the required interviews and home visits shall be conducted by means other than in person meetings, such as by telephone, when practicable;
- c) The environmental follow-up measures set forth in Section 845.85 are modified so that the required follow-up shall be conducted by means other than in person inspections, such as by telephone interviews, when practicable.

<http://dph.illinois.gov/sites/default/files/COVID19/77-845RG-E.pdf>

These emergency provisions went into effect on March 31, 2020 and without further changes will be in effect for at 150 days.

Based on the Illinois Governor's stay at home order which is unrelated to the certification issue, Phillips 66 has temporarily suspended all lead abatement project work until the order has been lifted. The Governor's current stay at home order expires on April 30, 2020 but this is subject to change. Per the Consent Decree, all abatement work must be completed by April 2021. Even with the current delay, the Company expects to complete all physical work by this date.

This is the link to the most recent gubernatorial stay at home order:
<https://www2.illinois.gov/Pages/Executive-Orders/ExecutiveOrder2020-18.aspx>.

Length of Time Delay May Persist

At this time the issue with the worker certifications is expected to continue until the workers can be recertified. The Contracting Company is and was at all times an approved Department licensed lead abatement company. The owner is also still properly certified. Arguably the workers' certifications have been reinstated through August 28, 2020 and there is no concern. However, the emergency rule was not adopted until after the worker's certifications had expired.

Since Phillips 66 has temporarily suspended all work due to the stay at home order, it is anticipated that we would not allow the contractor to begin work again until he has confirmed all workers working on the Phillips 66 work are currently certified.

Of note, the IDPH office has indicated it may issue citations for the late recertifications. In response, the contractor has verbally threatened to cease doing lead abatement projects including Phillips 66 work. If this situation is not resolved and Phillips 66 must engage a new contractor and that somehow further slows down the work, Phillips 66 will prepare another force majeure letter.

The Cause of the Delay or Impediment

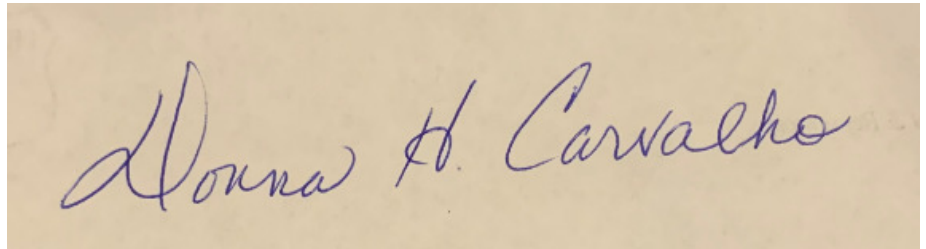
The contractor's workers are not able to timely renew their lead abatement certifications due to cancellation of the recertification classes. There is a limited period of a few weeks that they may have been working without proper certifications prior to the passage of the Illinois emergency rule. As noted above, the employer maintained its license at all times.

Schedule for and Measures Taken by Phillips 66 to Prevent/Minimize the Delay

Phillips 66 has temporarily suspended all work in compliance with Governor Pritzker's stay at home order. Assuming that the order will be lifted no later than this summer and the contractor's employees can be recertified before the deadline currently in the emergency rule of August 28, 2020, Phillips 66 will not resume the work until all workers are recertified. If the affected contractor workers are not recertified (or otherwise allowed to work legally under an extension) Phillips 66 will limit the Contractor to using only those employees that are properly certified when it restarts the work.

Please do not hesitate to contact me at the number noted above if you have any questions. This notice will be updated if needed.

Respectfully submitted,

A photograph of a handwritten signature in blue ink on a light-colored, textured paper. The signature reads "Donna H. Carvalho" in a cursive script.

Donna H. Carvalho

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Cc: Tim E. Goedecker, Environmental Manager HSE Refining
Dean Maniatis, Refining HSE Manager
Deputy General Counsel, Legal Compliance, Environmental & Regulatory
Refinery Manager, WRB Refining LP, Wood River Refinery