

NATURAL RESOURCE DAMAGE AND RESTORATION
ADMINISTRATIVE SETTLEMENT AGREEMENT
MOTIVA ACID SPILL

BETWEEN

THE NATURAL RESOURCE TRUSTEES: THE STATE OF DELAWARE AND
THE NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION

AND

MOTIVA ENTERPRISES LLC

I. Purpose

This Settlement Agreement is made and entered into by and among (a) the Delaware Department of Natural Resources and Environmental Control (DNREC), (b) the National Oceanic & Atmospheric Administration (NOAA) (hereinafter referred to as “the Trustees”) and (c) Motiva Enterprises LLC (hereinafter referred to as “Motiva”) for the purpose of fully and finally resolving all natural resource damage claims arising under statutes of the United States and Delaware, including but not limited to, sections 107(a)(4)(c) and 107(f) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9607 (a)(4)(c) and 9607(f), (hereinafter referred to as “CERCLA”), sections 311(f)(4) and (5) of the Federal Water Pollution Control Act 33 U.S.C. § 1321(f)(4), (5) (hereinafter referred to as FWPCA), the Delaware Hazardous Substance Cleanup Act (HSCA), 7 Del. C. Ch. 91, and the Oil Pollution Act (OPA) 33 U.S.C. §§ 2702(b)(2)(A), 2706(a), 7 Del C. Ch. 62. arising from the release of sulfuric acid on or about July 17, 2001, into the Delaware River.

II. Authorities

The Trustees enter into this Settlement Agreement in accordance with the legal authorities provided under CERCLA, 42 U.S.C. § 9607(f), among others, the National Contingency Plan, 40 C.F.R. § 300.615, and, 7 Del. C. § 9105(b).

III. Statement of Facts

On or about July 17, 2001, a significant volume of sulfuric acid spilled into the Delaware River, and associated wetlands, from the Motiva Enterprises facility located at Delaware City, Delaware (hereinafter known as "Acid Release"). On July 18, 2001, by visual count and collection, representatives of Motiva and the Trustees documented approximately 2,500 dead fish, comprising over 20 different species, including gizzard shad, white perch, menhaden and channel catfish, in addition to at least 250 dead blue crabs. The Representatives did not undertake a comprehensive damage assessment and therefore did not determine the precise extent of habitat loss or loss of natural resource services associated with the Acid Release.

IV. Restoration Projects

Without admitting liability, Motiva has agreed to undertake the following restoration activities to address the injuries to natural resources described in Section III above:

1. Execution of a Conservation Easement. At the time of the acid release Motiva owned approximately 232 acres of land to the north of the Delaware City Refinery, New Castle County, the New Castle hundred, identified in the New Castle County Assessment Office as tax parcel #1005000008 (hereinafter "the Property"). Appendix A is a current copy of the Easement Plan of the Property. The Property

includes an upland area, land leased for agricultural purposes, a buffer zone, and ecologically significant wetlands adjacent to the Delaware River along the eastern boundary of the Property.

Motiva will cause to have executed by Premcor Refining Group, Inc., the current owner of the Property, and recorded with the deed to the Property, a conservation easement, attached as Appendix B, on a portion of the Property, that comports with the requirements of the Delaware Uniform Conservation Act, 7 Del. C. Ch. 69 (1996). The conservation easement is intended to protect, in perpetuity, approximately 99.14 acres of wetlands and associated habitats including a wooded buffer, and approximately 8.17 acres of riparian buffer zone for a total of approximately 107.31 acres. Motiva has surveyed the 8.17 acre riparian buffer zone and delineated its location on the Easement Plan (Appendix A). Motiva has provided a written description of the conservation easement location in Appendix C. The conservation easement prohibits all activities incompatible with the ecological functions and value of the wetlands and the riparian buffer zone.

2. Enhancement of the Riparian Buffer Zone. Motiva agrees to enhance the 8.17 acre riparian buffer zone in order to protect and enhance the ecologically significant wetlands. To that end, Motiva shall stabilize and restore the 8.17 acres of riparian buffer zone described in Section IV. 1 above. To accomplish this requirement, Motiva shall plant the riparian buffer zone with a herbaceous cover crop consisting of native seed mixture. Motiva shall also reforest the riparian buffer zone through the planting of trees of an appropriate size and species. Specifications for the herbaceous cover and trees are incorporated in Appendix D. Written modifications to Appendix E may be made,

provided however, such modifications are mutually agreed upon by the Trustees and Motiva and are signed by project managers identified in Section VI below.

3. Phragmites Control. In order to control invasive phragmites in wetlands adjacent to, or in the vicinity of, the Property, Motiva agrees to make a lump payment of \$10,000 to DNREC within 30 days of execution of this Settlement Agreement. DNREC agrees that such sum will be used exclusively to undertake control of phragmites within the Hamburg Cove section of the Delaware River for a ten-year period commencing upon the date of execution of this Settlement Agreement. DNREC further agrees to place the sum in the HSCA Fund, which will allow the sum to be used for natural resource restoration without further appropriation by the Delaware General Assembly.

V. Reimbursement of Trustee Costs

Not later than 30 days after the date of execution of this Settlement Agreement, Motiva shall reimburse DNREC and NOAA for their costs associated with this Agreement in the amounts specified below.

Payment to Delaware. Motiva shall pay \$29,276.97 to the State of Delaware.

Payment shall be made by check to DNREC HSCA Account and sent to:

Attn: Jane Biggs
DNREC - SIRB
391 Lukens Dr.
New Castle, DE 19720

A copy of the check should be sent to:

Robert Kuehl
Deputy Attorney General
DNREC - SIRB
391 Lukens Dr.
New Castle, DE 19720

Payment to NOAA. Motiva shall pay \$58,544.07 to NOAA. Payment shall be made by check to NOAA, Department of Commerce. The check shall be annotated "Motiva" DARRF Account and sent to:

Kathy Salter
NOAA, N/ORR3
1305 East West Highway, room 9331
Silver Spring, MD 29010

A copy of the check should be sent to:

Sharon K. Shutler, Esq.
NOAA, Office of General Counsel for Natural Resources
1315 East West Highway
Silver Spring, MD 20910-3282

VI. Project Contacts

Future communications regarding implementation of the terms of this Settlement Agreement shall be directed to the following individuals at the addresses specified below, unless it is otherwise specified in this Settlement Agreement. Any change in the individuals designated by either of the Trustees or Motiva must be made in writing to each of the others.

For Delaware: Robert Hossler
DNREC, Fish & Wildlife Division
89 Kings Highway
Dover, DE 19901

For NOAA: Carl Alderson
NOAA RC Field Office
74 Magruder Rd.
Highlands, NJ 07732
(732) 872-3087

For Motiva: Bert Molina, Manager - Regulatory Affairs
Motiva Enterprises LLC
Pennzoil North Tower
700 Milam Street, PNT 11016
Houston, TX 77002

VII. Release of Liability

Upon receipt of the payments that will be made by Motiva, and upon the execution and recordation by Motiva of the conservation easement identified in Exhibit 1, the Trustees hereby agree to waive any and all claims and potential claims for civil liability they have or could have asserted for injury to, destruction of, or loss of natural resources pursuant, but not limited to, CERCLA, FWPCA, HSCA or OPA, resulting from the release of sulfuric acid from the Motiva facility on July 17, 2001.

VIII. Reservation of Rights

Nothing in this Settlement Agreement is intended to be, nor shall be construed as, a release for any claim or cause of action, administrative or judicial for natural resource damages in the event that Motiva fails to fully comply with the terms of this Settlement Agreement. Other than the natural resource damages claims, nothing in this Settlement Agreement is intended to be, nor shall be construed as, a release from or diminution of any claim or cause of action, administrative or judicial, that any federal or state agency may have arising out of the July 17, 2001 Acid Release from the Motiva facility including, without limitation, any claim or cause of action that has been made or will be made by the United States on behalf of the United States Environmental Protection Agency or that has been or will be made by the State of Delaware on behalf of DNREC against Motiva. Furthermore, nothing in this Settlement Agreement, nor any conduct or written or oral statements or communications made by the Trustees or Motiva in

settlement negotiations regarding the July 17, 2001 Acid Release, shall be the subject of discovery or used by the parties to this Settlement Agreement in any contemporaneous or future administrative or judicial proceeding under any other applicable federal law, for the purpose of establishing the presence, absence, seriousness, and/or extent of environmental harm as a result of the July 17, 2001 Acid Release, or for any other purpose, provided however, that (1) the Settlement Agreement may be admitted in any action to enforce the terms of the Settlement Agreement, and (2) the Settlement Agreement may be admitted in administrative or judicial proceedings if the parties to the Settlement so agree.

IX. Hold Harmless

Motiva hereby releases and agrees to hold harmless, indemnify and defend DNREC and NOAA and their employees, agents and contractors and their personal representatives, successors and assigns of each of them (hereinafter known as "Indemnified Parties") from and against all liabilities, penalties, fines, charges, costs, losses, damages, expenses, cases of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with injury to or death of any person, or physical damage to any property, resulting from any act or omission of Motiva's employees, contractors or agents occurring on the Property, except to the extent due to the negligent act or omissions of any of the Indemnified Parties. The State of Delaware, its agencies and employees shall not be named as additional insureds on any insurance policies obtained by Grantor or any of its contractors, consultants, agents or representatives, which cover

any work activities or other potential liabilities at the Property or the Conservation Easement.

X. Parties Bound

This Settlement Agreement shall inure to the benefit of and be binding on the Trustees and Motiva, their successors, assigns, affiliates, subsidiaries, and parents. Any change in ownership or corporate status of Motiva, including but not limited to, any transfer of assets or real or personal property, shall in no way alter Motiva's rights and responsibilities under this Settlement Agreement.

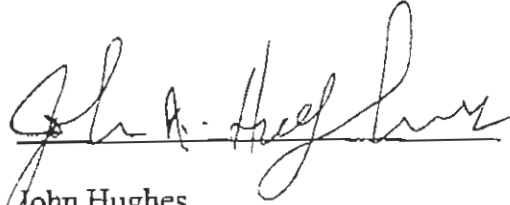
This Settlement Agreement constitutes the final, complete, and exclusive agreement and understanding among the parties with respect to the settlement embodied in the Settlement Agreement and supersedes all prior agreements and understandings, whether oral or written. No other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Settlement Agreement nor shall it be used in construing the terms of this Settlement Agreement.

XI. Effective Date

This Settlement Agreement shall be effective upon the date of the last signature.

IN WITNESS WHEREOF, this Settlement agreement is executed by each of the Trustees and Motiva as of the dates written below.

FOR THE STATE OF DELAWARE



John Hughes

5/2/05

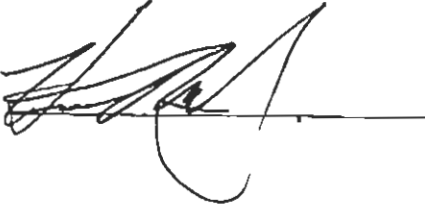
Date

Secretary of Department of Natural Resources and Environmental Control

FOR THE NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION

 9/12/05

FOR MOTIVA

A handwritten signature in black ink, appearing to be 'HMA', written over a horizontal line.

9-16-05



1313 North Market Street
P.O. Box 951
Wilmington, DE 19899-0951
302 984 6000

www.potteranderson.com

W. Harding Drane, Jr.
Attorney at Law
wdrane@potteranderson.com
302 984-6019 (Direct Dial)
302-658-1192 (Facsimile)

August 25, 2005

To Be Picked Up By Addressee at Potter Anderson & Corroon

Ms. Jane Biggs Sanger
Department of Natural Resources and Environmental Control
Division of Air and Waste Management
Site Investigation and Restoration Branch
391 Lukens Drive
New Castle, DE 19720-2774

AUG 25 2005

**Re: Conservation Easement Granted By The Premcor Refining Group Inc.
The State of Delaware, Tax Parcel No.: 10-050.00-008**

Dear Ms. Biggs Sanger:

At the request of Nancy Pace of Premcor, I have enclosed (1) a copy of the above-referenced Conservation Easement, as filed with the Office of the Recorder of Deeds, New Castle County, Delaware, on August 23, 2005; (2) a copy of the executed State of Delaware Form 5402; and (3) a copy of the executed New Castle County Realty Transfer Tax Return, Affidavit of Value, and Affidavit of Exemption. Please note that the enclosed copy of the Conservation Easement does not include Exhibit B, an oversized drawing. Should you need a copy of the drawing, please let me know.

Sincerely,

W. Harding Drane, Jr.

WHD/mho
Enclosure

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Michael E. Kezikowski
New Castle Recorder EASEME

CONSERVATION EASEMENT

THIS GRANT OF A CONSERVATION EASEMENT made this 20th day of June, 2005 (Conservation Easement”), by The Premcor Refining Group Inc., its successors and assigns, Party of the First Part, hereinafter referred to as “Grantor”, and the STATE OF DELAWARE, acting by and through the Department of Natural Resources and Environmental Control, Party of the Second Part, hereinafter referred to as “Grantee”.

WITNESSETH:

WHEREAS, this Conservation Easement is being executed to resolve natural resource obligations arising from a release of sulfuric acid into the Delaware River on or about July 17, 2001 from a facility on property located in New Castle Hundred, New Castle County in the State of Delaware, identified in the New Castle County Assessment Office as Parcel Number 1005000008 (“the Property”) that was owned at that time by Motiva Enterprises; and

WHEREAS, the Settlement Agreement between the State of Delaware, the National Oceanic and Atmospheric Administration and Motiva required Motiva to execute a conservation easement on a portion of its Property; and

WHEREAS, Motiva sold the Property to Grantor on May 1, 2004 and Grantor is the fee simple owner of the Property; and

WHEREAS Grantor agreed to execute the Conservation Easement for a portion of the Property referred to as a Conservation Easement Area (“CEA”), more particularly described in the Easement Plan (Exhibit A) and Easement Description (Exhibit B); and

WHEREAS, a title search of the Property has revealed no mortgages; and

WHEREAS, said CEA possesses fish and wildlife and other natural resource values, scenic open space, cultural, and aesthetic values (“Conservation Values”) worthy of conservation protection and of great importance to the Grantee, and the people of New Castle County and the people of the State of Delaware; and

WHEREAS, in particular, the CEA contains a wooded buffer zone and wetlands providing excellent fish and wildlife habitat; and

WHEREAS, preservation of the CEA as open space is pursuant to clearly delineated state and local government conservation policies and will yield a significant public benefit; and

WHEREAS, the specific Conservation Values of the CEA are documented in an inventory ("Baseline Documentation") as of the date hereof, containing reports, maps, photographs and other documentation of relevant features of the CEA on file with Grantee and incorporated by this reference, which the Delaware Department of Natural Resources and Environmental Control asserts is an accurate representation and condition of the CEA at the time of this easement agreement and is intended to serve as an objective information baseline for monitoring compliance with the terms of this easement agreement; and

WHEREAS, Grantor and Grantee are desirous of preserving the natural state of the CEA and further desire to conserve and protect the CEA from disruption and/or other occurrences which might interfere with its ability to provide fish and wildlife habitat as well as other natural resource values; and

WHEREAS, Grantor and Grantee are desirous of enhancing a riparian buffer zone to protect the fish and wildlife habitat from agricultural or other runoff; and

WHEREAS, Grantor hereby, as owner of the CEA, wishes to grant and convey unto Grantee the right to preserve and protect the Conservation Values of said CEA in perpetuity; and

WHEREAS, Grantee is a department of the State government among whose purposes is the preservation, protection or enhancement of land and water areas, natural, scenic, open, agricultural, cultural, and forested resource values ("Conservation Purposes"); and

WHEREAS, Grantee agrees by accepting this grant to honor the intentions of Grantor stated herein and to preserve and to protect in perpetuity the Conservation Values of the CEA for the benefit of this generation and generations to come:

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of Delaware and in particular 7 Del. C. Chapter 69, Grantor hereby voluntarily grants and conveys to Grantee a Conservation Easement in perpetuity over all of the CEA, of the nature and character and to the extent hereinafter set forth.

1. PURPOSE

It is the purpose of this Conservation Easement to (1) assure that the CEA will be retained forever in its natural, scenic, open space, and forested condition, and to prevent any use of the CEA that will significantly impair or interfere with the Conservation Values of the CEA and (2)

to enhance the riparian buffer zone to protect the fish and wildlife habitat.

2. RESTRICTIONS ON USE

Any activity on or use of the CEA inconsistent with the purpose of the Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited within the CEA, subject to the express terms and conditions below:

- (A) No signs, billboards or outdoor advertising structures shall be placed or maintained on the CEA; except for a reasonable number of signs for resource protection, safety, boundary identification, management, interpretation of natural, cultural, and historic areas, identification of occupant and for such other purposes as may be permitted with the prior written approval of Grantee.
- (B) No improvements, including, but not limited to, buildings, tennis courts, swimming pools, asphalt or concrete pavement, communications tower or antenna, utility line or conduit, parking lot or any other temporary or permanent structure or facility, shall be constructed, or maintained on, under or above the CEA.
- (C) No dumping, depositing, abandoning, discharging or releasing of any gaseous, liquid, solid or hazardous wastes, substances, materials or debris of whatever nature on, in, over, or under the ground or into surface or ground water of the CEA shall occur, except as permitted by law.
- (D) No loam, peat, gravel, soil, rock, sand, or other material shall be deposited or placed on the CEA, nor shall there be made any change in the general topography of the land within the CEA; except for Grantee and Grantor approved material associated with designated trails.
- (E) There shall be no excavation or removal of loam, peat, gravel, soil, rock, sand, or similar material, nor any change in the general topography of the land within the CEA; except for fire management, or management of the riparian zone or wetland and for archaeological digs or excavations authorized by the Delaware Division of Historical and Cultural Affairs with prior written approval of Grantor and Grantee.
- (F) There shall be no removal or destruction of plants, trees, shrubs, wildflowers or other vegetation living or dead, or animal species except for control of diseases, pests, non-native species, and noxious weeds; for safety purposes; for proper management of species and natural communities; and for designated trails.
- (G) Intentional introduction of non-native or non-indigenous plant and animal species is prohibited; except for the management of species and natural communities associated with this document with prior written approval of Grantee.

(H) There shall be no collecting of plant material, animals, fossils, minerals, or artifacts, except as mutually authorized by Grantor and Grantee for scientific and nature study and in accordance with applicable State and Federal laws.

(I) There shall be no application of pesticides, herbicides, insecticides, or other chemicals to the CEA, except as may be reasonably necessary for control of invasive species which threaten the natural character of the area, for control of pestiferous species or for control of human disease-carrying species. If the natural balance of the area is seriously upset, control measures may be employed that are compatible with the maintenance of the natural features, and then only with express written permission of Grantee. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Conservation Easement.

(J) No other acts, uses or discharges shall be allowed which adversely affect fish or wildlife habitat or the preservation of land or water areas on the CEA.

(K) Any other use of the CEA or activity which would materially impair the Conservation Values, unless necessary for the protection of the Conservation Values that are the subject of this Conservation Easement, are prohibited.

3. PERMITTED USES

Without limiting the generality of all rights inuring to or reserved by Grantor, Grantor shall be permitted to do any and all of the following, subject to the limitations contained herein:

(A) Grantor may, but has no obligation to, restore and enhance the CEA's natural features or any ecological system, including reforestation, with the approval of the Grantee.

(B) Grantee and its representatives shall, with the consent and approval of the Grantor, have the right but not the obligation to nominate the CEA to the National Register of Historic Places and enter on to the CEA for the purposes of archaeological investigations authorized by the Delaware Division of Historical and Cultural Affairs. Archaeological artifacts found on the property shall remain in possession of Grantor. Said artifacts may, upon consent of Grantor and Grantee, be conserved, studied and/or stored as Grantee or its successor directs.

(C) Grantor and Grantor's invitees have the right, but not the obligation, to hunt the CEA in accordance with applicable State and Federal hunting laws.

(D) The CEA may be maintained consistent with the limitations contained herein.

4. LIMITATIONS ON THE USE OF CONSERVATION EASEMENT AREA FOR THE

PURPOSES OF BUILDING DENSITY REQUIREMENTS

No portion of the CEA may be used to satisfy land area requirements for the calculation of building density under zoning or subdivision laws, regulations, or ordinances for any lands adjacent to the CEA.

5. RESERVED RIGHTS

Grantor reserves to itself, its personal representatives, heirs, successors and assigns, all rights accruing from its ownership of the CEA, including the right to engage in or permit or invite others to engage in all uses of the CEA that are not expressly prohibited herein and are not inconsistent with the purposes of this Conservation Easement. Grantee does not assume any responsibilities, costs, or liabilities of any kind related to the ownership of the land included in the CEA. Grantor assumes no obligation under this Conservation Easement to care for or maintain the CEA, or to enforce the terms of this Conservation Easement except as to its own acts or omissions and those of its agents, employees, representatives, contractors, or invitees.

6. GRANTOR'S DUTY TO NOTIFY

Grantor, prior to performing or permitting any activity described in this Conservation Easement which requires prior approval of Grantee, except in emergency situations hereby agrees to submit to Grantee for review and approval, the required information in writing thirty (30) calendar days prior to the date Grantor intends to undertake the activity in question. Grantee shall grant or withhold its approval in writing as soon as practicable, but in all cases, within thirty (30) calendar days of receipt of Grantor's written request, and Grantee's failure to respond within thirty (30) calendar days shall be deemed an approval. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the terms of this Conservation Easement. In the event of an emergency, Grantor shall provide Grantee notice of any activity as soon as reasonably practical.

7. NOTICES

Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid and addressed as follows:

Grantor: The Premcor Refining Group Inc.
1700 E. Putnam Ave., Suite 400
Old Greenwich, CT 06870
Attention: Legal Department

Grantee: Department of Natural Resources & Environmental Control
Division of Parks & Recreation

89 Kings Highway
Dover, Delaware 19901
Attention: Land Preservation Office

Upon written notice from a party, or a successor in interest, to the other party hereto, any such notice, demand or other written communication shall be given to that party or successor at the address indicated in such notice.

8 ENFORCEMENT AND OTHER RIGHTS OF GRANTEE

(A) To accomplish the purpose of this Conservation Easement, the following rights are conveyed to Grantee by this Conservation Easement:

(i) To preserve and protect Conservation Values of the CEA;

(ii) To enter upon the CEA from time to time, by routes approved by the Grantor, at a day and time mutually agreeable to Grantor and Grantee, such day and time not to exceed fifteen (15) calendar days from written notice by Grantee to Grantor, for the purpose of (1) monitoring Grantor's compliance herewith and otherwise enforcing the terms of this Conservation Easement; (2) biological monitoring, and (3) controlling invasive species; provided that such entry shall not unreasonably interfere with Grantor's use and quiet enjoyment of the CEA. Grantee's enforcement monitoring shall include at a minimum an annual inspection; and

(iii) To prevent any activity on or use of the CEA that is inconsistent with the purpose of this Conservation Easement and to require the restoration of such areas or features of the CEA that may be damaged by any activity inconsistent with this document, pursuant to this Paragraph.

(B) In the event that a violation of the terms of this Conservation Easement by Grantor comes to the attention of Grantee, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and restore the portion of the CEA so injured. If the violation is not cured within thirty (30) calendar days of the receipt of written notice from Grantee, or where the required corrective action cannot be completed within thirty (30) calendar days, Grantor fails to commence such cure within said thirty (30) calendar day period and fails to continue diligently to cure the violation until finally cured, then Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violations of the terms of this Conservation Easement, including damages for the loss of Conservation Values, and to require the restoration of the CEA to its prior condition. Grantor shall not be liable or responsible for the acts or omissions of third parties; provided, however, that the third party is not an agent, contractor, employee, representative, or invitee of the Grantor.

(C) In the event that a violation of the terms of this Conservation Easement by a third

party comes to the attention of Grantee, Grantee shall give written notice to said third party, with a copy of notice sent to Grantor, of such violation and demand corrective action sufficient to cure the violation and restore the portion of the CEA so injured. If the violation is not cured by said third party within thirty (30) calendar days of the receipt of written notice from Grantee, or, where the required corrective action cannot be completed within thirty (30) calendar days, said third party fails to commence such cure within said thirty (30) calendar day period and fails to continue diligently to cure the violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction against said third party to enforce the terms of this Conservation Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violations of the terms of this Conservation Easement, including damages for the loss of Conservation Values, and to require the restoration of the CEA to its prior condition.

(D) If Grantee determines that circumstances require immediate action to prevent or mitigate irreparable harm to the Conservation Values of the CEA, Grantee shall attempt to contact Grantor immediately to notify Grantor of said situation and, upon permission from Grantor, proceed to enforce its rights under this Conservation Easement. If Grantee is unable to contact Grantor after a good faith effort, then Grantee may pursue its rights under this Section and provide Grantor written justification for such action as soon as possible.

(E) If monetary damages for any violation of the terms of this Conservation Easement are inadequate, Grantor or Grantee shall be entitled to the injunctive relief described in this Section 8, both prohibitive and mandatory, in addition to such other relief to which either party may be entitled, including specific performance of the terms of this Conservation Easement. Actual damages or the inadequacy of otherwise available legal remedies need not be proven for Grantor or Grantee to obtain the relief described in this Paragraph.

(F) All reasonable costs incurred by a party in enforcing the terms of this Conservation Easement, including costs of suit and attorneys fees, and any reasonable costs of restoration necessitated by the violation of this Conservation Easement, shall be borne: (1) in the case of an adjudication, by the person determined by a court of competent jurisdiction to have violated this Conservation Easement, and in the amount as determined by said court; (2) in the case of a settlement prior to an adjudication by a court, as agreed to by the parties at the time of settlement of any claim of violation of this Conservation Easement.

(G) Grantor's and Grantee's rights under this Section apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement.

(H) Nothing contained herein shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the CEA resulting from causes beyond

Conservation Purposes of this Conservation Easement.

(B) All transfers of this Conservation Easement shall be restricted to organizations qualifying, at the time of transfer, as an eligible grantee under paragraph (c)(1) of Treasury Regulation Section 1.170A-14, as amended and replaced from time to time.

(C) Grantee shall give written notice to Grantor of the transfer of any interest at least thirty (30) calendar days prior to the date of such transfer. The failure of Grantee to perform this condition shall not impair the validity of this Conservation Easement or limit its enforceability in any way.

14. GRANTEE'S DISCRETION

Enforcement of the terms of this Conservation Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such terms or of any subsequent breach of the same or any other terms of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

15. ACKNOWLEDGMENTS

(A) Grantor has received the Baseline Documentation and agrees not to contest the documentation contained therein.

(B) Grantor attests that it is the owner of the property and that, to Grantor's knowledge, the property is not subject to a mortgage as of this date, or if the property is subject to a mortgage then a release of lien and mortgage subordination has been signed and acknowledged prior to approval of this document.

16. DURATION OF EASEMENT

The parties agree that this Conservation Easement shall run with the land in perpetuity (except if extinguished pursuant to Section 12 hereof) and is binding upon all subsequent owners of the property, their heirs, executors, administrators, successors, devisees, and assigns, as the case may be, and is binding upon Grantee's successors and assigns.

17. INTERPRETATION OF EASEMENT

This Conservation Easement shall be construed in favor of the grant to effect the purpose of the Conservation Easement and the policy and purpose of 7 Del. C. Chapter 69.

18. RECORDATION

This instrument shall be recorded in a timely fashion in the official records of the county

in which the CEA is located.

19. SEVERABILITY

If any provision of this Conservation Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Conservation Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

20. NO FORFEITURE

Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

21. TERMINATION OF RIGHTS AND OBLIGATIONS

A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Conservation Easement or property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

22. BINDING EFFECT

This conservation Easement and all the rights, duties, obligations and liabilities hereunder shall be a "covenant running with the land" and shall be binding upon the Property and all successive owners of the Property (unless extinguished pursuant to Section 12 hereof) provided, however, that if the Grantor should transfer ownership or any interest in this Property (whether legal, equitable or beneficial) then the Grantor shall be released from all further duties, obligations and liabilities hereunder and the Grantor's successor in title (or other interest) shall assume all of Grantor's duties obligations and liabilities hereunder.

23. CAPTIONS

The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

24. COUNTERPARTS

This instrument may be executed in one or more counterparts, which, when executed and taken together, shall be deemed to be a complete and integrated document.

TO HAVE AND TO HOLD unto Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, Grantor and Grantee have set their Hands and Seals the day and year above first written.

[END OF TEXT; SIGNATURES ON FOLLOWING PAGE]

Name:

Title:

[Handwritten Signature]
Assistant Secretary

THE PREMCOR REFINING GROUP INC.

CONNECTICUT)
STATE OF ~~DELAWARE~~)
) SS.
COUNTY FAIRFIELD)

BE IT REMEMBERED, that on this 20th day of June, 2005, personally came before me, the Subscriber, a Notary Public in and for the State and County aforesaid, Jeffrey Dill, party to this Instrument, known to me personally to be such, and acknowledged this Indenture to be his/h~~er~~ act and deed and the act and deed of the Corporation.

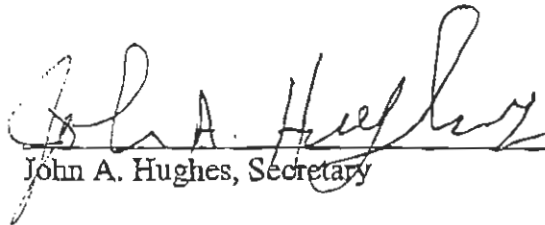
GIVEN under my Hand and Seal of Office, the day and year aforesaid.

Notary Public:

Kathy F. Sacheli

Commission Expires on:

KATHY F. SACHELI
NOTARY PUBLIC
MY COMM. EXPIRES OCT. 31, 2005


John A. Hughes, Secretary

STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

STATE OF DELAWARE)
) SS.
)
COUNTY Kent)

BE IT REMEMBERED, that on this 2nd day of May, 2005, personally came before me, the Subscriber, a Notary Public in and for the State and County aforesaid, on behalf of the Department of Natural Resources and Environmental Control, party to this Instrument, known to me personally to be such, and acknowledged this Indenture to be his/her act and deed and the act and deed of the Department.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

Notary Public: Cawl C. Brown

Commission Expires on: 11/27/07



VANDEMARK & LYNCH, INC.

ENGINEERS • PLANNERS • SURVEYORS

4305 MILLER RD./PO BOX 2047
WILMINGTON, DE 19899
(302) 764-7635 FAX (302) 764-4170

Project No.: 20780
File No.: 37135-L, Revision 2

June 7, 2004

Description of Wetland and Riparian Tree Buffer Conservation Easement situate off of River Road, New Castle Hundred, New Castle County, Delaware.

ALL THAT CERTAIN Wetland and Riparian Tree Buffer Conservation Easement over the land now or formerly of The Premcor Refining Group, Inc. (Deed Record 20040503-0049043), New Castle Hundred, New Castle County, Delaware, as shown on a plan prepared by VanDemark & Lynch, Inc., Engineers, Planners and Surveyors, Wilmington, Delaware, file No. 37135-L, dated May 5, 2004, last revised June 7, 2004, entitled "Plan prepared for, Motiva Enterprises, LLC, Conservation Easements, The Premcor Refining Group, Inc." and more particularly described as follows, to wit:

BEGINNING at a point on the common line for the land now or formerly of the United States Postal Service (Deed Record 1748, Page 90) and land now or formerly of The Premcor Refining Group, Inc. (Deed Record 20040503-0049043), the said point being located and measured, South $73^{\circ}19'13''$ East, 695.75 feet from a concrete monument found on the easterly side of River Road, Delaware Route 9, (a 90 foot wide public road), passing over a concrete monument found at 628.25 feet from the beginning of this course;

THENCE from the said point of Beginning, along the said common line for the land now or formerly of the United States Postal Service and land now or formerly of The Premcor Refining Group, Inc., South $73^{\circ}19'13''$ East, 2,600.83 feet to a point on the low water line for the Delaware River as established by a survey of August 14, 1966;

THENCE southwesterly, along the various meanderings of the said low water line for the Delaware River, 1775 feet, more or less, to a point, a corner for land now or formerly of Delmarva Power & Light Company (Deed Record X, Volume 77, Page 502), the said point being distant by a tie line of South $08^{\circ}44'01''$ West, 1415.43 feet, more or less, from the last described point;

THENCE along the northwesterly line for the said land now or formerly of Delmarva Power & Light Company, South $63^{\circ}43'06''$ West, 1,664.18 feet to a point;

THENCE through the said land now or formerly of The Premcor Refining Group, Inc. the seven (7) following described courses and distances:

1. North $46^{\circ}47'52''$ West, 370.68 feet to a point;
2. North $59^{\circ}54'57''$ West, 261.51 feet to a point;
3. North $20^{\circ}11'21''$ West, 84.65 feet to a point;
4. North $49^{\circ}39'08''$ West, 80.56 feet to a point;
5. North $61^{\circ}08'14''$ West, 46.16 feet to a point;
6. North $57^{\circ}29'26''$ West, 81.85 feet to a point; and

The Premcor Refining Group, Inc.

Wetland and Riparian Tree Buffer Conservation Easement

June 7, 2004, Page 2 of 3

7. North 58°44'16" West, 109.88 feet to a point on a northeasterly side of a 200' wide Delmarva Power & Light Company Right-of-way (Deed Record E, Volume 88, Page 349);

THENCE continuing through the said land now or formerly of The Premcor Refining Group, Inc., along the said 200' wide Delmarva Power & Light Company Right-of-way, North 29°25'11" West, 126.56 feet to a point;

THENCE departing the said 200' wide Delmarva Power & Light Company Right-of-way, continuing through the said land now or formerly of The Premcor Refining Group, Inc., the seventeen (17) following described courses and distances:

1. North 19°01'25" East, 32.24 feet to a point;
2. North 25°50'42" East, 22.77 feet to a point;
3. North 43°24'44" East, 63.19 feet to a point;
4. North 66°35'06" East, 87.53 feet to a point;
5. North 88°38'34" East, 61.37 feet to a point;
6. North 82°02'46" East, 24.47 feet to a point;
7. North 21°42'11" East, 48.61 feet to a point;
8. North 10°59'59" East, 101.75 feet to a point;
9. North 22°33'25" East, 72.22 feet to a point;
10. North 02°46'16" West, 16.50 feet to a point;
11. North 68°53'59" West, 41.75 feet to a point;
12. North 61°51'12" West, 128.68 feet to a point;
13. North 62°21'39" West, 134.56 feet to a point;
14. North 58°35'37" West, 111.12 feet to a point;
15. North 61°00'14" West, 127.44 feet to a point;
16. North 53°55'43" West, 75.79 feet to a point; and
17. North 27°34'24" West, 82.54 feet to a point, a corner for the Warm Season Grass Conservation Easement;

THENCE continuing through the said land now or formerly of The Premcor Refining Group, Inc., along the southerly, easterly and northerly side of the Warm Season Grass Conservation Easement, the nineteen (19) following described courses and distances:

1. North 17°27'33" East, 115.57 feet to a point;
2. North 63°10'08" East, 105.60 feet to a point;
3. South 76°10'44" East, 113.73 feet to a point;
4. North 68°52'12" East, 103.76 feet to a point;
5. South 81°49'02" East, 99.27 feet to a point;
6. South 81°02'10" East, 136.52 feet to a point;
7. North 83°55'15" East, 81.09 feet to a point;
8. North 42°47'30" East, 78.40 feet to a point;
9. North 37°03'05" East, 112.15 feet to a point;
10. North 05°16'32" East, 65.11 feet to a point;
11. North 07°03'36" East, 119.06 feet to a point;
12. North 16°49'27" East, 139.15 feet to a point;
13. North 06°32'21" East, 66.05 feet to a point;

The Premcor Refining Group, Inc.
Wetland and Riparian Tree Buffer Conservation Easement
June 7, 2004, Page 3 of 3

14. North 28°11'31" West, 66.93 feet to a point;
15. North 48°17'06" West, 176.26 feet to a point;
16. North 59°17'57" West, 139.44 feet to a point;
17. North 65°13'23" West, 118.26 feet to a point; and
18. North 60°47'00" West, 214.18 feet to a point;

THENCE continuing through the said land now or formerly of The Premcor Refining Group, Inc., the two (2) following described courses and distances:

1. North 13°17'14" East, 98.88 feet to a point; and
2. North 16°40'47" East, 233.87 feet to the point and place of Beginning.

CONTAINING within said metes and bounds, 107.31 acres of land, being the same, more or less...

AKG

Checked By: TEL

FREDERICK H. ALTERGOTT, ESQUIRE - POTTER ANDERSON & CORROON LLP

DO NOT WRITE OR STAPLE IN THIS AREA

Form 5402 must be completed for all conveyances and must be presented at the time of recording.

PART A - TO BE COMPLETED BY GRANTOR/SELLER

Enter Employer Identification Number or Social Security Number of the Grantor **5** The Grantor is a:

43-1491230		<input type="checkbox"/> Resident Individual
2 Name of Grantor: The Premcor Refining Group, Inc.		<input type="checkbox"/> Non-Resident Individual
3 Address: 1700 E. Putnam Avenue, Suite 400		<input checked="" type="checkbox"/> Domestic Corporation (Delaware)
		<input type="checkbox"/> Foreign Corporation (Non-Delaware)
		<input type="checkbox"/> S Corporation
City: Old Greenwich	County:	<input type="checkbox"/> Government Agency
State: CT	Zip Code: 06870	<input type="checkbox"/> Fiduciary (Estate or Trust)
4 A gain was <input type="checkbox"/> was not <input type="checkbox"/> realized on the sale of the real estate conveyed.		<input type="checkbox"/> Partnership
		<input type="checkbox"/> Non-Profit Corporation

PART B - TO BE COMPLETED BY THE GRANTEE/BUYER

Enter Employer Identification Number or Social Security Number of Grantee **4** The Grantee is a:

		<input type="checkbox"/> Resident Individual
2 Name of Grantee: The State of Delaware through its Department of Natural Resources and Environmental Control		<input type="checkbox"/> Non-Resident Individual
3 Address: 89 Kings Highway		<input type="checkbox"/> Domestic Corporation (Delaware)
		<input type="checkbox"/> Foreign Corporation (Non-Delaware)
		<input type="checkbox"/> S Corporation
City: Dover	County: Kent	<input checked="" type="checkbox"/> Government Agency
State: DE	Zip Code: 19901	<input type="checkbox"/> Fiduciary (Estate or Trust)
Parcel No: 10-050.00-008		<input type="checkbox"/> Partnership
		<input type="checkbox"/> Non-Profit Corporation

PART C - PROPERTY LOCATION AND VALUE

7 The Property is:

1 Address: 0 River Road		<input checked="" type="checkbox"/> Industrial/Commercial
City: New Castle	County: New Castle	<input type="checkbox"/> Residential
State: DE	Zip Code: 19720	<input type="checkbox"/> Other, including property primarily used in farming

COMPUTATION OF THE TAX

- Conveyances with consideration. Enter the amount of consideration received including cash, checks, mortgages, liens, encumbrances, and any other good and valuable consideration. Was like kind property exchanged?
 Yes No (If yes, see Instructions) \$ NONE
- Conveyances without full consideration. Enter the highest assessed value (for local tax purposes) of the real estate being conveyed. Was like kind property exchanged? Yes No (If yes, see Instructions) \$
- Enter the greater, Line 2 or Line 3 \$
- Multiply Line 4 times 1.5% x .015
- Tax Due and Payable with the recording of this document SEXEMPT

PART D - EXEMPT CONVEYANCES 30 Del.C. §5401m

If transaction is exempt from Realty Transfer Tax, be certain that all of the above information (including market value of the real estate) is complete and accurate and explain the basis for the exemption. The seller authorizes the Division of Revenue or such other appropriate state agency as may be designated to obtain any appropriate or necessary federal income tax forms, including their attached schedules or other attachments, and any other related papers filed by such seller which relates solely to which title is purported to be conveyed by the deed or instrument being recorded. Delaware law requires an income tax return be filed for the taxable year during which there was disposition of real property within this state. EXEMPT

SWORN TO AND SUBSCRIBED before me
On this 5th day of August 2005.

Nancy J. Pace
Notary Public

[Signature]
Seller's Signature
VP - EHA S
Title of Officer/Partner

692177

Nancy J. Pace
Notary Public, State of Delaware
My Commission Expires June 30, 2007

New Castle County
 Realty Transfer Tax Return
 And
 Affidavit of Value

Department of Administration
 New Castle County Government Center
 87 Read's Way
 New Castle, Delaware 19720-1648

Form must be completed for all conveyance and presented at time of recording

Part A - SELLER'S Information (Grantor)
 Social Security # 43-1491230

Name of Sellers: The Premcor Refining Group, Inc.	
Address: 1700 E. Putnam Avenue, Suite 400	
City: Old Greenwich	County:
State: CT	Zip Code: 06870

Part B - BUYER'S Information (Grantee)
 Social Security #

Name of Buyers: State of Delaware through its Department of Natural Resources and Environmental Control	
Address: 89 Kings Highway	
City: Dover	County: Kent
State: DE	Zip Code: 19901

Part C - PROPERTY LOCATION

Address: 0 River Road	
City: New Castle	County: New Castle
State: DE	Zip Code: 19720
Parcel No.: 10-050.00-008	

The Property is:

- Industrial/Commercial
- Residential
- Farmland
- Other

Part D - COMPUTATION OF TAX

1. Conveyances with full consideration
 Enter the total amount of consideration \$ _____

OR

2. Conveyances without full consideration
 - a. Enter the actual monetary worth of the property and \$ _____
 - b. Enter New Castle County's tax assessment of the property \$ _____
3. Conveyance of tax
 - a. Enter the amount of Line 1 or the higher of Lines 2a and 2b. \$ _____
 - b. Multiply by 1.5 percent x.015
 This amount is the Tax that is due and payable with the filing of this document \$ _____

OR

4. Claim of Partial Exemption
 - a. If you claim a partial exemption from the Tax, check here and complete the Affidavit of Exemption on the reverse. \$ _____
 - b. Enter the amount from Line 3a. _____
 - c. Multiply by 0.75 percent x.0075
 This amount is the Tax that is due and payable with the filing of this document \$ _____

OR

5. Claim of Full Exemption EXEMPT
 If you believe this conveyance is wholly exempt from the Tax, check here and complete The Affidavit of Exemption on the reverse.

Part E
 Do you consider the total sales price to be the full market value of the real estate on the date of the sale?
 If no, explain.

Part F
 Seller and Buyer hereby attest that their computation of the Tax, as set forth on this Return, is based on the highest "value," as defined by §14-676(a) of the New Castle County Code, and that this affidavit (including any information presented in support of any claim of exemption) is true and correct to the best of their knowledge, information and belief.

Seller's Signature

VP-EHOS

Title of Officer/Partner

Buyer's Signature

John A. Hughes, Secretary

Title of Officer/Partner

SWORN TO AND SUBSCRIBED before me this 5th day of August, 2005.

692177

Nancy J. Pace
 Notary Public, State of Delaware
 My Commission Expires June 30, 2007

Nancy J. Pace
 Notary Officer

AUG. 18. 2005 2:49PM POTTER ANDERSON & CORROON LLP
AFFIDAVIT OF EXEMPTION

NC. 6624 P. 2

1. The State of Delaware through its Department of Natural Resources and Environmental Control, being duly sworn according to law, swear/affirm that we are the buyers in the transaction reported on this Realty Transfer Tax Return (if more than one person is taking title to the property, all buyers must sign this Affidavit).

2. I believe the transaction is exempt from the New Castle County Real Property Tax ("the Tax") on the basis of the following provision § 14-676(a) of the New Castle County Code:

- Will or Intestacy
- Correctional Deed
- Religious Organization
- Mortgage/Mortgage Default
- Trustee/Straw Party
- Lease
- Nominal Value (Under \$100)
- Farm-to-Farm
- Gift to § 501(c)(3) Organization
- Governmental
- Parent/Child
- Husband & Wife/Divorce
- Corporation/Partnership/Subsidiary
- Housing Authority/Industrial Development
- First-Time Home Buyer
- Other (Specify with Particularity)

3. If I am claiming the first-time home buyer exemption,

- a. I have never held any legal interest in any residential real property anywhere. (If a husband and wife or other individuals are purchasing in any form of co-tenancy, none of them has ever held such an interest).
- b. I intend to occupy the property as my principal residence within 90 days.

4. If I am claiming the farm-to-farm exemption,

- a. This property is currently assessed under the State Farmland Assessment Act.
- b. I intend to continue to use this property for agricultural, horticultural, or forest use so long I/we own it.
- c. I recognize that, if the property is put to any other use within three years after the date of this transaction, New Castle County will levy the otherwise exempted transfer tax, which will immediately become due and be payable by the then-current owner, as well as any rollover taxes that may be due under 9 Del. C. § 8325(d).

5. I have attached copies of all documents necessary to prove my entitlement to this exemption and agree to submit, upon request by New Castle County, any additional documentation the County believes necessary to determine my eligibility for exemption.

6. I swear/affirm, under the penalty of law, that the information contained herein, the statements below, and in any documents appended hereto is true and correct to the best of my knowledge, information and belief.

State of Delaware through its
Department of Natural Resources and
Environmental Control
Buyer

By: John A. Hughes (Seal)
John A. Hughes

SWORN TO AND SUBSCRIBED before me this 22nd day of August, 2005.

Karen A. Garrison (Seal)
Notarial Officer

KAREN GARRISON
Notary Public, State of Delaware
My Commission Expires May 9, 2009
LENDER'S CERTIFICATION
(Must be completed if first-time home buyer exemption is claimed)

On behalf of _____
(lending institution/mortgagee) (name) (title)

hereby certify that I am familiar with the loan made by me/my institution in connection with this transaction and, to the best of my knowledge and belief, no information submitted by the buyers or reported to be or to this institution indicates that any of the person taking title to the real property that is the subject of this transaction has ever held a legal interest in any residential real property.

Signature

Title

692177