

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,)
)
 Plaintiff)
)
 and)
) Civil Action No. 00-CV-2756
 THE STATE OF MINNESOTA,)
)
 Plaintiff-Intervener,)
)
 v.)
)
 KOCH PETROLEUM GROUP, L.P.)
)
 Defendants.)
)

NOTICE OF LODGING OF PROPOSED CONSENT DECREE

Pursuant to the United States Code of Federal Regulations, 28 C.F.R. §50.7, the proposed Second Amendment to Consent Decree, Attachment 1 hereto, is being lodged with the Court in this civil action, in order to allow for a thirty-day (30) public comment period, prior to seeking approval of the Court.

The parties are amending the April 25, 2001, Consent Decree in this national, multi-facility Clean Air Act (“Act”) enforcement action against Koch Petroleum Group, L.P, now known as Flint Hills Resources, LP (“FHR”), pursuant to Section 113(b) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(b) (1983), amended by, 42 U.S.C. § 7413(b) (Supp. 1991). The original settlement, covering three refineries, was entered by the Court on April 25, 2001, as part of EPA’s Petroleum Refinery Initiative.

This proposed Second Amendment applies to the fluidized catalytic cracking unit (“FCCU”) at FHR’s Corpus Christi East Refinery and allows FHR to install an alternative control technology for the reduction of nitrogen oxide (“NOx”) emissions from that unit. FHR will complete the installation by December 31, 2010, and begin meeting a more stringent annual average NOx limit of 20 parts per million (“ppm”), effective January 1, 2011. This more stringent limit will likely result in an additional 171.5 tpy reduction of NOx beyond what the original Decree required from pre-control baseline emission levels.

After the requisite Federal Register Notice is published, the time period for comments has run, and the comments, if any, have been evaluated, the Court will be further advised as to any action which may be required by the Court at that time.

During the pendency of the public comment period under 28 C.F.R. Section 50.7, **no action is required of the Court.** Following the expiration of the public comment period (30 days), if the comments do not reveal any reasons to withdraw the Consent Decree, the United States will file with the Court a Motion to Enter the Decree. The Consent Decree should not be signed by the District Judge until the Motion to Enter is submitted.

Dated: August 22, 2008

Respectfully submitted,

RONALD J. TENPAS
Assistant Attorney General

s/ Friedrich A.P. Siekert
FRIEDRICH A.P. SIEKERT for

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Dated: August 22, 2008

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s/ Friedrich A.P. Siekert

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KOCH PETROLEUM GROUP, L.P.)	
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SECOND AMENDMENT TO CONSENT DECREE

WHEREAS, Plaintiff, the United States of America (“Plaintiff”), acting on behalf of the United States Environmental Protection Agency (“EPA”), the State of Minnesota on behalf of the Minnesota Pollution Control Authority (“MPCA” or “Plaintiff-Intervenor”), and Koch Petroleum Group, L.P. (now Flint Hills Resources, LP, referred to as “FHR” or “Defendant”) are parties to a Consent Decree entered by this Court on April 25, 2001 ; and

WHEREAS, the parties had previously determined that modification of certain requirements of the Consent Decree was appropriate, and which modification was approved and entered as a final order of the Court on January 19, 2007 (hereinafter “First Amendment to Consent Decree”); and

WHEREAS, FHR has agreed to the reduction of nitrogen oxides emissions (“NOx”) from the fluidized catalytic cracking unit (“FCCU”) at its Corpus Christi, Texas, East refinery; and

WHEREAS, in the First Amendment to Consent Decree, FHR agreed to install an SNCR system for NO_x reduction at its East Refinery at the next scheduled turnaround of its FCCU, which was to begin no later than December 31, 2008; and

WHEREAS, after startup of the East Refinery SNCR, FHR was to propose a NO_x limit within 21 months (or longer as agreed to by EPA and FHR), leading to a proposed interim NO_x limit at the East Refinery FCCU by the fourth quarter of 2010 or early 2011, with a final limit established at some point thereafter; and

WHEREAS, the Consent Decree does not specify the NO_x limit, but requires that it be proposed and set based on performance of the SNCR system, once installed; and

WHEREAS, FHR has determined and has demonstrated to the satisfaction of EPA, that FHR's Corpus Christi East Refinery FCCU is not configured in a way that will allow for optimal use of SNCR. In order to facilitate SNCR installation and operation, FHR would have to undertake substantial redesign work that could affect the performance of its scrubber that is utilized for particulate and SO₂ control; and

WHEREAS, based on FHR's evaluation, even a reconfigured FCCU with SCNR would likely result in NO_x emissions in the range of 50-70 ppm on an annual average basis and could be even higher; and

WHEREAS, instead of the agreement to install SNCR, FHR has agreed to install an alternate NO_x reduction technology (LoTOX or comparable technology) by the end of 2010 and

establish a NOx limit of 20 ppm (annual average), effective January 1, 2011, with the first annual average compliance point calculated on January 1, 2012; and

WHEREAS, this alternate commitment achieves greater NOx reductions on the same or better timetable as the SNCR commitment; and

WHEREAS, each of the undersigned has reviewed and hereby consents to this Second Amendment; and

WHEREAS, this amendment does not affect requirements applicable to the Pine Bend, Minnesota, refinery and therefore, Plaintiff-Intervenor State of Minnesota, pursuant to Paragraph 153 of this decree as amended is not required to be a party to this amendment;

NOW, THEREFORE, the United States and FHR hereby agree that upon entry of this Second Amendment by the Court, the Consent Decree entered on April 25, 2001 (as amended January 19, 2007), shall be modified as follows:

1. Paragraph 35(b) is amended to read as follows:

(b) FHR will implement the following actions at the Corpus Christi East FCCU:

By no later than December 31, 2010, FHR shall complete installation and thereafter begin operation of a LoTOX or alternative technology to reduce NOx emissions from the Corpus Christi East FCCU. FHR shall thereafter comply with a NOx concentration limit of no greater than 20 ppm at 0%O₂ measured as a 365-day rolling average. January 1, 2011 will be the first day used in the 365 day rolling average subject to the 20 ppm emission limit with the first complete 365 day average being on December 31 2011.

2. Paragraph 38 is amended to read as follows:

FHR shall submit, within the report required in Paragraph 30(b), a 365-day rolling average initial NOx emission limit for the FCCU located where FHR conducted the combined technology test. Upon submission of this initial limit, and the submission of the initial limit for the technology test required in Paragraph 35(a), and until such time as limits are finalized, FHR will comply with the initial NOx emission limits. EPA and FHR, in consultation with the appropriate state agency, will use the data collected, the level of demonstrated performance, process variability, reasonable certainty of compliance and any other pertinent information to establish final NOx emissions limits for the Pine Bend and Corpus Christi West FCCU.

So entered in accordance with the foregoing this _____ day of _____, 2008.

United States District Court Judge
For the District of Minnesota

Second Amendment to Consent Decree
United States v. Koch Petroleum Group. L.P. (D. Minn.)

FOR PLAINTIFF THE UNITED STATES OF AMERICA:

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FOR THE U. S. ENVIRONMENTAL PROTECTION AGENCY:

s/ Walker B. Smith

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FOR FLINT HILLS RESOURCES, LP :

s/ Joe Coco

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