

ORIGINAL

1 GRAHAM & MARTIN LLP  
2 ANTHONY G. GRAHAM # 148682  
3 3130 South Harbor Boulevard, Suite 250  
4 Santa Ana, CA 92704  
5 Telephone: (714) 850-9390  
6 Facsimile: (714) 850-9392

Attorneys for Plaintiff  
DR. RICHARD SOWINSKI

**FILED**  
LOS ANGELES SUPERIOR COURT

*W* JUL - 2 2012

JOHN A. CLAPINE, EXECUTIVE OFFICER  
*C. Wright*  
BY CAROL WRIGHT, DEPUTY

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Dept. 308

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

11 DR. THOMAS F. SOWINSKI, IN THE  
12 PUBLIC INTEREST,

13 Plaintiff,

14 vs.

15 BP PRODUCTS NORTH AMERICA, INC.;  
16 BP AMOCO CHEMICAL COMPANY;  
17 CHEVRON PHILLIPS CHEMICAL  
18 COMPANY LP; CONOCOPHILLIPS  
19 COMPANY; SHELL CHEMICAL LP;  
20 TESORO REFINING & MARKETING CO.;  
21 VALERO MARKETING & SUPPLY CO.;  
22 EQUILON ENTERPRISES LLC AND  
23 DOES 1-500,

24 Defendants.

Case No. BC 393707

~~PROPOSED~~ CONSENT  
JUDGMENT

~~PROPOSED~~ CONSENT JUDGMENT

1 **1. INTRODUCTION**

2 **1.1 The Parties**

3 This Consent Judgment is entered into by and between Plaintiff Dr. Richard F. Sowinski  
4 (“Sowinski” or “Plaintiff”) and Defendants Tesoro Refining & Marketing Co., Valero Marketing  
5 & Supply Co., BP Products North America Inc. (“BP Products”), BP Amoco Chemical Company  
6 (“BP Amoco”), ConocoPhillips Company, Shell Chemical L.P. (“Shell Chemical”), and Equilon  
7 Enterprises, LLC (“Equilon”) (all of the Defendants are collectively referred to herein as the  
8 “Settling Defendants”). Sowinski and Settling Defendants are collectively referred to hereinafter  
9 as the “Parties.”

10 **1.2 Plaintiff**

11 Sowinski (“Sowinski” or “Plaintiff”), an individual residing in California, is an individual  
12 acting in the public interest, pursuant to Health and Safety Code section 25249.7(d).

13 **1.3 Defendants**

14 Each of the Settling Defendants employs ten (10) or more persons and is a person in the  
15 course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of  
16 1986, California Health & Safety Code §§ 25249.6 *et seq.* (“Proposition 65”).

17 **1.4 General Allegations**

18 Sowinski alleges that Settling Defendants manufactured, produced and refined propane  
19 gas for distribution and sale in the State of California for use by consumers. Plaintiff alleges that  
20 when propane gas is burned it produces, in the ordinary course of usage, benzene in amounts that  
21 exceed the allowable threshold exposure level set forth in California Health & Safety Code §  
22 25249.6. Benzene is listed pursuant to Proposition 65 as a chemical known to the State of  
23 California to cause cancer, birth defects and other reproductive harm. Benzene shall be referred  
24 to herein as the “Listed Chemical.”

26 **1.5 Notice of Violation**

27 On October 29, 2007, Sowinski served Settling Defendants and various public  
28 enforcement agencies with a document entitled “60-Day Notice of Violation” (“Notice”) that

1 provided public enforcers and the Settling Defendants with notice of alleged violations of  
2 Health & Safety Code § 25249.6 for failing to warn consumers of the presence of, and their  
3 possible exposure to, benzene in and from their use of propane gas, which is manufactured,  
4 produced and/or refined by Settling Defendants and, in turn, subsequently sold to California  
5 consumers. To the best of the Parties' knowledge, no public enforcer has commenced and is  
6 diligently prosecuting the allegations set forth in the Notice.

7 **1.6 Complaint/Amended Complaints**

8 On July 1, 2008, Sowinski, acting in the public interest, filed a Complaint in the Superior  
9 Court in and for the City and County of Los Angeles alleging that Settling Defendants violated  
10 the warning provisions of Proposition 65 by knowingly and intentionally exposing consumers,  
11 their customers and/or the general public to benzene, a chemical known to the State of California  
12 to cause cancer, birth defects and reproductive toxicity, as set forth in Health & Safety Code §§  
13 25249.5, et seq. and 22 California Code of Regulations §§ 12000 through 14000 ("Proposition  
14 65") without giving clear and reasonable warnings of that fact to the exposed persons prior to  
15 exposure (the "Action").

16 **1.7 No Admission**

17 This Consent Judgment resolves claims that are denied and disputed by Settling  
18 Defendants. For the purpose of avoiding prolonged litigation, the Parties enter into this Consent  
19 Judgment as a full settlement of all claims that were raised in the Complaint based on the facts  
20 alleged therein, or which could have been raised in the Complaint arising out of the facts alleged  
21 therein. Settling Defendants deny the material factual and legal allegations contained in the  
22 Notice and Action, maintain that each did not knowingly or intentionally expose California  
23 consumers to benzene through the reasonably foreseeable use of Covered Products (defined  
24 below) or otherwise contend that all products each has manufactured, distributed and/or sold in  
25 California have been and are in compliance with all applicable laws. Nothing in this Consent  
26 Judgment shall be construed as an admission by Settling Defendants, and each of them, of any  
27 fact, finding, issue of law, or violation of law; nor shall compliance with this Consent Judgment  
28 constitute or be construed as an admission by Settling Defendants of any fact, finding, conclusion,

1 issue of law, or violation of law, such being specifically denied by Settling Defendants. Nothing  
2 in this Consent Judgment shall prejudice, waive or impair any right, remedy or defense the  
3 Plaintiff and Settling Defendants may have as to each other in any other or future legal  
4 proceedings unrelated to these proceedings, the facts alleged in the Complaint, or matters covered  
5 by this Consent Judgment. However, notwithstanding the foregoing, this section shall not  
6 diminish or otherwise affect Settling Defendants' obligations, responsibilities, and duties under  
7 this Consent Judgment.

### 8 **1.8 Consent to Jurisdiction**

9 For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
10 jurisdiction over Settling Defendants as to the allegations contained in the Complaint, that venue  
11 is proper in the City and County of Los Angeles, and that this Court has jurisdiction to enter and  
12 enforce the provisions of this Consent Judgment. As an express part of this Agreement, pursuant  
13 to C.C.P. §664.6 the Court in which this action was filed shall retain jurisdiction over the parties  
14 to enforce the settlement until performance in full of the terms of the settlement. The Parties  
15 expressly do not consent to transfer of jurisdiction or venue absent an order of the Court to the  
16 same.

## 17 **2. DEFINITIONS**

18 **2.1** The term "Complaint" shall mean the Complaint.

19 **2.2** "Products" or "Covered Products" shall mean all liquid propane gas manufactured,  
20 produced, and/or refined by a Settling Defendant for use, sale and/or distribution in California.

21 **2.3** The term "Effective Date" of this Consent Judgment shall be the date on which the  
22 Consent Judgment is entered as a judgment by the Court.

23 **2.4** The term "Listed Chemical" shall mean benzene.

## 24 **3. INJUNCTIVE RELIEF**

### 25 **3.1 Clear and Reasonable Warnings**

26 3.1.1 Each Settling Defendant shall provide warnings in the manner set forth in  
27 this Consent Judgment for any Covered Product it manufactures, produces and/or refines for use,  
28

1 sale and/or distribution in California. These warning requirements shall take effect ninety (90)  
2 days after the Effective Date of this Consent Judgment.

3 3.1.2 Warning Language.

4 The warning shall contain one of the warning language options stated below, unless  
5 modified by agreement of the Parties:

6 Option 1:

7 WARNING: Chemicals known to the State of California to cause cancer, birth  
8 defects or other reproductive harm are created by the combustion of propane.

9 Option 2:

10 WARNING: Byproducts of the combustion of propane contain chemicals known  
11 to the State of California to cause cancer and birth defects or other reproductive  
12 harm.

13 Option 3:

14 A Settling Defendant and Plaintiff may mutually agree to alternative warning language  
15 which contains substantially the same information as set forth in Options 1 and 2 above. In the  
16 event a Settling Defendant and Plaintiff agree to alternative warning language from that provided  
17 in Options 1 and 2, Settling Defendant and Plaintiff agree to provide notice of the proposed  
18 alternative warning language to the California Attorney General's office and to submit the  
19 alternative warning language for court approval pursuant to Health & Safety Code §  
20 25249.7(f)(4). Upon court approval of the alternative warning language, that warning shall be  
21 incorporated into an amendment to the Injunctive Relief provisions of this Consent Judgment to  
22 be entered by the Court.

23 3.1.3 **Material Safety Data Sheet ("MSDS")**. Each Settling Defendant shall  
24 revise its MSDS prepared pursuant to the federal Hazardous Communication Standard (29 C.F.R.  
25 Part 1910.1200, *et seq.*) for Covered Products to include one of the three warning language  
26 options set forth in Section 3.1.2 above. In addition, the MSDS shall further inform product  
27 resellers of the need to comply with Proposition 65 by including in the MSDS the notice set forth  
28 in Addendum A, section II. No later than ninety (90) days from the Effective Date this Consent  
Judgment, each Settling Defendant shall distribute or otherwise make available, in the customary

1 manner by which the Settling Defendant distributes or makes available its MSDSs pursuant to  
2 California and federal law, a revised MSDS to every commercial or industrial customer that  
3 purchases Covered Products for sale or distribution for use in California directly from that  
4 Settling Defendant

5           **3.1.4 Alternative Warning Requirements.** If, with respect to exposure to  
6 chemicals listed by the state of California pursuant to Proposition 65 from the combustion of  
7 propane, the People of the State of California or the Plaintiff permit any other warning standard or  
8 vary the permissible manner, form, size or content of warning, as to any particular class of  
9 potentially exposed persons in California, by way of settlement or compromise with any other  
10 person in the course of doing business, or any other entity, or if another warning standard,  
11 manner, form, size or content of warning is incorporated by way of a final judgment as to any  
12 other person in the course of doing business, or any other entity, then any Settling Defendant may,  
13 at its sole option, give warnings on the same terms as provided in those settlements, compromises  
14 or judgments. If a Settling Defendant exercises this option, such Settling Defendant shall provide  
15 written notice to the California Attorney General and Plaintiff. In the event that Proposition 65 is  
16 repealed, Settling Defendants shall have no further obligations pursuant to this Consent Judgment.

17           **3.2 Duties Limited to California.**

18           3.2.1 This Consent Judgment shall have no effect on propane sold by Settling  
19 Defendants for use outside the State of California.

20           **4. PAYMENT OF ATTORNEY'S FEES.**

21           **4.1** Settling Defendants shall each pay Sowinski and his counsel \$15,000.00, with BP  
22 Products and BP Amoco making a single payment of \$15,000.00 and Shell Chemical and Equilon  
23 also making a single payment of \$15,000.00, as reimbursement for investigatory expenses and a  
24 portion of the fees and costs incurred by Sowinski and his counsel as a result of bringing this  
25 matter to Settling Defendants' attention. The Parties agree that based upon the statutory factors  
26 set forth in California Health & Safety Code section 25247.9(b)(2), a civil penalty payment is not  
27 warranted in this case.  
28

1                   4.1.1 Payment of the amount due pursuant to section 4.1 shall be delivered to  
2 Sowinski's counsel within seven (7) business days of the Effective Date of this Consent  
3 Judgment. The checks should be made payable to "Graham & Martin LLP Trust Account" and  
4 sent to the following address:

5                   Anthony Graham  
6                   Graham & Martin LLP  
7                   3130 S Harbor Blvd Ste 250  
8                   Santa Ana, CA 92704

9                   **5. CLAIMS COVERED AND RELEASE**

10                   **5.1 Sowinski's Releases of Settling Defendants and Related Entities**

11                   5.1.1 This Consent Judgment is a full, final, and binding resolution between  
12 Sowinski and Settling Defendants, and each of Settling Defendants' owners, subsidiaries,  
13 affiliates, sister and related companies (including those overseas entities held by its owners),  
14 employees, shareholders, directors, insurers, attorneys, successors, and assigns ("Defendant  
15 Releasees")<sup>1</sup> of any violation of Proposition 65 that has been or could have been asserted against  
16 Defendant Releasees regarding the failure to warn about exposure to the Listed Chemical arising  
17 in connection with Covered Products manufactured, refined, distributed, or sold by Defendant  
18 Releasees prior to the Effective Date. Settling Defendants' compliance with this Consent  
19 Judgment shall constitute compliance with Proposition 65 with respect to the Listed Chemical in  
20 or produced by the Covered Products after the Effective Date.

21                   5.1.2 Except as to the provisions of Section 4, Sowinski on behalf of himself, his  
22 past and current agents, representatives, attorneys, successors, and/or assignees, and in the interest  
23 of the general public, hereby waives with respect to Covered Products all rights to institute or  
24 participate in, directly or indirectly, any form of legal action and releases all claims, including,  
25 without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands,  
26 obligations, damages, costs, fines, penalties, losses, or expenses (including, but not limited to,  
27 investigation fees, expert fees, and attorneys' fees) of any nature whatsoever, whether known or

28 <sup>1</sup> As set forth in Addendum A, section II, Defendant Releasees include Phillips 66 Company.

1 unknown, fixed or contingent (collectively "claims"), against Defendant Releasees and  
2 Downstream Defendant Releasees that arise under Proposition 65 or any other statutory or  
3 common law claims that were or could have been asserted in the public interest, as such claims  
4 relate to Defendant Releasees' and Downstream Defendant Releasees' alleged failure to warn  
5 about exposures to the Listed Chemical contained in or produced by the Covered Products.

6           5.1.3 Except as to the provisions of Section 4, Sowinski also, in his individual  
7 capacity only and *not* in his representative capacity, provides a general release herein which shall  
8 be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action,  
9 obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of  
10 Sowinski of any nature, character or kind, known or unknown, suspected or unsuspected, arising  
11 out of the subject matter of the Complaint as to Covered Products manufactured, distributed or  
12 sold by Defendant Releasees. Sowinski acknowledges that he is familiar with Section 1542 of the  
13 California Civil Code, which provides as follows:

14           A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE  
15           CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER  
16           FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN  
              BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER  
              SETTLEMENT WITH THE DEBTOR.

17 Sowinski, in his individual capacity only and *not* in his representative capacity, expressly waives  
18 and relinquishes any and all rights and benefits which he may have under, or which may be  
19 conferred on him by the provisions of Section 1542 of the California Civil Code as well as under  
20 any other state or federal statute or common law principle of similar effect, to the fullest extent  
21 that he may lawfully waive such rights or benefits pertaining to the released matters. In  
22 furtherance of such intention, the release hereby given shall be and remain in effect as a full and  
23 complete release notwithstanding the discovery or existence of any such additional or different  
24 claims or facts arising out of the released matters.

25           5.1.4 Upon court approval of the Consent Judgment, the Parties waive their  
26 respective rights to a hearing or trial on the allegations of the Complaint.

27           **5.2 Settling Defendants' Release of Sowinski**

28

1                   5.2.1 Settling Defendants waive any and all claims against Sowinski for claims  
2 arising out of his institution of this action, including any claims for attorney's fees and costs.

3 **6. SEVERABILITY**

4                   If, subsequent to court approval of this Consent Judgment, any of the provisions of this  
5 Consent Judgment are held by a court to be unenforceable, the validity of the enforceable  
6 provisions remaining shall not be adversely affected, unless the Court finds that any  
7 unenforceable provision is not severable from the remainder of the Consent Judgment.

8 **7. COURT APPROVAL**

9                   This Consent Judgment is not effective until it is approved and entered by the Court and  
10 shall be null and void if, for any reason, it is not approved and entered by the Court within nine  
11 months after it has been fully executed by all Parties.

12 **8. GOVERNING LAW**

13                   The terms of this Consent Judgment shall be governed by the laws of the State of  
14 California.

15 **9. NOTICES**

16                   When any Party is entitled to receive any notice under this Consent Judgment, the notice  
17 shall be sent by certified mail and electronic mail to the following:

18                   For Plaintiff:

19                   Anthony Graham  
20                   Graham & Martin LLP  
21                   3130 S Harbor Blvd Ste 250  
22                   Santa Ana, CA 92704

23                   For Settling Defendants:

24                   For Tesoro Refining & Marketing Co. to:

25                   Stoney Vining, Esq.  
26                   Tesoro Companies, Inc.  
27                   300 Concord Plaza Dr.  
28                   San Antonio Texas 78216

With copy to:

Mark E. Elliott

1 Caroline L. Plant  
2 Pillsbury Winthrop Shaw Pittman LLP  
3 725 South Figueroa Street, Suite 2800  
4 Los Angeles, CA 90017-5406

5 For Valero Marketing & Supply Co. to:

6 Stephanie Hall, Esq.  
7 Valero Energy Corporation  
8 One Valero Way  
9 San Antonio, Texas 78249

10 With copy to:

11 Mark E. Elliott  
12 Caroline L. Plant  
13 Pillsbury Winthrop Shaw Pittman LLP  
14 725 South Figueroa Street, Suite 2800  
15 Los Angeles, CA 90017-5406

16 For BP Products North America Inc. and BP Amoco Chemical Company to:

17 Michael Homeyer, Esq.  
18 BP Legal  
19 501 Westlake Park Blvd  
20 Houston, TX 77079

21 With copy to:

22 Benjamin D. Ammerman  
23 Tropio & Morlan  
24 21700 Oxnard Street  
25 Suite 1700  
26 Woodland Hills, CA 91367

27 For ConocoPhillips Company to:

28 Christine Z. Carbo, Esq.  
Senior Counsel  
ConocoPhillips Company  
McLean Building, Suite 1070  
600 North Dairy Ashford  
ML 1066  
Houston, Texas 77079-1175  
Fax: (281) 293-1954

With copy to:

Scott R. Hatch  
Matthew R. Orr  
Call & Jensen  
610 Newport Center Drive - Suite 700  
Newport Beach, CA 92660

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For Shell Chemical L.P. and Equilon Enterprises, LLC to:

Cisselon Nichols Hurd, Esq.  
Senior Litigation Counsel  
Shell Oil Company  
P O Box 2463, Houston, TX 77252-2463

With copy to:

Michael R. Leslie  
Alison Mackenzie  
Caldwell Leslie & Proctor, PC  
1000 Wilshire Boulevard  
Suite 600  
Los Angeles, CA 90017

Any Party may modify the person and address to whom the notice is to be sent by sending each other Party notice by certified mail and/or other verifiable form of written communication.

**10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(F)**

Sowinski agrees to comply with the reporting form requirements referenced in California Health & Safety Code §25249.7(f) and to file a motion for approval of this Consent Judgment.

**11. ENFORCEMENT OF JUDGMENT**

The terms of this Consent Judgment shall be enforced exclusively by the Parties hereto by means of noticed motion or order to show cause before the Superior Court of Los Angeles County.

**12. MODIFICATION**

**12.1** This Consent Judgment may be modified only upon written agreement of the Parties and upon entry of a modified amended Consent Judgment by the Court, or upon motion of any Party as provided by law and upon entry of a modified amended Consent Judgment by the Court.

**12.2** Notwithstanding the immediately preceding sentence or any other term or provision of this Consent Judgment, if Plaintiff or any affiliated entity, or the California Attorney

1 General, enters into, or agrees to in writing, or is otherwise bound by injunctive relief terms or  
2 provisions relating to the provision of Proposition 65 warnings for Covered Products, which,  
3 taken together, are more favorable to the Settling Defendants than the terms or provisions that this  
4 Consent Judgment provide for a Covered Product of like characteristics and use, the terms of  
5 injunctive relief provided for in Section 3 of this Consent Judgment shall automatically be  
6 deemed to have been modified to add such more favorable terms or provisions as an option which  
7 each Settling Defendant may elect for compliance with this Consent Judgment.

8 **12.3** In the event a Settling Defendant determines that it is no longer required to provide  
9 the warnings described in Section 3 of this Consent Judgment, and therefore intends to  
10 discontinue those obligations, such Settling Defendant will present to Plaintiff notice thereof as  
11 provided for in Section 9 of this Consent Judgment and a written explanation documenting the  
12 basis for discontinuing the provision of Section 3 warnings. Should Plaintiff disagree with the  
13 Settling Defendant's determination, he may elect to utilize the Dispute Resolution process  
14 described in Section 13 below. Unless Plaintiff provides the submitting Settling Defendant notice  
15 of the disagreement and intent to use the Dispute Resolution process within sixty (60) days, the  
16 Settling Defendant's position shall be deemed to have prevailed and the Settling Defendant shall  
17 be relieved from its obligations to provide the warnings set forth herein in Section 3.

18 **13. DISPUTE RESOLUTION**

19 **13.1** Wherever this Consent Judgment provides that a Settling Defendant may invoke  
20 the Dispute Resolution process or file a motion to have the Court resolve an issue, the Settling  
21 Defendant seeking a resolution shall first mail (by certified mail) and fax a notice to Plaintiff,  
22 setting forth the dispute and the basis for the Party's position. The Parties interested in the dispute  
23 shall then meet and confer in good faith within sixty (60) days to determine whether the dispute  
24 may be resolved in order to avoid further litigation of the issue, unless both Parties waive, in  
25 writing, notice and the opportunity to meet and confer. In the event that Plaintiff fails to meet and  
26 confer within the sixty (60) day period, the Settling Defendant's position shall be deemed to have  
27 prevailed. In the event that, after meeting and conferring, Plaintiff disapproves or disagrees with a  
28 position taken by a Settling Defendant, Plaintiff shall notify the Settling Defendant in writing,

1 sent by an overnight delivery service requiring a signature upon delivery, within 14 (fourteen)  
2 days of meeting and conferring. Should the Plaintiff do so and should the Settling Defendant wish  
3 to pursue its position, the Settling Defendant shall have the right to bring the issue to the Court by  
4 noticed motion for its de novo review and, provided that it is proceeding in good faith, shall not  
5 be subject to further penalties during the pendency of such motion and/or if the motion is not  
6 contested by Plaintiff In the event that the Plaintiff chooses to contest such a motion and prevails,  
7 1) the Settling Defendant shall be deemed to be in compliance with the terms of this Consent  
8 Judgment provided that it implements the warning requirements imposed as the result of the  
9 Court's determination within ninety (90) days that the Court's determination is final; and 2)  
10 Plaintiff may elect to seek to recover its attorney fees incurred in association with such motion as  
11 provided for by California Civil Procedure Code Section 1021.5.

12 **14. PREEMPTION**

13 In lieu of complying with the requirements of Section 3 hereof [Injunctive Relief], if: (a)  
14 any future federal law or regulation which governs the warning provided for herein preempts state  
15 authority with respect to said warning; or (b) any future warning requirements with respect to the  
16 subject matter of said paragraphs is proposed by any industry association and approved by the  
17 State of California, the Defendant may comply with its obligations under this Consent Judgment  
18 by complying with such future federal law or regulation or such future warning requirements  
19 upon notice to Plaintiff.

20 **15. ADDITIONAL POST-EXECUTION ACTIVITIES**

21 The parties acknowledge that, pursuant to Health & Safety Code §25249.7, a noticed  
22 motion is required to obtain judicial approval of this Consent Judgment. In furtherance of  
23 obtaining such approval, Sowinski and Settling Defendants and their respective counsel agree to  
24 mutually employ their best efforts to support the entry of this agreement as a Consent Judgment  
25 and obtain approval of the Consent Judgment - sufficient to render a formal judgment approving  
26 this agreement - by the Court in a timely manner. Any effort by either of the Parties to impede  
27 judicial approval of this Consent Judgment shall subject such impeding Party to liability for  
28

1 attorney fees and costs incurred by the non-impeding Party, and their respective counsel, in their  
2 efforts to meet or oppose such Party's impeding conduct.

3 **16. INDIVIDUAL OBLIGATIONS**

4 The obligations of the Settling Defendants pursuant to this Consent Judgment are  
5 individual to each of them and are in no way collective or joint. No Settling Defendant shall be  
6 held responsible for the failure of any other Settling Defendant to comply with the terms hereof.

7 **17. ENTIRE AGREEMENT**

8 This Consent Judgment contains the sole and entire agreement and understanding of the  
9 Parties with respect to the entire subject matter hereof, and any and all prior discussions,  
10 negotiations, commitments, and understandings related hereto. No representations, oral or  
11 otherwise, express or implied, other than those contained herein have been made by any Party  
12 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed  
13 to exist or to bind any of the Parties.

14 **18. ATTORNEY'S FEES**

15 **18.1** A Party who unsuccessfully brings or contests an action arising out of this Consent  
16 Judgment shall be required to pay the prevailing Party's reasonable attorneys' fees and costs  
17 unless the unsuccessful Party has acted with substantial justification. For purposes of this  
18 Consent Judgment, the term substantial justification shall carry the same meaning as used in the  
19 Civil Discovery Act of 1986, Code of Civil Procedure §§ 2016, et seq.

20 **18.2** Except as specifically provided in the above paragraph and in Sections 4 and 12,  
21 each Party shall bear its own costs and attorney's fees in connection with this action.

22 **18.3** Nothing in this Section 18 shall preclude a Party from seeking an award of  
23 sanctions pursuant to law.

24 **19. COUNTERPARTS, FACSIMILE SIGNATURES**

25 This Consent Judgment may be executed in counterparts and by facsimile or portable  
26 document format (PDF), each of which shall be deemed an original, and all of which, when taken  
27 together, shall constitute one and the same documents.

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**20. AUTHORIZATION**

The undersigned parties and their counsel are authorized to execute this Consent Judgment on behalf of their respective Parties and have read, understood, and agree to all of the terms and conditions of this Consent Judgment.

**IT IS SO AGREED**

Dated: June 1, 2012

Richard Sowinski  
Plaintiff Richard Sowinski

Dated: June 1, 2012

Anthony Graham  
Graham & Martin LLP  
Attorneys for  
Plaintiff Richard Sowinski

Dated: June \_\_, 2012

By \_\_\_\_\_  
Title \_\_\_\_\_  
Tesoro Refining & Marketing Co.

Dated: June \_\_, 2012

\_\_\_\_\_  
Mark E. Elliott  
Pillsbury Winthrop Shaw  
Pittman LLP  
Attorneys for Defendant Tesoro Refining &  
Marketing Co.

Dated: June \_\_, 2012

\_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_  
Valero Marketing & Supply Co.

Dated: June \_\_, 2012

\_\_\_\_\_  
Mark E. Elliott  
Pillsbury Winthrop Shaw  
Pittman LLP  
Attorneys for Defendant Valero Marketing &  
Supply Co.

Dated: June \_\_, 2012

\_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_  
BP Products North America, Inc.

Dated: June \_\_, 2012

\_\_\_\_\_  
Benjamin D. Ammerman  
Tropio & Morlan  
Attorneys for Defendant BP Products North  
America Inc.

1 **20. AUTHORIZATION**

2 The undersigned parties and their counsel are authorized to execute this Consent Judgment  
3 on behalf of their respective Parties and have read, understood, and agree to all of the terms and  
4 conditions of this Consent Judgment.

5 **IT IS SO AGREED**

6  
7 Dated: May \_\_\_, 2012

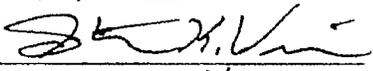
Dated: May \_\_\_, 2012

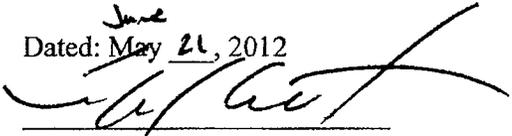
8  
9 \_\_\_\_\_  
10 Plaintiff Richard Sowinski

\_\_\_\_\_   
Graham & Martin LLP  
Attorneys for  
Plaintiff Richard Sowinski

11  
12 <sup>June</sup>  
Dated: May 20, 2012

<sup>June</sup>  
Dated: May 21, 2012

13   
14 By Stoney K. Vinins  
15 Title Senior Counsel  
16 Tesoro Refining & Marketing Co.

  
17 \_\_\_\_\_  
18 Mark E. Elliott  
19 Pillsbury Winthrop Shaw  
20 Pittman LLP  
21 Attorneys for Defendant Tesoro Refining &  
22 Marketing Co.

17  
18 Dated: May \_\_\_, 2012

Dated: May \_\_\_, 2012

19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 By \_\_\_\_\_  
22 Title \_\_\_\_\_  
23 Valero Marketing & Supply Co.

\_\_\_\_\_   
Mark E. Elliott  
Pillsbury Winthrop Shaw  
Pittman LLP  
Attorneys for Defendant Valero Marketing &  
Supply Co.

24 Dated: May \_\_\_, 2012

Dated: May \_\_\_, 2012

25 \_\_\_\_\_  
26 \_\_\_\_\_  
27 By \_\_\_\_\_  
28 Title \_\_\_\_\_  
BP Products North America, Inc.

\_\_\_\_\_   
Benjamin D. Ammerman  
Tropio & Morlan  
Attorneys for Defendant BP Products North  
America Inc.

1 **20. AUTHORIZATION**

2 The undersigned parties and their counsel are authorized to execute this Consent Judgment  
3 on behalf of their respective Parties and have read, understood, and agree to all of the terms and  
4 conditions of this Consent Judgment.

5 **IT IS SO AGREED**

7 Dated: June \_\_, 2012

Dated: June \_\_, 2012

9 \_\_\_\_\_  
10 Plaintiff Richard Sowinski

\_\_\_\_\_   
Graham & Martin LLP  
Attorneys for  
Plaintiff Richard Sowinski

12 Dated: June \_\_, 2012

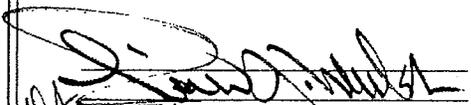
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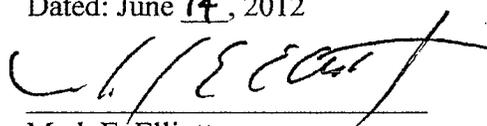
14 \_\_\_\_\_  
15 By \_\_\_\_\_  
16 Title \_\_\_\_\_  
17 Tesoro Refining & Marketing Co.

\_\_\_\_\_   
Mark E. Elliott  
Pillsbury Winthrop Shaw  
Pittman LLP  
Attorneys for Defendant Tesoro Refining &  
Marketing Co.

18 Dated: June \_\_, 2012

Dated: June 14, 2012

19   
20 By Richard J. Walsh  
21 Title Senior Vice President  
22 Valero Marketing & Supply Co.

  
\_\_\_\_\_   
Mark E. Elliott  
Pillsbury Winthrop Shaw  
Pittman LLP  
Attorneys for Defendant Valero Marketing &  
Supply Co.

23 Dated: June \_\_, 2012

Dated: June \_\_, 2012

25 \_\_\_\_\_  
26 By \_\_\_\_\_  
27 Title \_\_\_\_\_  
28 BP Products North America, Inc.

\_\_\_\_\_   
Benjamin D. Ammerman  
Tropio & Morlan  
Attorneys for Defendant BP Products North  
America Inc.

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5 **IT IS SO AGREED**

7 Dated: June \_\_, 2012

Dated: June \_\_, 2012

9 \_\_\_\_\_  
10 Plaintiff Richard Sowinski

\_\_\_\_\_   
Graham & Martin LLP  
Attorneys for  
Plaintiff Richard Sowinski

12 Dated: June \_\_, 2012

Dated: June \_\_, 2012

14 By \_\_\_\_\_  
15 Title \_\_\_\_\_  
16 Tesoro Refining & Marketing Co.

\_\_\_\_\_   
Mark E. Elliott  
Pillsbury Winthrop Shaw  
Pittman LLP  
Attorneys for Defendant Tesoro Refining &  
Marketing Co.

18 Dated: June \_\_, 2012

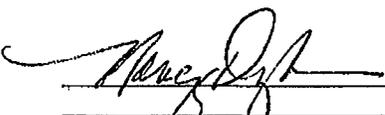
Dated: June \_\_, 2012

20 \_\_\_\_\_  
21 By \_\_\_\_\_  
22 Title \_\_\_\_\_  
23 Valero Marketing & Supply Co.

\_\_\_\_\_   
Mark E. Elliott  
Pillsbury Winthrop Shaw  
Pittman LLP  
Attorneys for Defendant Valero Marketing &  
Supply Co.

24 Dated: June 8, 2012

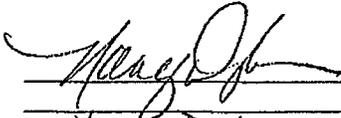
Dated: June 11, 2012

25   
26 By NANCY DOBLE  
27 Title SENIOR COUNSEL  
28 BP Products North America, Inc.

\_\_\_\_\_   
  
Benjamin D. Ammerman  
Tropio & Morlan  
Attorneys for Defendant BP Products North  
America Inc.

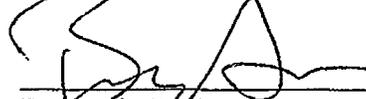
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Dated: June 8, 2012



By Nancy Doyle  
Title Senior Counsel  
BP Amoco Chemical Company

Dated: June 11, 2012



Benjamin D. Ammerman  
Tropio & Morlan  
BP Amoco Chemical Company

Dated: June \_\_, 2012

\_\_\_\_\_

By \_\_\_\_\_  
Title \_\_\_\_\_  
ConocoPhillips Company

Dated: June \_\_, 2012

\_\_\_\_\_

Scott R. Hatch  
Call & Jensen  
Attorneys for ConocoPhillips Company

Dated: June \_\_, 2012

\_\_\_\_\_

By \_\_\_\_\_  
Title \_\_\_\_\_  
Shell Chemical L.P.

Dated: June \_\_, 2012

\_\_\_\_\_

Michael R. Leslie  
Caldwell Leslie & Proctor, PC  
Attorneys for Defendant Shell Chemical L.P.

Dated: June \_\_, 2012

\_\_\_\_\_

By \_\_\_\_\_  
Title \_\_\_\_\_  
Equilon Enterprises, LLC

Dated: June \_\_, 2012

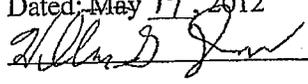
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Michael R. Leslie  
Caldwell Leslie & Proctor, PC  
Attorneys for Defendant Equilon Enterprises, LLC

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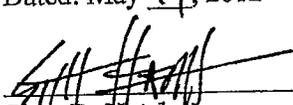
Dated: May \_\_, 2012

\_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_  
BP Amoco Chemical Company

Dated: <sup>June</sup> May 19, 2012  
  
By William G. Dury  
Title *Manager Authoring + Processing L48*  
ConocoPhillips Company

Dated: May \_\_, 2012

\_\_\_\_\_  
Benjamin D. Ammerman  
Tropio & Morlan  
BP Amoco Chemical Company

Dated: <sup>June</sup> May 19, 2012  
  
By Scott R. Hatch  
Call & Jensen  
Attorneys for ConocoPhillips Company

Dated: May \_\_, 2012

\_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_  
Shell Chemical L.P.

Dated: May \_\_, 2012

\_\_\_\_\_  
Michael R. Leslie  
Caldwell Leslie & Proctor, PC  
Attorneys for Defendant Shell Chemical L.P.

Dated: May \_\_, 2012

\_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_  
Equilon Enterprises, LLC

Dated: May \_\_, 2012

\_\_\_\_\_  
Michael R. Leslie  
Caldwell Leslie & Proctor, PC  
Attorneys for Defendant Equilon Enterprises, LLC

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Dated: June \_\_\_, 2012

Dated: June \_\_\_, 2012

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\_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_  
BP Amoco Chemical Company

\_\_\_\_\_  
Benjamin D. Ammerman  
Tropio & Morlan  
BP Amoco Chemical Company

Dated: June \_\_\_, 2012

Dated: June \_\_\_, 2012

\_\_\_\_\_  
\_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_  
ConocoPhillips Company

\_\_\_\_\_  
Scott R. Hatch  
Call & Jensen  
Attorneys for ConocoPhillips Company

Dated: June <sup>22</sup> \_\_\_, 2012

Dated: June \_\_\_, 2012

Wm E Platt  
\_\_\_\_\_  
By Wm E Platt  
Title Sr. Mgr.  
Shell Chemical L.P.

\_\_\_\_\_  
Michael R. Leslie  
Caldwell Leslie & Proctor, PC  
Attorneys for Defendant Shell Chemical L.P.

Dated: June <sup>22</sup> \_\_\_, 2012

Dated: June \_\_\_, 2012

Wm E Platt  
\_\_\_\_\_  
By Wm E Platt  
Title Sr. Mgr.  
Equilon Enterprises, LLC

\_\_\_\_\_  
Michael R. Leslie  
Caldwell Leslie & Proctor, PC  
Attorneys for Defendant Equilon Enterprises, LLC

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Dated: June \_\_\_, 2012

Dated: June \_\_\_, 2012

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\_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_  
BP Amoco Chemical Company

\_\_\_\_\_  
Benjamin D. Ammerman  
Tropio & Morlan  
BP Amoco Chemical Company

Dated: June \_\_\_, 2012

Dated: June \_\_\_, 2012

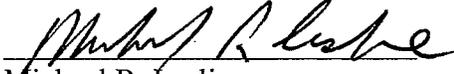
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\_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_  
ConocoPhillips Company

\_\_\_\_\_  
Scott R. Hatch  
Call & Jensen  
Attorneys for ConocoPhillips Company

Dated: June \_\_\_, 2012

Dated: June 15, 2012

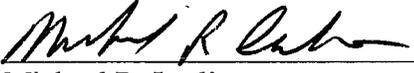
\_\_\_\_\_  
\_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_  
Shell Chemical L.P.

  
\_\_\_\_\_  
Michael R. Leslie  
Caldwell Leslie & Proctor, PC  
Attorneys for Defendant Shell Chemical L.P.

Dated: June \_\_\_, 2012

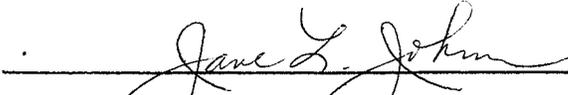
Dated: June 15, 2012

\_\_\_\_\_  
\_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_  
Equilon Enterprises, LLC

  
\_\_\_\_\_  
Michael R. Leslie  
Caldwell Leslie & Proctor, PC  
Attorneys for Defendant Equilon Enterprises, LLC

*It is so ordered*

Date JUL - 2 2012

  
\_\_\_\_\_  
**JANE L. JOHNSON**  
*Judge, Los Angeles Superior Court*

1  
2  
3 **ADDENDUM A**

4 I. Pursuant to section 3.1.3 of the Consent Judgment, the MSDS of each Settling  
5 Defendant will include the following notice:

6 California requires all “persons in the course of doing business” whose products are  
7 sold in California to comply with Proposition 65 (Cal. Health and Safety Code  
8 Sections 25249.6, et seq.). Accordingly, resellers of this product in California  
9 shall comply with Proposition 65, including the provision of any necessary  
10 warnings for exposure to chemicals listed by the State of California:  
11 [http://oehha.ca.gov/prop65/prop65\\_list/files/P65single111811.pdf](http://oehha.ca.gov/prop65/prop65_list/files/P65single111811.pdf).

12 II. Section 5.1.1 of the Consent Judgment includes the following:

13 On April 26, 2012, defendant ConocoPhillips Company assigned substantially all  
14 of the rights, and delegated substantially all of the duties, related to its refining and  
15 marketing businesses to its then-affiliate Phillips 66 Company, which accepted  
16 such rights and agreed to perform such obligations. On April 30, 2012,  
17 ConocoPhillips, a Delaware corporation and the sole shareholder of defendant  
18 ConocoPhillips Company, distributed to its shareholders all of the stock of Phillips  
19 66, a Delaware corporation and the sole shareholder of Phillips 66 Company.  
20 Therefore, the Parties agree that Phillips 66 Company is a “Defendant Release”  
21 for purposes of this Consent Judgment.  
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**PROOF OF SERVICE**

**Prop. 65 Propane Gas Cases**

*(Sowinski v. B.P. Products North America, Inc. et al.; Sowinski v. Amana Corporation, et al.; Sowinski v. Amerigas Propane L.P., et al.)*

Judicial Council Coordination Proceeding No. 4564  
(LASC Case Nos. BC 393707; BC 393706 and SFSC Case No. CGC-08-480871)

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

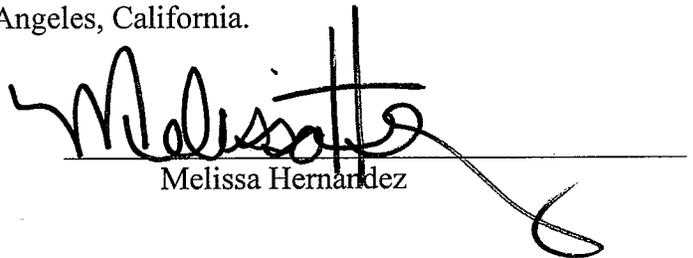
At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 1000 Wilshire Boulevard, Suite 600, Los Angeles, California 90017-2463.

On **June 25, 2012**, I served true copies of the following document(s) described as **[PROPOSED] CONSENT JUDGMENT** on the interested parties in this action.

**BY ELECTRONIC TRANSMISSION: On June 25, 2012**, I electronically served the document(s) described above via LexisNexis *File & Serve*, on the recipients designated on the Transaction Receipt located on the LexisNexis *File & Serve* website (<https://litigator.lexisnexis.com/FileAndServe>) pursuant to the Court Order establishing the case website and authorizing service of documents.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **June 25, 2012**, at Los Angeles, California.

  
Melissa Hernandez