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PHILLIPS PETROLEUM COMPANY
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LEGAL

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1994
EMERGENCY SUPPORT SECTION

VIA AIRBORNE
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Ms. Linda Beasley
Enforcement Specialist
U.S. EPA - Region V
Emergency Support Section HSE-5J
77 West Jackson Boulevard
Chicago, IL 60604

Re: Conservation Chemical Company of Illinois, Inc. Site,
Gary, Indiana - General Notice of Potential Liability

Dear Ms. Beasley:

Phillips Petroleum Company (Phillips) is in receipt of the U.S. EPA's General Notice of Potential Liability requesting PRPs perform and/or finance the activities described in the letter and to reimburse U.S. EPA for its costs. As I represented to Ms. Cynthia N. Kawakami during a telephone conversation, Phillips is surprised and confused by EPA's letter.

In 1985, EPA issued orders against several PRPs requiring the remediation of this non-NPL site. Those PRPs, which became known as the "6500 Industrial Highway Group", complied with the orders and conducted a removal action at the Site. Phillips was not issued an order and was not involved with this removal.

Phillips has not admitted liability and is not convinced it is liable at the Site. Phillips entered into a *de minimis* settlement with the 6500 Industrial Highway Group resolving Phillips' alleged liability for the removal action at the Site. In doing so, Phillips in no way admitted liability. The cost of litigation over liability and allocation was greater than the payment of a *de minimis* settlement price.

The removal action proposed by EPA appears duplicative of the 6500 Industrial Highway Group's first removal effort. Nine years after EPA issued the first orders for an emergency removal, EPA has now decided that the Site requires a new emergency removal action. It is my understanding that this new removal action may have resulted from EPA's failure to control

unauthorized dumping at the Site following the 6500 Industrial Highway Group's clean-up. To the extent the 6500 Industrial Highway Group's clean-up was inadequate or improper, Phillips believes EPA should pursue those parties and not *de minimis* PRPs not involved with the removal action.

Phillips has no record of any contact from EPA regarding this Site since 1988. Phillips is unfamiliar with the scope of EPA's proposed clean up and the nature of the Site. Phillips has not seen or reviewed the technical information or determined that the proposed remedy by EPA is proper or the preferred remedy.

Further, there is a significant question regarding EPA' authority to conduct or mandate a removal action. EPA's authority to conduct an emergency removal action at a non-NPL Site is limited to twelve months and $2,000,000 under Section 104(c)(1) of CERCLA. Additionally, if no new dumping or disposal has been allowed by EPA, a question exists as to whether the emergency nature and immediacy requirements necessary to mandate a new removal exists nine years after the first removal action.

It is my understanding EPA intends to address questions about the scope of the removal, EPA's authorization and the necessity of further response action at the scheduled November 10, 1994 "kick-off" meeting. Prior to this meeting and further review, Phillips is not in a position to commit to financing or undertaking the remediation proposed by EPA.

Although Phillips' liability, if any, is extremely small, Phillips will work in a cooperative spirit with EPA and is very interested in negotiating with EPA to resolve Phillips' involvement. Particularly, Phillips is ready and willing to discuss *de minimis* settlement.

I trust this letter satisfies the request for a response. If you have any questions or concerns, please do not hesitate to contact me. Thank you.

Sincerely,

Richard J. Walsh
Attorney
1285 Adams Building
Bartlesville, OK 74004
(918) 661-7267

RJW:tr

cc: Carol Davis
Don Jemison