

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into as of this 27th day of April, 2023 (the “Effective Date”), by and between Delaware City Refining Company LLC (“DCRC”) and the Delaware Department of Natural Resources and Environmental Control (“DNREC”) (collectively the “Parties”) to resolve certain matters associated with DCRC’s operations at its petroleum refinery located in Delaware City, Delaware (the “Refinery”).

WHEREAS, DCRC owns and operates the Refinery;

WHEREAS, the air emission sources at the Refinery are governed by Title V Operating Permit Nos. AQM-003/00016 – Part 1 (Renewal 2)(Revision 4), AQM-003/00016 – Part 2 (Renewal 1)(Revision 4), AQM-003/00016 – Part 3 (Renewal 2)(Revision 4) (collectively, the “Title V Permit”);

WHEREAS, the Title V Permit requires DCRC to self-report to the Department deviations from applicable Title V Permit obligations on a periodic basis. DCRC is also required to make certain short-term release reports in accordance with other applicable environmental laws and regulations. Consistent with such requirements, DCRC reported to the Department certain deviations from applicable Title V Permit obligations for the 2021 and 2022 reporting periods (the “Reported Deviations”), and where applicable, to other agencies in accordance with relevant short-term release reporting requirements;

WHEREAS, upon reviewing the Reported Deviations, the Department alleged that, on specified dates between April 12, 2021 and July 21, 2022, DCRC’s operation of certain equipment at the Refinery did not fully comply with standards allegedly applicable to the relevant equipment pursuant to certain Title V Permit or regulatory standards; the following Reported Deviations constitute violations of the Title V Permit (the “Compliance Matters”). Attachment “A” to this

Agreement contains a summary of the Compliance Matters identified by DCRC and DNREC based on their review of available information relevant to the compliance of the Refinery with relevant and applicable legal standards related to air quality;

WHEREAS, in resolution of DNREC's claims regarding the Compliance Matters, DCRC has agreed to pay an administrative penalty;

WHEREAS, the Parties have agreed that settlement of the matters addressed by this Agreement is in the best interest of the Parties, and that entry of this Agreement is the most appropriate means of resolving the matters addressed herein.

NOW THEREFORE, without any admission of fact or law by DCRC, it is hereby stipulated and agreed as follows:

I. APPLICATION AND SCOPE

1. The provisions of this Agreement shall apply to and be binding upon both DNREC and DCRC, and their respective officers, employees, agents, successors and assigns.

II. ADMINISTRATIVE PENALTY AND ENVIRONMENTAL IMPROVEMENT PROJECT

2. In resolution of DNREC's claims against DCRC for the Compliance Matters, DCRC shall pay to DNREC (i) the administrative penalty of \$160,000.00 (the "Administrative Penalty"); and (ii) a payment of \$20,000 to fund an Environmental Improvement Project being performed by DNREC to deploy Purple Air (or equivalent) particulate matter monitoring throughout the state (the "Environmental Improvement Project Payment"). Once DCRC submits to DNREC the Environmental Improvement Project Payment in accordance with Paragraph 3 below, DCRC shall have fully satisfied its obligations under this Settlement Agreement respecting the Environmental Improvement Project. DCRC has no obligations under this Settlement or otherwise for implementing the Environmental Improvement Project.

3. Within sixty (60) days of the Effective Date of this Agreement, DCRC shall submit to DNREC the Administrative Penalty and the Environmental Improvement Project Payment by separate corporate checks, payable to the State of Delaware, and mailed to the following address:

**Valerie S. Edge
Deputy Attorney General
Delaware Department of Justice
Environmental Unit – Third Floor
102 W. Water Street
Dover DE 19904**

III. EFFECT OF SETTLEMENT

4. DCRC’s satisfaction of the payment obligations under Paragraphs 2 and 3, and the obligation to develop and submit a reliability plan to DNREC as described in Paragraph 5 below, shall resolve all civil and administrative liability of DCRC to DNREC for air quality violations stated in the list of Compliance Matters, without any admission as to any matter of fact or law by DCRC.

IV. RELIABILITY PLAN FOR FCCU CO BOILER AND FCU CO BOILER

5. The Compliance Matters include excess emissions conditions related to the CO boilers for the FCCU and the FCU, respectively, and DCRC has instituted measures designed to enhance the operating reliability of the CO boilers, thus minimizing the likelihood of further outages of such units. Such measures already taken were documented in a letter from DCRC to Secretary Garvin dated November 23, 2022. DCRC shall develop a CO Boiler Reliability Plan (the “CO Boiler Reliability Plan”) describing the actions the Refinery has implemented, including those identified in DCRC’s November 23, 2022 letter. The CO Boiler Reliability Plan will also describe the inspection and/or maintenance activities that DCRC will perform during future scheduled turnaround outages. For purposes of the CO Boiler Reliability Plan, “scheduled turnaround outages” expressly excludes all unplanned outages, and all planned, but non-

turnaround, outages. DCRC shall submit the CO Boiler Reliability Plan to the Department within sixty (60) days of the Effective Date of this Agreement. The CO Boiler Reliability Plan must be reviewed, to determine whether it is appropriate to update it, during each calendar year beginning with calendar year 2024 and ending with the calendar year during which the next scheduled turnaround outage for the FCCU CO boiler or the FCU CO boiler occurs, whichever is later. Upon completing such review, DCRC shall have fully satisfied its obligations under this Settlement Agreement respecting the CO Boiler Reliability Plan.

V. GENERAL PROVISIONS

6. This Agreement shall be governed by, and interpreted under, the laws of the State of Delaware.

7. This Agreement is not a permit. Compliance with its terms does not guarantee compliance with any applicable federal, state, or local law or regulation. Nothing in this Agreement shall be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

8. Other Laws. Nothing in this Agreement shall relieve DCRC of its obligation to comply with all applicable federal, state, and local laws and regulations. Other than as expressly provided for in Section III, nothing contained in this Agreement shall be construed to prevent, alter, or limit DNREC's ability to seek or obtain other remedies or sanctions available under federal, state, or local statutes or regulations in response to a violation by DCRC of applicable statutes and regulations, nor to limit any defenses otherwise available to DCRC including with respect to any such alleged violation.

9. Third Parties.

a. This Agreement does not limit or affect the rights of DCRC or DNREC against any person or entity not a party to this Agreement.

b. This Agreement shall not be considered to create rights in, or grant any cause of action to, any third party not a party to this Agreement, nor does it limit the rights of any person or entity not a party to this Agreement against DCRC, except as otherwise provided by law.


10. This Agreement shall be binding upon the Parties to this action and their successors and assigns. The undersigned representative of each Party to this Agreement is authorized by the Party whom he or she represents to enter into the terms of this Agreement and bind that Party to them.

11. Modification. This Agreement may be modified only by the written consent of DNREC and DCRC.

12. This Agreement is entered into notwithstanding any other agreement between the Parties and constitutes the entire agreement and settlement between the Parties.


13. To the extent of any irreconcilable conflict between this Agreement and the requirements of federal and/or state law, the latter controls.

FOR THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

By: 
Shawn M. Garvin, Secretary
Delaware Department of Natural Resources
and Environmental Control

Date: 4/27/23

FOR DELAWARE CITY REFINING COMPANY LLC

By: 
Michael Capone
Refinery Manager
Delaware City Refining Company LLC

Date: 4/24/2023

ATTACHMENT A

Title V Permit Emission Unit Name	Date(s)	Description of Event	Permit Type
Flaring: Loss of HYC compressor 36-K-1	April 12, 2021	Obstruction caused malfunction of level indication, 36-LI-720 ABC, for Hydrocracker Unit's High Pressure Separator Drum, leading to level spike when obstruction was freed and, in turn, a high level shutdown of Hydrocracker Hydrogen compressor, 36-K-1	AQM
Flaring: CCR recycle compressor, 42-K-1, trip	April 28, 2021	Unexpected control system action triggered by use of handheld programmer	AQM
Flaring: FCC Gas Plant	October 13, 2021	FCC Gas Plant upset when catalyst well of the regenerator became obstructed	AQM
Poly Unit	November 12-13, 2021	Leak on Poly reactor 26-R-1 quench line	AQM
FCCU CO Boiler	November 18; November 19-20, 2021	FCCU Boiler tripped due to melting of transmitter to firebox pressure switch, resulting in unit outage	AQM
FCCU CO Boiler	December 1-2, 2021; April 22, 2022	Steam tube leak caused inability to maintain level in CO boiler steam drum, resulting in unit outage	AQM
FCCU CO Boiler	December 16, 2021	Loss of burner in FCCU CO boiler caused by faulty fire eye sensor and resulting unit outage	AQM
Flaring: Alky Vent Caustic Scrubber, 27-P-7A	February 6-7, 2022	Low line high pressure due to line pluggage from ice formation in low line pipe from suspected auto-refrigeration of liquid propane in low line creating temperatures below free point of water; source of low line restriction was identified to be Alky Vent Caustic Scrubber, 27-D-127, propane venting combined with cold ambient temperatures	AQM

Title V Permit Emission Unit Name	Date(s)	Description of Event	Permit Type
FCCU CO Boiler	February 14-15, 2022	FCCU forced draft fan, 23-K-404A, tripped offline due to low amp readings when fan outlet damper did not close, resulting in unit outage	AQM
FCCU CO Boiler	May 10, 2022	Unit temperature below minimum standard during transition to full burn mode of operation	AQM
Flaring: CCR Heaters 42-H-1,2,3 and 42-H-7	May 29, 2022	Master fuel trips for relevant CCR heaters were activated when emergency stop button was pressed and fuel to burners on all four heaters was shut down via Safety Instrumentation System	AQM
Flaring: Poly 26-PSV-903	June 2, 2022	PSV in service at time of event lifted prematurely, although no over-pressurization event was identified	AQM
FCU CO Boiler	July 21, 2022	Faulty magnetic pickup unit caused shutdown of boiler feed water pump, 22-P-23A; in turn, water level in FCU CO boiler steam drum was lost and CO boiler tripped	AQM