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FILED DISTRICT COURT
 Third Judicial District

JUL 09 2012

SALT LAKE COUNTY

By _____
 Deputy Clerk

IN THE THIRD JUDICIAL DISTRICT COURT
 SALT LAKE COUNTY, STATE OF UTAH

<p>THE STATE OF UTAH and BRENT EVERETT, in his official capacity as Director of the Utah Division of Environmental Response and Remediation,</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>CONOCOPHILLIPS COMPANY, and its predecessor companies and subsidiaries,</p> <p style="text-align: right;">Defendant.</p>	<p style="text-align: center;">SUMMONS</p> <p style="text-align: center;">Case No. 120904553</p>
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THE OF UTAH TO THE ABOVE-NAMED DEFENDANT:

ConocoPhillips Company
 c/o United States Corporation Company
 2180 South 1300 East, Suite 650
 Salt Lake City, UT 84106
 Registered Agent

You are hereby summonsed and required to answer the attached Complaint. Within 30 days after service of this summons, you must file your written answer with the clerk of the court at the following address:

Clerk of the Court
Salt Lake County Courthouse
450 South State Street
PO Box 1860
Salt Lake City, UT 84114-1860

and you must mail or deliver a copy to the plaintiff's attorneys at the address listed above. If you fail to do so, judgment by default maybe taken against you for the relief demanded in the complaint. The complaint either has been or will be filed with the clerk of the court. If the complaint has not been filed with the clerk of the court within 10 days after service of this summons upon you, then you do not need to file an answer to the complaint. You may call the clerk of the court at (801) 238-7321 at least 13 days after service of this summons upon you to determine if the complaint has been filed. This is a cost recovery action.

DATED this 6th day of July, 2012.

MARK L. SHURTLEFF
Attorney General



Paul M. McConkie
Assistant Attorney General
Donald J. Winder
Laura H. Tanner
Special Assistant Attorneys General
Attorneys for Plaintiffs

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IN THE THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH

THE STATE OF UTAH and BRENT
EVERETT in his official capacity as
Director of the Utah Division of
Environmental Response and
Remediation,

Plaintiffs,

v.

CONOCOPHILLIPS COMPANY,
and its predecessor companies and
subsidiaries,

Defendant.

COMPLAINT
(Jury Trial Demanded)

Case No: *120904553*

Judge: *Drever*

TIER 3

Plaintiffs, the State of Utah and Brent Everett in his official capacity as the Director of the Utah Division of Environmental Response and Remediation (collectively referred to herein as “the State of Utah” or “Plaintiffs”), by and through their attorneys of record, hereby complain and allege against Defendant ConocoPhillips Company, and its predecessor companies and subsidiaries (collectively referred to herein as “ConocoPhillips” or “Defendant”) as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over the parties in this matter pursuant to UTAH CODE ANN. § 78B-5-102.
2. Venue of the Court is proper pursuant to UTAH CODE ANN. § 78B-3-307(1) (a).

PARTIES

3. Utah is a sovereign state of the United States of America.
4. Brent Everett, in his official capacity as Director of the Utah Division of Environmental Response and Remediation (DERR), administers the claims and manages the revenue collected for the Utah Petroleum Storage Tank Trust Fund (“PST Fund”) pursuant to UTAH CODE ANN. §§ 19-6-404 through 19-6-429. Prior to a statutory change effective May 2012, the PST Fund was administered by the Executive Secretary of the Utah Solid and Hazardous Waste Control Board (UST).
5. ConocoPhillips is an international integrated energy company organized under the laws of Delaware with its headquarters in Houston, Texas. At all times material to this

Complaint, ConocoPhillips transacted business in Utah based upon its ownership and/or operation of petroleum-fuel terminals and dispensing facilities which distributed and sold petroleum fuels in Utah under various names. ConocoPhillips is the successor company following the merger of Conoco, Inc. and Phillips Petroleum Company, which was completed in 2002.

6. Upon information and belief, as the result of numerous acquisitions and mergers, ConocoPhillips stations are or have been known in Utah under the following names or brands: Husky, Phillips 66, Conoco, Tosco, Circle K, Flying J, and Phillips. At all times material to this Complaint, ConocoPhillips transacted business in Utah based upon its ownership, operation, leasing and supply of petroleum marketing facilities that distributed and sold petroleum fuels throughout Utah.

7. This matter is subject to Tier 3 discovery provisions under UTAH R. CIV. P. 26(c), as there is more than \$300,000 at issue.

8. All allegations contained herein are based on information and belief from information now available to Plaintiffs. Plaintiffs will seek further information regarding ConocoPhillips' conduct through discovery.

BACKGROUND

9. Recognizing leaking petroleum from underground storage tank systems was a major source of environmental pollution posing an ever significant threat to public health and the environment in the state of Utah, in 1989 the Utah Legislature enacted the Underground Storage Tank Act, UTAH CODE ANN. § 19-6-401, *et seq.* ("UST Act").

10. An underground storage tanks is defined as "... a petroleum storage tank; underground pipes and lines connected to a storage tank; and any underground ancillary equipment and containment system." UTAH CODE ANN. § 19-6-402(30).

11. The UST Act authorized the promulgation and adoption of regulations necessary to implement its provisions; said regulations being set forth in UTAH ADMIN. CODE R. 311-200 *et seq.*

12. The Utah Legislature created the PST Fund in response to the need to address the leaking UST problem and to provide tank owner/operators with a cost-effective way to meet the federal financial assurance requirements of 40 CFR part 280 Subpart H. UTAH CODE ANN. §§ 19-6-409 through 429.

13. Utah has a strong public interest in preserving the PST Fund and in ensuring its appropriate and proper use so that the fund remains financially sound. By law, the Utah Division of Environmental Response and Remediation ("DERR"), originally through the Executive Secretary of the Utah Solid and Hazardous Waste Control Board, and now through the DERR Director, has express directives regarding maintenance and management of the PST Fund in order to maintain its integrity and to effectuate the overriding public interest.

14. The PST Fund generates revenue solely from petroleum storage tank fees, underground storage tank installation company permit fees, an environmental assurance fee, penalties, and interest. UTAH CODE ANN. § 19-6-409.

15. The PST Fund was designed to ensure UST systems in Utah are managed in accordance with federal and state laws and regulations and to remediate contamination from petroleum releases.

16. To be eligible to participate in the PST Fund, UST owners and operators are required to obtain a certificate of compliance for each covered UST facility. Among the requirements to obtain a certificate of compliance is a certification from the UST owner or operator indicating whether they have independent or self insurance, or are relying on PST Fund participation to ensure adequate funds are available to pay for third-party liabilities and remediation of any petroleum released from their USTs. UTAH CODE ANN. § 19-6-412 and UTAH ADMIN. CODE R. 311-206.

17. Once certificates of compliance are issued, PST Fund participants may submit applications for reimbursement or payment costs incurred during the discovery, investigation, characterization, and/or remediation of contamination resulting from the release of petroleum from covered USTs.

18. The PST Fund Eligibility Application Form used to make reimbursement or payment requests includes questions the applicant must answer truthfully about whether any reimbursement or offers of reimbursement from a third party or third party's insurance company have been made, and whether the applicant had signed a release that may prejudice the Plaintiffs' right to recover from third parties.

19. The responsible parties are liable for any costs associated with any release from the underground storage tank system. UTAH CODE ANN. § 19-6-426.

20. The PST Fund is not intended as an insurance program. UTAH CODE ANN. § 19-6-426.

21. If any payment is made, the PST Fund is entitled to be subrogated to all the responsible parties' rights of recovery. *Id.* This means that the liability insurance would be primary and PST Fund coverage would be secondary. If a PST Fund claimant received money from both private insurance and the PST Fund, the claimant would be required to pay back the PST Fund.

22. "Responsible party" means a person who (i) is the owner or operator of a facility; (ii) owns or has legal or equitable title in a facility or an underground storage tank; (iii) owned or had legal or equitable title in a facility at the time petroleum was received or contained at the facility; (iv) operated or otherwise controlled activities at a facility at the time petroleum was received or contained at the facility; or (v) is an underground storage tank installation company. UTAH CODE ANN. § 19-6-402(27)(a).

23. Over the years, ConocoPhillips has requested money from the PST Fund to pay for costs to clean up contamination cause by UST leaks at its service stations in Utah.

24. The PST Fund has reimbursed ConocoPhillips in the amount of \$16,646,425.24 for corrective action of leaks from its USTs at forty-seven (47) ConocoPhillips sites in Utah, hereinafter referred to as "Direct Reimbursement Sites." A list of Direct Reimbursement Sites is attached hereto as Exhibit A.

25. ConocoPhillips is also the previous owner of thirty-five (35) sites for which the PST Fund has reimbursed a subsequent owner for corrective action costs in the amount of

\$8,431,561.33 hereinafter referred to as "Subsequent Owner Reimbursement Sites." A list of Subsequent Owner Reimbursement Sites is attached hereto as Exhibit B.

ConocoPhillips is a Responsible Party

26. ConocoPhillips is a responsible party within the meaning of the UST Act in that ConocoPhillips and its predecessor companies and subsidiaries, have in the past, and will continue to own, operate, lease, distribute, and supply motor UST facilities at the subject service stations and convenience stores throughout the State of Utah.

27. ConocoPhillips' service stations and convenience stores distribute and sell petroleum products from those USTs.

ConocoPhillips' Wrongful Actions

28. The State of Utah's claims against ConocoPhillips are based on ConocoPhillips' status as a responsible party, and ConocoPhillips' deceptive acts and omissions in connection with its procurement and use of certain public-benefit funds which ConocoPhillips improperly obtained from the PST Fund.

29. USTs, like the ones ConocoPhillips has operated and continues to operate in Utah, may leak petroleum fuels which contaminate soils and seep into groundwater thus creating significant public health and environmental concerns.

30. Over the years, including during the period it has been applying for eligibility to participate in the PST Fund, ConocoPhillips has carried its own pollution liability policies through independent, mutual and captive insurers on its Utah UST facilities.

31. Between 1995 and 2009, ConocoPhillips applied for PST Fund coverage by submitting numerous PST Fund eligibility applications for its USTs in Utah.

32. On those Applications, ConocoPhillips answered the questions about its insurance as follows:

Is this release covered by independent insurance? Yes	No	X
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An example of one of ConocoPhillips' PST Fund eligibility applications forms is attached hereto as Exhibit C.

33. In addition to its applications, as costs were incurred ConocoPhillips submitted numerous vouchers for reimbursement with the PST Fund and obtained PST Funds to finance payments for the remediation of the Direct Reimbursement Sites. An example of one of ConocoPhillips' Reimbursement Vouchers is attached hereto as Exhibit D.

34. ConocoPhillips or ConocoPhillips' contractors submitted at least one thousand five hundred (1500) Vouchers with the State for payments for corrective action of the Direct Reimbursement Sites.

35. The State of Utah has recently learned that during the early 1990s when ConocoPhillips was applying for and being paid by the PST Fund and representing the releases were not covered under independent insurance, that it was making pollution claims from leaking USTs against its own insurance policies and was receiving reimbursement for many of these claims.

36. ConocoPhillips initiated formal and informal legal proceedings to enforce its rights under hundreds of insurance policies for reimbursement of corrective action of leaking USTs at its current and former Utah service stations.

37. ConocoPhillips filed insurance coverage litigation in the following:

(Conoco) Douglas Oil Company et al vs. Allianz Underwriters Insurance Co. et al.

Superior Court of California, County of Los Angeles

Case Number: BC064046

Tosco Corporation vs. Hartford Accident and Indemnity Company, et al.

Superior Court of California, County of San Francisco

Case # CGC-93-952681

38. In the *Douglas Oil* Action, ConocoPhillips sued approximately 50 named and 300 unnamed insurers for costs associated with corrective action at various sites including service stations under its environmental liability policies. The action (and other similar actions filed by ConocoPhillips) alleged damage to ground water, surface water, air, and the general environment at and around ConocoPhillips owned or operated locations. See *Douglas Oil* Orig. Compl. ¶ 63; 7th Am. Comp. ¶ 87.

39. In the *Douglas Oil* Action, ConocoPhillips sought to hold its insurers responsible for paying for the investigation and corrective action of environmental contamination, including contamination caused by leaking USTs, throughout the United States, including Utah.

40. ConocoPhillips' lawsuit included any and all claims affecting real property in any location, including corrective action at service stations:

[T]his complaint embraces and shall be deemed to embrace any and all environmental claims now or hereafter brought against plaintiffs or the insured arising out of or affecting real property or persons wherever located, including without limitation those set forth below.

See *Douglas Oil Orig. Compl.* ¶168; 7th Am. Comp. ¶ 194.

41. Upon information and belief, ConocoPhillips entered into private settlement agreements with some of the insurers and settled any and all claims for potential UST liability in exchange for more than \$286 million.

42. ConocoPhillips never disclosed its ownership of insurance obtained from independent, mutual, and captive insurers; never told the State of Utah it made claims against its insurers; never told the State of Utah it sued against its policies; never told the State of Utah it received reimbursement of its environmental claims from independent, mutual and captive insurers; never told the State of Utah it settled environmental claims; and never subrogated the PST Fund with the proceeds.

43. In sum, ConocoPhillips sued its insurers for the corrective action of UST leaks at its service stations at locations across the United States and for the corrective action of UST leaks at its current and former service stations in Utah for which ConocoPhillips, or a subsequent owner of ConocoPhillips sites, was paid by the PST Fund.

44. ConocoPhillips never disclosed the terms of its insurance policies, never told Utah that it had sued its insurers, never told Utah it had settled with its insurers, and never repaid Utah for the money claimed against the PST Fund.

45. Plaintiffs have learned that from the 1950s to the present, hundreds of insurance

companies issued multiple insurance policies to ConocoPhillips including garage-liability policies, comprehensive general-liability policies, all-risk policies, property-damage policies, pollution-liability policies and excess-insurance policies. These policies provided coverage for the investigation and remediation of environmental contamination caused by leaking USTs at ConocoPhillips' petroleum marketing facilities including service stations and convenience stores in Utah, as well as at locations throughout the United States.

46. In addition, wholly-owned captive insurers, including but not limited to Walton Insurance Ltd., Sooner Insurance Company, and International Energy Insurance Ltd. (Bermuda) issued ConocoPhillips multiple insurance policies that provided coverage for the investigation and remediation of environmental contamination caused by leaking USTs at ConocoPhillips' service stations and convenience stores.

47. ConocoPhillips was a shareholder and insured with other major oil companies in a mutual-liability insurer known as Oil Insurance Limited (Bermuda) and its related excess carrier, Oil Casualty Insurance Limited (Bermuda), which provided pollution liability coverage for ConocoPhillips' petroleum marketing facilities, including service stations and convenience stores.

48. ConocoPhillips allowed the PST Fund to pay for or reimburse nearly \$25 million known to date for corrective action undertaken to clean up petroleum contamination from USTs at its service stations and convenience stores, while obtaining repayment from many of its insurers for the costs of the same corrective action. ConocoPhillips secretly double-dipped as

the PST Fund paid more than \$25 million known to date to clean up ConocoPhillips' contaminated sites.

49. As a result of its wrongful action, ConocoPhillips was unjustly enriched by the PST Fund and is not entitled to retain the State of Utah's funds, and the PST Fund is entitled to be subrogated and made whole. The double recovery and ConocoPhillips' misrepresentations about its insurance policies violates Utah law and Utah Solid and Hazardous Waste Control Board regulations.

ConocoPhillips' Divestment Program

50. For most of its history, ConocoPhillips owned, operated, leased and/or supplied gasoline stations and convenience stores in the State of Utah. Under Utah law, ConocoPhillips is responsible for leaks or releases from the USTs at its gasoline stations and convenience stores during the time it owned and/or operated the USTs. Under Utah law, liability is also attached to historical ownership and/or operation. UTAH CODE ANN. § 19-6-402(26).

51. Starting in the 1980s, ConocoPhillips became aware of new federal and state regulations that required substantial upgrades and replacement to the USTs it owned and/or operated at its service stations and convenience stores throughout the United States, including Utah.

52. As part of its divestiture strategy, ConocoPhillips sold and leased many of its owned and operated service stations and convenience stores, transferred property leases primarily to former dealers and jobbers, and sold its USTs to former branded dealers and/or jobbers under contracts without the need for environmental site assessments.

53. It was not uncommon for ConocoPhillips, under its dealer, distributor and jobber agreements, to require the dealer, distributor and/or jobber to obtain comprehensive general liability (CGL) insurance and environmental liability insurance coverage (ELI) that covered pollution claims for leaks and releases from USTs at retail marketing facilities, naming ConocoPhillips as an additional insured.

54. ConocoPhillips would monitor the dealers', operators', and jobbers' maintenance of proper insurance coverage under its dealer/franchise agreements, and was provided with certificates of insurance naming ConocoPhillips as an additional insured.

55. ConocoPhillips never disclosed to the State of Utah the fact it was named as an additional insured in any of its dealer and/or jobber policies while benefitting from PST Fund payments made to subsequent owners.

Post-Litigation Misrepresentations and Breaches

56. ConocoPhillips filed the *Douglas Oil* Action on September 11, 1992.

57. In the *Douglas Oil* Action, ConocoPhillips claimed it had insurance coverage for the corrective action of environmental contamination at its service station locations in Utah.

58. ConocoPhillips benefitted from the payments from the PST Fund for each site listed in Exhibits A and B.

59. ConocoPhillips filed Applications after it filed the *Douglas Oil* Action.

60. In every one of those Applications ConocoPhillips filed with the State after it filed the *Douglas Oil* Action, ConocoPhillips stated that the release was not covered under independent insurance.

61. ConocoPhillips submitted numerous Vouchers with the State seeking payment from the PST Fund for corrective action of its Utah sites after it filed the *Douglas Oil* Action.

62. In the Vouchers ConocoPhillips filed with the State after it had filed the *Douglas Oil* Action, ConocoPhillips sought reimbursement for sites included in the complaints against its insurers.

Post-Settlement Misrepresentations and Breaches

63. Upon information and belief, ConocoPhillips settled with some of its insurers as early as March, 1994.

64. ConocoPhillips filed numerous PST Fund applications for coverage of corrective action at its Utah sites after it had settled with its insurers for the corrective action of UST leaks at its Utah service stations.

65. On every one of those Applications ConocoPhillips filed with the State after it had begun settling with its insurers, ConocoPhillips stated that the release was not covered under independent insurance.

66. ConocoPhillips submitted numerous Vouchers seeking payment from the PST Fund for corrective action at its Utah sites after it begun settling with its insurers.

67. ConocoPhillips has never repaid any of the \$16,646,425.24 the PST Fund paid to ConocoPhillips for the corrective action of its UST leaks at the forty-seven (47) Direct Reimbursement Sites.

68. ConocoPhillips has never repaid any of the \$8,431,561.33 the PST Fund paid to subsequent owners of ConocoPhillips sites for the corrective action of the thirty-five (35) Subsequent Owner Reimbursement Sites.

69. To date, ConocoPhillips has not repaid any PST Fund money.

70. The PST Fund has made and will continue to make reimbursements for corrective action and environmental remediation costs to ConocoPhillips and/or third parties for remediation of petroleum contamination from releases from USTs at ConocoPhillips Direct Reimbursement Sites and Subsequent Owner Reimbursement Sites in Utah.

71. This investigation is ongoing by the State of Utah and additional "Direct Reimbursement" and "Subsequent Owner Reimbursement Sites" may be identified during the course of this lawsuit.

72. The State of Utah brings this action under its statutory authority, as well as under principles of equity and common law to protect important public-policy concerns, and the health, safety and general welfare of the State for the following purposes:

a) To obtain reimbursement for all money paid and all overpayments for the expenditures made to ConocoPhillips, or directly to third-party contractors on behalf of ConocoPhillips, by the PST Fund for the costs associated with the environmental remediation of leaking USTs at facilities in Utah which ConocoPhillips currently or previously owned, operated, leased and supplied;

b) To obtain reimbursement through the statutory and common law rights to subrogation for all expenditures paid to third-party facilities for the costs associated with the

environmental remediation of leaking USTs at facilities in Utah which ConocoPhillips previously owned, operated, leased and supplied; and

- c) To seek all other appropriate relief available under the circumstances.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

(ConocoPhillips was Ineligible to Claim PST Fund Money)

73. Utah hereby incorporates herein by this reference the foregoing paragraphs of the Complaint as if fully set forth herein.

74. ConocoPhillips made false statements, misrepresented, omitted, and concealed material facts in its PST Fund applications to obtain certificates of compliance, so it would remain eligible to collect money from both the PST Fund and its own insurance.

75. ConocoPhillips knowingly and intentionally concealed from the State of Utah it had pollution liability policies under which it was eligible for reimbursement for environmental corrective action costs from private, independent, mutual and captive insurers.

76. The State of Utah was unaware from ConocoPhillips' actions, inactions, and omissions that ConocoPhillips was ineligible for reimbursement from the PST Fund.

77. ConocoPhillips sought payment for site clean-up from many of its insurance companies and the PST Fund.

78. ConocoPhillips knowingly and intentionally concealed from the PST Fund it received payments from many of its insurers for which it also claimed PST Fund reimbursements.

79. ConocoPhillips' conduct, including, but not limited to its knowing and intentional falsification of its PST Fund Applications and double-dipping of insurance proceeds and PST Fund money, as previously set forth herein, violates the UST Act.

80. As the result of ConocoPhillips' actions, inactions, omissions, and fraudulent conduct, the State of Utah has suffered substantial damages and is entitled to recover any and all PST Fund money paid to ConocoPhillips to which ConocoPhillips was not entitled, as well as any punitive damages as this Court deems appropriate.

SECOND CAUSE OF ACTION
(ConocoPhillips Violated and Prejudged the PST Fund Subrogation Rights)

81. Utah hereby incorporates herein by this reference the foregoing paragraphs of the Complaint as if fully set forth herein.

82. ConocoPhillips submitted claims to the PST Fund either before, concurrently, or after asserting its rights to have the same claims paid by many of its insurance carriers for the same environmental liability. ConocoPhillips similarly asserted its rights against the independent insurance carriers by initiating litigation or through informal legal proceedings, receiving millions of dollars as a result thereof.

83. ConocoPhillips failed to abide by the conditions of participating in the PST Fund because it failed to provide correct and accurate information about its insurance coverage.

84. ConocoPhillips' failure to abide by the conditions of participating in the PST Fund prevented the State of Utah from prosecuting its subrogation claims for corrective action

and environmental remediation costs incurred by the PST Fund against ConocoPhillips' independent, mutual and captive insurers that provided pollution liability coverage.

85. The State of Utah has made, and will continue to make reimbursements from the PST Fund for corrective action and environmental remediation costs to third parties (*i.e.*, former and current independent owners and operators as well as adjacent property owners) for remediation at ConocoPhillips' formerly owned, operated and supplied contaminated petroleum fuel dispensing facilities in Utah.

86. Under the UST Act and Utah common law, the PST Fund is entitled to be subrogated to all of ConocoPhillips' rights of recovery against any person or organization. Accordingly, the State of Utah is (a) entitled to recover monies paid on behalf of ConocoPhillips for its environmental liability; (b) entitled to recover monies paid to third parties for reimbursement of environmental remediation corrective action costs against ConocoPhillips for its environmental pollution that either exists at its formerly owned, operated or supplied petroleum fuel dispensing facilities or third-party properties in Utah; and (c) entitled to recover against ConocoPhillips all monies from any and all ConocoPhillips - owned pollution liability insurance contracts.

THIRD CAUSE OF ACTION

(The State of Utah Has a Right to Recover Costs Paid to Third Parties)

87. Utah hereby incorporates herein by this reference the foregoing paragraphs of the Complaint as if fully set forth herein.

88. The State of Utah hereby incorporates herein by this reference the foregoing paragraphs of the Complaint as if fully set forth herein.

89. The State of Utah, through the PST Fund, has made and will continue to make reimbursement for corrective action and environmental remediation costs to third parties (*i.e.*, former and current independent owners, operators, lessees, and suppliers as well as adjacent property owners whose properties were contaminated) for the remediation of petroleum contamination caused or attributed to ConocoPhillips as a responsible party at ConocoPhillips' formerly owned, operated and supplied convenience stores and service stations in Utah.

90. Under the UST Act, responsible parties are liable for any costs associated with any release from a UST. UTAH CODE ANN. § 19-6-426. ConocoPhillips is a responsible party for all releases that have ever occurred at any of its current and/or previously owned, operated, operated, lease, and supplied service stations and convenience stores in Utah.

91. Under the UST Act, the State of Utah has the right to recover and is seeking recovery of all corrective action and environmental remediation costs paid by the PST Fund to third parties for contamination caused by and attributed to ConocoPhillips at its formerly owned, operated, leased, and/or supplied UST sites, including but not limited to service stations and convenience stores in Utah.

92. As a result of ConocoPhillips' actions, inactions, omissions, and fraudulent conduct in causing and contributing to environmental contamination at third party properties, the State of Utah is entitled to recover from ConocoPhillips all proportionate reimbursement costs payable to third parties, as well as punitive damages as this Court deems appropriate.

FOURTH CAUSE OF ACTION

(ConocoPhillips Has Been Unjustly Enriched)

93. The State of Utah hereby incorporates herein by this reference the foregoing paragraphs of the Complaint as if fully set forth herein.

94. The doctrine of unjust enrichment exists to prevent the wrongful retention of a benefit in violation of good conscience and fundamental principles of justice and equity. The PST Fund conferred a benefit on ConocoPhillips when it made payments for the costs of corrective action resulting from discharges emanating from ConocoPhillips' former and current petroleum-fuel dispensing facilities.

95. ConocoPhillips was aware it was receiving a benefit because it filled out and submitted the Vouchers requesting reimbursement or payments to third parties for costs associated with the cleanup of petroleum contaminated media resulting from releases from its USTs.

96. ConocoPhillips voluntarily accepted payments for the cost of the corrective action resulting from discharges emanating from ConocoPhillips' petroleum-fuel dispensing facilities, and has retained the PST Fund payments.

97. It would be inequitable and manifestly unjust to allow ConocoPhillips to retain monies paid to it for corrective action and environmental remediation costs to clean up its Utah facilities where ConocoPhillips has already collected or will collect from many of its insurance carriers for its environmental liabilities.

98. This Court should require ConocoPhillips to disgorge the unjust benefit it received by reimbursing the PST Fund, and award punitive damages as appropriate.

FIFTH CAUSE OF ACTION
(ConocoPhillips Fraudulently Concealed Information)

99. Utah hereby incorporates herein by this reference the foregoing paragraphs of the Complaint.

100. ConocoPhillips had a duty to disclose it had insurance coverage to the PST Fund as indicated on the application forms.

101. ConocoPhillips fraudulently and knowingly concealed, and intentionally omitted it was covered by numerous independent, mutual, captive, wholly-owned and third-party insurance policies for the remediation of environmental contamination at its Utah facilities.

102. Because ConocoPhillips knowingly, intentionally, and fraudulently concealed its insurance coverage, and represented to the State of Utah it had no insurance or was self-insured, money was disbursed from the PST Fund for the cleanup of environmental contamination when ConocoPhillips requested it.

103. The monetary disbursements to ConocoPhillips based on the fraudulently concealed insurance policies deprived the State of properly distributing millions of dollars from the PST Fund to clean up other contaminated facilities throughout Utah.

104. Because millions of dollars from the PST Fund were distributed to ConocoPhillips due to its fraudulent concealment, the fraudulent concealment is a substantial cause of damage to the PST Fund and the citizens of Utah.

105. Based upon the fraudulent concealment of material facts as previously set forth, the State of Utah seeks punitive damages, and to recover all monies paid by the PST Fund to ConocoPhillips and third parties to remediate environmental contamination resulting from petroleum releases at present and former ConocoPhillips facilities and adjacent properties.

SIXTH CAUSE OF ACTION
(ConocoPhillips Committed Fraud)

106. The State of Utah hereby incorporates herein by this reference the foregoing paragraphs of the Complaint.

107. ConocoPhillips knowingly, intentionally, and without concern for the PST Fund, made statements of fact which were untrue, and known to be untrue when it made them, as alleged hereinabove.

108. The statements were material because if ConocoPhillips had been truthful about its insurance coverage, the PST Fund would have known to prosecute its subrogation rights against ConocoPhillips' insurance carriers.

109. The representations and/or omissions made by ConocoPhillips that it was self-insured or did not have independent insurance coverage were in fact false.

110. When ConocoPhillips made said representations, it knew those representations to be false and it willfully, wantonly, and recklessly disregarded the truth.

111. These representations were made by ConocoPhillips with the intent of defrauding and deceiving the State of Utah into reimbursing ConocoPhillips from the PST Fund for the expenses associated with the environmental remediation of leaking UST systems at its Utah

facilities which evinced a callous, reckless, and willful indifference to the citizens of Utah and other eligible applicants to the PST Fund.

112. As a result, the State of Utah disbursed millions of dollars from the PST Fund to ConocoPhillips thereby materially affecting the availability of PST Funds to other eligible parties and adversely impacting the manner in which the program's ability to protect Utah's environment.

113. ConocoPhillips committed fraud and should be held liable for punitive damages as well as required to disgorge itself of any and all PST Funds it impermissibly received.

SEVENTH CAUSE OF ACTION

(ConocoPhillips Violated the UST Act and is Subject to Civil Penalties)

114. Utah hereby incorporates herein by this reference the foregoing paragraphs of the Complaint.

115. ConocoPhillips violated the UST Act when it knowingly made false statements about its eligibility on its applications to the PST Fund.

116. Because ConocoPhillips' false statements constituted a violation of the UST Act, this Court should impose statutory civil penalties on ConocoPhillips pursuant to UTAH CODE ANN. § 19-6-425.

WHEREFORE, based upon the allegations contained herein in the First through Seventh Causes of Action, Utah prays against ConocoPhillips as follows:

A. For judgment in favor of the State of Utah, and against ConocoPhillips for all

compensatory and actual damages resulting from ConocoPhillips' fraudulent misrepresentations, acts, or omissions, and for prejudgment interest upon such amount;

B. For judgment in favor of the State of Utah, and against ConocoPhillips for reimbursement to the PST Fund for any future expenses that may be reasonably incurred by the PST Fund to remediate petroleum contamination at ConocoPhillips' formerly owned, operated and supplied petroleum fuel dispensing facilities;

C. For judgment in favor of the State of Utah, and against ConocoPhillips for up to \$10,000 per day for each day ConocoPhillips violated the UST Act pursuant to UTAH CODE ANN. §19-6-425;

D. For judgment in favor of the State of Utah, and against ConocoPhillips for punitive damages under UTAH CODE ANN. § 78B-8-201 in an amount to be determined at trial;

E. For judgment in favor of the State of Utah, and against ConocoPhillips for Utah's reasonable attorney fees and costs in pursuing recovery against ConocoPhillips pursuant to UTAH CODE ANN. § 19-6-418;

F. For statutory pre-judgment interest at a rate of 10% pursuant to UTAH CODE ANN. § 15-1-1(2); and

G. For any and all other relief to which the State of Utah may be entitled at law or in equity.

JURY DEMAND

Plaintiffs demand a jury trial in this matter.

DATED this 6th day of July, 2012.

MARK L. SHURTLEFF
Utah Attorney General

Paul M. McConkie

Paul M. McConkie
Assistant Attorney General
Donald J. Winder
Laura H. Tanner
Special Assistant Attorneys General

EXHIBIT A

Exhibit A to Complaint and Jury Demand: Direct Reimbursement Sites

Facility ID	Address	City
1000054	506 East State Street	American Fork
0100338	Brigham Airport	Brigham City
3000242	425 North 800 West	Centerville
3000011	709 South State Street	Clearfield
4002159	12292 South Lone Peak Drive	Draper
4001451	911 East 12400 South	Draper
3000243	392 West 200 North	Kaysville
3000379	1980 West 2000 North	Layton
3000241	1950 North 1200 West	Layton
1000061	414 East Main Street	Lehi
0100308	1905 South Highway 89-91	Logan
0100188	1936 South Main	Logan
4000500	6955 South 1300 East	Midvale
4000640	686 East 7200 South	Midvale
5000040	1090 South Highway 191	Moab
5000039	397 North Main Street	Moab
4000152	5905 South 700 West	Murray
4000717	4510 South State Street	Murray
1200023	675 North Monroe Boulevard	Ogden
1200055	1184 South Wall Avenue	Ogden
1200056	2490 South Harrison Boulevard	Ogden
1200445	2277 South Harrison Boulevard	Ogden
1000051	185 West 800 North	Orem
1000056	840 North Main	Payson
1000053	341 East State Street	Pleasant Grove
5000038	891 East Main Street	Price
5000140	955 North Carbonville Road	Price
1000368	1240 North University Avenue	Provo
1000055	1410 South University Avenue	Provo
9000019	310 South 200 East	Roosevelt
4000714	4750 South Holladay Boulevard	Salt Lake City
4001666	1111 East 3300 South	Salt Lake City
4000304	757 West North Temple	Salt Lake City
4000305	475 South West Temple	Salt Lake City
4001184	4310 West 3500 South	Salt Lake City
4000229	1692 West North Temple	Salt Lake City
4000422	1270 South Main Street	Salt Lake City
4000172	6970 South 3000 East	Salt Lake City
4000098	179 West 500 South	Salt Lake City
4001699	175 West 10600 South	Sandy

**Exhibit A to Complaint and Jury Demand:
Direct Reimbursement Sites**

Facility ID	Address	City
4001368	880 West 3300 South	South Salt Lake
1000058	1460 North 1759 West	Springville
1200053	1254 West 21 st Street	West Haven
4001427	1680 West 7000 South	West Jordan
4001508	1285 West 7800 South	West Jordan
4001370	1680 West 78010 South	West Jordan
4000449	3491 South Redwood Road	West Valley City

EXHIBIT B

Exhibit B to Complaint and Jury Demand: Subsequent Owner Sites

Facility ID	Address	City
3000012	504 West 400 North	Bountiful
6000015	93 South Main Street	Cedar City
3000079	214 State Street	Clearfield
4001009	12288 South 700 East	Draper
9000053	432 West Main Street	Duchesne
8000130	230 East Main Street	Grantsville
1100020	95 South Main Street	Heber City
4000950	2905 East 4430 South	Holladay
3000085	485 North Main Street	Layton
0100126	502 North Main Street	Logan
0100180	404 North Main Street	Logan
4001272	8370 South State Street	Midvale
2000050	26 North 400 East	Moroni
4001097	530 West 4800 South	Murray
4000981	4909 South State Street	Murray
1200008	2991 South Monroe Boulevard	Ogden
1200308	1212 South Wall Avenue	Ogden
5000044	277 North Carbonville Road	Price
1000096	1500 North State Street	Provo
9000110	120 South 200 East	Roosevelt
1200425	4795 South 3500 West	Roy
2000068	110 South State Street	Salina
4000323	775 South 300 West	Salt Lake City
4001552	379 South 300 West	Salt Lake City
4001192	3898 South 900 East	Salt Lake City
4001665	710 East 2700 South	Salt Lake City
4000421	615 South 200 West	Salt Lake City
4000257	1204 West 600 North	Salt Lake City
4001145	1310 East 3300 South	Salt Lake City
1200113	490 40 th Street	South Ogden
4001747	315 East 3900 South	South Salt Lake
1000393	780 East 800 North	Spanish Fork
4000451	4804 South Redwood Road	Taylorsville
4000144	3575 West 3500 South	West Valley City
3000158	695 West 500 South	Woods Cross

EXHIBIT C

PST Fund Eligibility Application

Utah Department of Environmental Quality
 Division of Environmental Response and Remediation
 Petroleum Storage Tank (PST) Section

Certificate of Compliance Number & Expiration Date

Were tanks in compliance when leak was detected?
 Yes No

LUST Release Number (if issued)
 EKQY

Facility ID Number
 0100188

Social Security or Tax ID Number

Applicant Name (please print)
 Phillips Petroleum Company Thomas Kosel for

Signature
Thomas H. Kosel 2/16/99

Mailing Address
 PO Box 2400

City
 Bartlesville

State
 Oklahoma

Zip
 74005

Telephone
 (918) 661-7439

Applicant is a:

Tank System Owner Facility Owner Tank System Operator Land Owner

If the tank system owner or operator, the facility owner, or owner of the land on which the tank system is located is different than the applicant shown above, complete the appropriate spaces in this portion of the form

Tank System Owner Facility Owner Tank System Operator Land

Mailing Address

Telephone

Dates of Ownership
 From

MARCH 1996 to PRESENT

FEB 24 1999

Name of facility at release site
 Phillips 66 Station #27932

Site Address
 1936 North Main, Logan, Utah

Contact person at the site
 Thomas Kosel

Telephone
 (918) 661-7439

Date Release occurred or was discovered
 September 10, 1998

Date release was reported to the DERR September 10, 1998

Number of tank systems that contributed to the release at the site (attach additional sheets if needed).

Tank Number	Tank Volume	Product	Installation/Closure Date
3 UST's	2 x 10,000 & 1 x 6,000 gal	(2) gasoline (1) diesel	1986

Is this release covered under independent insurance:

Yes No

Number of tank systems that were or will be removed during the course of this site cleanup.
 None

How was the release confirmed? Attach a brief summary that includes laboratory analysis, field instrument readings, visual observations, tank tightness test results, etc. Subsurface Investigation

Is there evidence of a previous release? If so, describe how the release was determined. *LEAK DETECTION HAS NOT INDICATED A RELEASE, BUT WATER TESTING HAS INDICATED A BENZENE*

Utah Petroleum Storage Tank Fund *LEVEL OF 420 ppb.*

PST Eligibility Application 10/95

EXHIBIT D

UTAH PETROLEUM STORAGE TANK TRUST FUND / REQUEST FOR PAYMENT VOUCHER

Summary Worksheet

2/24/2009

Project Manager: Hong-Lai Tao

SUBMITTED BY: ATC Associates Inc. PAYEE: Envirocap, LLC - ConocoPhillips UST Collection Account ADDRESS: P.O. Box 100937 Atlanta, GA 30384-1445 TYPE OF BUSINESS: PARTNERSHIP CORPORATION_X SOLE PROPRIETOR PARTNERSHIP CORPORATION_X FED TAX ID # OR SS #: Tax #73-0400345 PHONE: (602) 728-6055	BILL TO: UTAH DEPT. of ENVIRONMENTAL QUALITY ENVIRONMENTAL RESPONSE & REMEDIATION 168 NORTH 1950 WEST/ P O BOX 144840 SALT LAKE CITY, UTAH 84114-4840 PHONE NO. (801) 536-4100
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DATE	WORK PLAN	SERVICES RENDERED/DESCRIPTION - MUST INCLUDE COPIES OF INVOICES, CHECKS & DETAILED BACK-UP DOCUMENTATION	INVOICE #	AMOUNT
2/24/2009	JNF-12	Well Abandonment	1543676	\$ 1,973.45
CAROL BLACKBURN STATE OF UTAH DEPT. OF ENVIRONMENTAL QUALITY				

I, the undersigned, certify that the above listed items or services were required for and used at this site, that the charges appearing hereon are correct, and that no part of the same has been paid for by the PST Fund. The presentation of a claim based on materially false information is subject to criminal penalties. Utah Code Ann. §19-6-429.

SIGNATURE OF RESPONSIBLE PARTY: <i>[Signature]</i>	DATE: 2/24/09
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TOTAL SUBMITTED: \$ 1,973.45

NOTE: Signatures of BOTH Responsible Party AND Consultant required for Direct Reimbursement to the Consultant. Only one signature required for reimbursement to Owner.

STATE: UTAH COUNTY: SALT LAKE PROJECT MANAGER: <i>[Signature]</i> PROJECT NO.: 47709 DATE: 4/20/09	SIGNATURE OF CONSULTANT FOR PROJECT: <i>[Signature]</i> DATE: 4/28/2009	SIGNATURE OF RESPONSIBLE PARTY: <i>[Signature]</i> DATE: 2/24/09	LESS DISALLOWED COSTS LESS TOTAL APPROVED LESS DEDUCTIBLE TOTAL TO REIMBURSE \$ 1,973.45
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FINANCIAL CODING	7220	480	4731	7220
COURSE	6137	PROGRAM	FUNCTION	6137
				\$ 1,973.45