

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

In the matter of:	)	
	)	
<b>PHILLIPS 66 COMPANY SAN FRANCISCO REFINERY, CONTRA COSTA COUNTY</b>	)	<b>SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE CIVIL LIABILITY ORDER</b>
	)	
<b>NPDES Permit effluent limit violations of total residual chlorine on July 8, August 15, October 11, and November 25, 2018, from Discharge Point No. 002; and on September 28 and 29 and October 3 and 4, 2018, from Discharge Point No. 003</b>	)	<b>PROPOSED ORDER</b>
	)	

**Section I: INTRODUCTION**

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Stipulated Order) is entered into by and between the California Regional Water Quality Control Board, San Francisco Bay Region, Prosecution Team (Prosecution Team) and Phillips 66 Company (Phillips 66) (collectively, Parties), and is presented to the California Regional Water Quality Control Board, San Francisco Bay Region (Regional Water Board), or its delegate for adoption as an Order by settlement pursuant to Water Code section 13323 and Government Code section 11415.60. This Stipulated Order resolves all the violations alleged herein by imposing administrative civil liability against Phillips 66 in the amount of **\$80,000**.

**Section II: PROSECUTION TEAM ALLEGATIONS**

1. Phillips 66 owns and operates the San Francisco Refinery at Rodeo in Contra Costa County (Facility), which processes an average crude oil throughput of approximately 84,000 barrels per day. The Facility produces gasoline, diesel fuel, fuel oil, and other petroleum products and by-products. The Facility discharges treated process wastewater via Discharge Point No. 002, once-through cooling water via Discharge Point No. 003, and stormwater runoff via Discharge Point No. 004, to San Pablo Bay.
  
2. Phillips 66 is required to operate and maintain the Facility in compliance with National Pollutant Discharge Elimination System (NPDES) Permit No. CA0005053 (Permit), an NPDES permit for point source discharges to surface waters of the United States issued pursuant to Clean Water Act section 402 and California Water

Code (Water Code) Chapter 5.5, Division 7 (commencing with section 13370). The Regional Water Board reissued the Permit, Order No. R2-2016-0044, on November 9, 2016, which took effect on January 1, 2017. On October 8, 2018, the Regional Water Board issued a minor modification letter to the Permit, which included a correction to Table 4a to state that the total residual chlorine (TRC) effluent limit at Discharge Point No. 002 is an instantaneous maximum. Phillips 66 is subject to the waste discharge requirements set forth in the current order, subject to the minor modification letter.

3. The Prosecution Team alleges the following discharges violated the instantaneous maximum TRC limit of 0.0 milligrams per liter (mg/L) specified in Tables 4a and 5a of the Order:
  - a. From Discharge Point No. 002, Phillips 66 discharged a combined total of approximately 1.1 million gallons (MG) on July 8, August 15, October 11, and November 25, 2018. Over these four days of discharge, Phillips 66 violated the TRC limit six times as shown in the following table:

Sample Date and Time	Reported TRC Concentration (mg/L)
7/8/2018 8:45 a.m.	0.8
7/8/2018 9:15 a.m.	1.1
7/8/2018 10:36 a.m.	1.1
8/15/2018 8:55 a.m.	1.4
10/11/2018 11:25 a.m.	1.7
11/25/2018 11:20 a.m.	0.7

- b. From Discharge Point No. 003, Phillips 66 discharged a combined total of approximately 2.9 MG on September 28 and 29, and October 3 and 4, 2018. Over these four days of discharge, Phillips 66 violated the TRC limit ten times as shown in the following table:

Sample Date and Time	Reported TRC Concentration (mg/L)
9/28/2018 9:23 a.m.	0.4
9/28/2018 11.28 a.m.	0.2
9/28/2018 1:30 p.m.	0.1
9/29/2018 9:30 a.m.	0.3
9/29/2018 11:30 a.m.	0.4
9/29/2018 3:30 p.m.	1.2
9/29/2018 5:21 p.m.	0.4
10/3/2018 11:28 a.m.	0.3
10/3/2018 1:34 p.m.	0.3
10/4/2018 8:39 p.m.	1.1

4. Pursuant to Water Code section 13385, subdivision (a)(2), a person that violates a waste discharge requirement is subject to administrative civil liability under Water Code section 13385, subdivision (c):
  - ...in an amount not to exceed the sum of the following: (1) Ten thousand dollars (\$10,000) for each day in which the violation occurs. (2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.
5. Water Code section 13385, subdivision (h) requires assessment of mandatory minimum penalties (MMPs) for certain discharge violations:
  - a. Water Code section 13385, subdivision (h)(1), states:

Notwithstanding any other provisions of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum of three thousand dollars (\$3,000) shall be assessed for each serious violation.
  - b. Water Code section 13385, subdivision (h)(2), states:

For the purposes of this section, a "serious violation" means any waste discharge that violates the effluent limitations contained in the application waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.
6. In 2018, Phillips 66 discharged a total of approximately 4.0 MG of chlorinated process water to San Pablo Bay on the days discussed above. These discharges were caused by failure to follow standard operating procedures, inadequate standard operating procedures for dechlorination of replacement cooling water from the East Bay Municipal Utilities District (EBMUD) before discharge from Discharge Point No. 003, and equipment malfunction where the dechlorination agent (sodium bisulfite) drip line clogged due to crystallization.
7. The alleged violations listed in Section II, paragraph 3, are subject to mandatory minimum penalties in the amount of \$24,000 under Water Code section 13385, subdivision (h). However, the Prosecution Team elected to pursue discretionary administrative civil liabilities instead because Phillips 66 has had repeated TRC effluent limit violations due to its failure to follow standard operating procedures, inadequate dechlorination standard operating procedures, and equipment malfunctions.

8. For settlement purposes and consistent with the factors outlined in Water Code section 13385, subdivision (e), the Prosecution Team seeks administrative civil liability under Water Code section 13385 for a per-day statutory maximum of \$10,000 per day for eight days of violation, for a total liability of \$80,000. Despite the large volume of chlorinated water discharged, the Prosecution Team believes the per day statutory maximum is reasonable and an appropriate penalty for the following reasons:
  - a. Although no harm or loss of beneficial uses due to these discharges was observed, chlorine is a potent biocide, used for its rapid disinfection capability. Thus, it may have caused short-term unobserved impacts at the discharge points. While the TRC discharges posed short-term threats to potential receptors, long-term harm is not expected because TRC does not persist in the environment.
  - b. Six of the sixteen discharges were to Discharge Point No. 002, which is submerged; those discharges therefore received significant initial dilution. However, temporary harm that was not observed may have occurred immediately at discharge depth.
  - c. Ten of the sixteen discharges were to Discharge Point No. 003, which is at the surface; those discharges did not receive significant initial dilution. Although harm was not directly observed, the discharges could have caused unobserved harm, particularly due to the lack of rapid mixing.
  - d. Upon discovering these violations, Phillips 66 took corrective action to reduce their duration and potential harm, and to return to compliance, troubleshooting equipment and changing procedures where necessary. However, the corrective actions taken in response to the violations at Discharge Point No. 003 did not address the root cause of those violations: insufficient dosing and mixing of hydrogen bisulfite while saltwater cooling water was replaced by chlorinated water from EBMUD. Phillips 66's corrective actions were not sufficient to prevent TRC violations from reoccurring while the saltwater cooling system was under repair. The TRC violations reoccurred until repairs were complete and saltwater cooling water flow was restored.
  - e. Phillips 66 has a history of violations. Prior to 2018, Phillips 66 violated the TRC effluent limit twice in each of calendar years 2014, 2015, and 2016. The Regional Water Board issued ACL Order No. R2-2016-1002 to Phillips 66 on February 25, 2016, imposing \$9,000 in MMPs for the two TRC violations in 2014 and one in 2015. The Regional Water Board also issued ACL Order No. R2-2017-1036 to Phillips 66 for its Permit effluent limit violations on November 13, 2017, imposing a liability of \$109,000, including \$9,000 in MMPs for the second TRC violation in 2015 and the two in 2016.
  - f. Phillips 66 is culpable for the violations listed in Section II, paragraph 3, to a significant degree because a reasonable and prudent discharger would have

ensured that its equipment and procedures were sufficient to ensure compliance with its NPDES permit's effluent limits.

- g. By imposing the maximum per-day liability, this Stipulated Order likely recovers any economic benefit Phillips 66 may have derived from the violations listed in Section II, paragraph 3.
  - h. Phillips 66's agreement to pay the proposed liability set forth in this Stipulated Order acknowledges its ability to pay the proposed liability.
9. To resolve the alleged violations listed in Section II, paragraph 3, by consent and without further administrative proceedings, the Parties have agreed to the imposition of an administrative civil liability of **\$80,000** against Phillips 66.
  10. The Parties have agreed to settle this matter without administrative or civil litigation, and to present this Stipulated Order to the Regional Water Board or its delegate for adoption as an Order by settlement, pursuant to Water Code section 13323 and Government Code section 11415.60.
  11. The Prosecution Team contends that the resolution of the alleged violations is fair and reasonable and fulfills all its enforcement objectives; that no further action or injunctive relief is necessary or warranted concerning the alleged violations, except as provided in this Stipulated Order; and that this Stipulated Order is in the public's best interest.

### **Section III: STIPULATIONS**

The Parties incorporate the foregoing Prosecution Team Allegations and stipulate to the following:

1. **Administrative Civil Liability:** Phillips 66 hereby agrees to the imposition of an administrative civil liability totaling **\$80,000** to resolve all alleged violations set forth in Section II as follows:
  - a. No later than 30 days after the Regional Water Board or its delegate has signed this Stipulated Order, Phillips 66 shall submit a check for **\$40,000** (half of the total administrative civil liability of \$80,000) made payable to the "State Water Pollution Cleanup and Abatement Account," reference the Order number on page one of this Stipulated Order, and mail it to:

State Water Resources Control Board Accounting Office  
Attn: ACL Payment  
P.O. Box 1888  
Sacramento, CA 95812-1888

Phillips 66 shall provide a copy of the check via e-mail to the State Water Resources Control Board, Office of Enforcement  
([Kailyn.Ellison@waterboards.ca.gov](mailto:Kailyn.Ellison@waterboards.ca.gov))

and the Regional Water Board ([Habte.Kifle@waterboards.ca.gov](mailto:Habte.Kifle@waterboards.ca.gov)).

- b. The Parties agree that **\$40,000** (the other half of the total administrative civil liability of \$80,000), shall be paid to the Regional Monitoring Program care of the San Francisco Estuary Institute for implementation of a Supplemental Environmental Project (SEP) as follows:
  - i. \$40,000 (SEP Amount) shall be paid solely for the use of the SEP Fund for the San Francisco Bay Regional Monitoring Program. Funding for this project will allow the Regional Monitoring Program to provide data quality assurance and data management, and to prepare a data report on the 2019 and 2020 clam and water selenium monitoring in support of the North Bay Selenium Total Maximum Daily Load by December 2021. A complete description of this project is provided in Attachment A, incorporated herein by reference.
  - ii. Phillips 66 shall not be liable for administrative and oversight costs associated with the specific project described above.
  - iii. Payment of the SEP Amount shall also be made no later than 30 days after the Regional Water Board or its delegate has signed this Stipulated Order. Payment of the SEP Amount shall be submitted in the form of a single check referencing the Order number on page one of this Stipulated Order, and mailed to:

Regional Monitoring Program  
c/o San Francisco Estuary Institute  
4911 Central Avenue  
Richmond, CA 94804.

A copy of the check for the SEP Amount shall be sent to the Office of Enforcement and the Regional Water Board at the e-mail addresses set forth above.

2. **SEP:** In accordance with the State Water Resources Control Board's 2018 Policy on Supplemental Environmental Projects and State Water Resources Control Board Resolution No. 2018-0015, the Parties agree that the payment of the SEP Amount will be treated as a suspended administrative civil liability for purposes of this Stipulated Order. Phillips 66's SEP obligations will be satisfactorily completed upon proof of its payment of the SEP Amount to the San Francisco Estuary Institute for the SEP identified in Attachment A.
3. **Publicity Associated with the SEP:** Whenever Phillips 66, or its agents or subcontractors, publicize one or more elements of the SEP, they shall state in a **prominent manner** that the project is undertaken as part of a settlement to a Regional Water Board enforcement action against Phillips 66.
4. **Regional Water Board is Not Liable:** Neither the Regional Water Board members nor the Regional Water Board staff, attorneys, or representatives shall be liable for

any injury or damage to persons or property resulting from negligent or intentional acts or omissions by Phillips 66 or its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Stipulated Order, nor shall the Regional Water Board, its members, or its staff be held as parties to, or guarantors of, any contract entered into by Phillips 66 or its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Stipulated Order.

5. **Compliance with Applicable Laws:** Phillips 66 understands that payment of administrative civil liability in accordance with the terms of this Stipulated Order and/or compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged herein may subject it to further enforcement, including additional administrative civil liability.

6. **Party Contacts for Communications related to this Stipulated Order:**

**For the Regional Water Board:**

Habte Kifle  
San Francisco Bay Regional Water  
Quality Control Board  
1515 Clay Street, 14th Floor  
Oakland, CA 94612  
[Habte.Kilfe@waterboards.ca.gov](mailto:Habte.Kilfe@waterboards.ca.gov)  
(510) 622-2371

**For Phillips 66:**

Don Bristol, HSE Manager  
Phillips 66 San Francisco  
Refinery  
1380 San Pablo Avenue  
Rodeo, CA 94572  
[Don.a.bristol@p66.com](mailto:Don.a.bristol@p66.com)  
(510) 245-5825

**Counsel:**

Kailyn Ellison  
State Water Resources Control Board  
801 K Street, 23rd Floor  
Sacramento, CA 95814  
[Kailyn.Ellison@waterboards.ca.gov](mailto:Kailyn.Ellison@waterboards.ca.gov)  
(916) 445-9557

7. **Attorney's Fees and Costs:** Each Party shall bear all attorneys' fees and costs arising from the Party's own counsel relating to the matters set forth herein.
8. **Matters Addressed by this Stipulated Order:** Upon the Regional Water Board's or its delegate's adoption, this Stipulated Order represents a final and binding resolution and settlement of the alleged violations as of the effective date of this Stipulated Order. The provisions of this paragraph are expressly conditioned on the full payment of the administrative civil liability by the deadlines specified in Section III, Paragraph 1.a., and Phillips 66's full satisfaction of the obligations described in Section III, Paragraph 1.b.

9. **Public Notice:** Phillips 66 understands that this Stipulated Order must be noticed for a 30-day public review and comment period prior to consideration by the Regional Water Board or its delegate. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Regional Water Board or its delegate for adoption, the Prosecution Team may unilaterally declare this Stipulated Order void and decide not to present it to the Regional Water Board or its delegate. Phillips 66 agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order.
  
10. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for public review of this Stipulated Order and the Regional Water Board's or its delegate's adoption of this Stipulated Order is lawful and adequate. The Parties understand that the Regional Water Board or its delegate has the authority to require a public hearing on this Stipulated Order. If procedural objections are raised or the Regional Water Board requires a public hearing prior to the Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections, and they may agree to revise or adjust the procedure and/or this Stipulated Order as necessary or advisable under the circumstances.
  
11. **Interpretation:** This Stipulated Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party. The Parties are represented by counsel in this matter.
  
12. **Modification:** The Parties shall not modify this Stipulated Order by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Regional Water Board or its delegate.
  
13. **If the Stipulated Order Does Not Take Effect:** If the Stipulated Order does not take effect because the Regional Water Board or its delegate does not approve it, or because the State Water Resources Control Board or a court vacates it in whole or in part, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Regional Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violations, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing, or in any other administrative or judicial proceeding, for any purpose including but not limited to the following:
  - a. Objections related to prejudice or bias of any of the Regional Water Board members or their advisors or any other objections that are premised in whole or in part on the fact that the Regional Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Stipulated Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the violations alleged herein in this matter; or



- b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.
14. **Waiver of Hearing:** Phillips 66 has been informed of the rights Water Code section 13323, subdivision (b), provides and, if the settlement is adopted by the Regional Water Board or its delegate, hereby waives its right to a hearing before the Regional Water Board prior to the Order's adoption. However, if the settlement is not adopted and if the matter proceeds to the Regional Water Board or State Water Resources Control Board for hearing, Phillips 66 does not waive its right to a hearing before an order is imposed.
15. **Waiver of Right to Petition or Appeal:** Except in the instance where the settlement is not adopted by the Regional Water Board or its delegate, Phillips 66 hereby waives its right to petition the Regional Water Board's adoption of the Order for review by the State Water Resources Control Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate-level court.
16. **Covenant Not to Sue:** Phillips 66 covenants not to sue or pursue any administrative or civil claims against the State of California, any State agency, or its officers, Board Members, employees, representatives, agents, or attorneys arising out of or relating to any matter expressly addressed by this Stipulated Order or the SEP, except that this covenant is not intended to, and does not, limit Phillips 66's rights to sue over other Regional Water Board orders (e.g., permits, cease and desist orders, etc.) or limit Phillips 66's rights to defend against any additional enforcement or other actions taken by the Regional Water Board or its employees, representatives, agents, or attorneys, and shall not release any claims or complaints against any State agency or the State of California, its officers, Regional Water Board Members, employees, representatives, agents, or attorneys to the extent such covenant would be prohibited by California Business and Professions Code section 6090.5 or by any other statute, rule, regulation or legal principle of similar effect.
17. **Necessity for Written Approvals:** All approvals and decisions of the Regional Water Board under the terms of this Stipulated Order shall be communicated to Phillips 66 in writing. No oral advice, guidance, suggestions, or comments from Regional Water Board employees or officials regarding submissions or notices shall be construed to relieve Phillips 66 of its obligation to obtain any final written approval this Stipulated Order requires.
18. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of, and to bind, the entity on whose behalf he or she executes the Stipulated Order.


19. **No Third-Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligations on any third party, and no third party shall have any right of action under this Stipulated Order for any cause whatsoever.
20. **Severability:** This Stipulated Order is severable; if any provision is found to be invalid, the remainder shall remain in full force and effect.
21. **Counterpart Signatures; Facsimile and Electronic Signature:** This Stipulated Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document. Further, this Stipulated Order may be executed by facsimile or electronic signature, and any such facsimile or electronic signature by any Party hereto shall be deemed to be an original signature and shall be binding on such Party to the same extent as if such facsimile or electronic signature were an original signature.
22. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Regional Water Board or its delegate enters the Order incorporating the terms of this Stipulated Order.
23. **No Admission of Liability:** In settling this matter, Phillips 66 does not admit to any of the allegations stated herein, or that it has been or is in violation of the Water Code, or any other federal, State, or local law or ordinance, with the understanding that, in the event of any future enforcement actions by the Regional Water Board, the State Water Board, or any other Regional Water Quality Control Board, this Stipulated Order may be used as evidence of a prior enforcement action consistent with Water Code sections 13327 and/or 13385, subdivision (e).

Settlement Agreement and Stipulated Administrative Civil Liability  
Phillips 66 San Francisco Refinery


**IT IS SO STIPULATED.**

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION, PROSECUTION TEAM**

Date: May 1, 2019

  
By: \_\_\_\_\_  
Thomas Mumley  
Assistant Executive Officer

Approved as to form:

  
By: \_\_\_\_\_  
*for* Kailyn Ellison, Attorney  
State Water Resources Control Board  
Office of Enforcement

Settlement Agreement and Stipulated Administrative Civil Liability  
Phillips 66 San Francisco Refinery

**Phillips 66 Company**

Date: 04/30/2019

By: Carl Perkins  
Carl Perkins, San Francisco Refinery Manager  
Phillips 66 Company

Approved as to form:

By: Jimmy Greene 4/30/19  
Jimmy Greene, Senior Counsel  
Phillips 66 Company

**ORDER OF THE REGIONAL WATER BOARD**

1. This Order incorporates the foregoing Sections I through III by this reference as if set forth fully herein.
2. In accepting this Stipulated Order, the Regional Water Board has considered, where applicable, each of the factors prescribed in Water Code section 13385, subdivision (e). The Regional Water Board's consideration of these factors are based on information the Prosecution Team obtained in investigating the allegations set forth in the Stipulated Order or otherwise provided to the Regional Water Board.
3. This is an action to enforce the laws and regulations administered by the Regional Water Board. The Regional Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, § 21000 et seq.) in accordance with section 15321, subdivision (a)(2), Title 14, of the California Code of Regulations. Additionally, this Order generally accepts the plans proposed for the SEP prior to implementation. Mere submittal of plans is exempt from CEQA because submittal will not cause a direct or indirect physical change in the environment.
4. The Executive Officer of the Regional Water Board is authorized to refer this matter directly to the Attorney General for enforcement if Phillips 66 fails to perform any of its obligations under this Order.

**IT IS HEREBY ORDERED** pursuant to Water Code section 13323 and Government Code section 11415.60, on behalf of the California Regional Water Quality Control Board, San Francisco Bay Region.

\_\_\_\_\_  
Michael Montgomery  
Executive Officer  
California Regional Water Quality Control Board  
San Francisco Bay Region

\_\_\_\_\_  
Date

**ATTACHMENT A**  
**Phillips 66 Company, San Francisco Refinery (Phillips 66)**  
**Study Description for**  
**Supplemental Environmental Project Fund for the**  
**San Francisco Bay Regional Monitoring Program**

**1. Project Name**

North Bay Selenium Clam and Water Data Management and Reporting

**2. Project Amount**

\$40,000

**3. Project Lead**

San Francisco Estuary Institute (SFEI)

**4. Contacts**

- Jay Davis, SFEI (Technical), [jay@sfei.org](mailto:jay@sfei.org), cell (510) 304-2308
- Jennifer Hunt, SFEI (Financial), [jhunt@sfei.org](mailto:jhunt@sfei.org), (510) 746-7347

**5. Project Description**

The project will provide data quality assurance, data management, and data reporting for clam and water selenium monitoring in north San Francisco Bay. The Regional Monitoring Program (RMP) will conduct this monitoring in support of the North Bay Selenium Total Maximum Daily Load (TMDL). This project will cover clam and water selenium data generated in the 2019 and 2020 RMP monitoring study.

**6. Compliance with Supplemental Environmental Project (SEP) Criteria**

A SEP must directly benefit or study groundwater or surface water quality or quantity and the beneficial uses of the water of the State.<sup>1</sup> This study meets this SEP criterion by providing data quality assurance, data management, and reporting of clam and water selenium monitoring that the RMP conducted in support of the North Bay Selenium TMDL. This is a water quality objective to protect the beneficial uses of San Pablo, which is part of the North Bay, a water of the State and United States.

**7. Above and Beyond Settling Respondent's Obligations**

This SEP contains only measures that go above and beyond Phillips 66's obligations. The project is not part of Phillips 66's normal business nor is Phillips 66 otherwise required to implement any portion of the project.

**8. No Benefit to Water Board Functions, Members, or Staff**

This SEP provides no direct fiscal benefit to the San Francisco Bay Regional Water Quality Control Board's (Regional Water Board's) functions, its members, its staff, or any family members of staff.

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<sup>1</sup> State Water Resources Control Board Policy on Supplement Environmental Projects, May 3, 2018.

**9. Nexus to Nature or Location of Violations**

The SEP has a nexus to the nature and location of the alleged violations. This SEP includes clam and water selenium monitoring in San Pablo Bay, the receiving water to which the chlorinated process water discharges occurred. The SEP is located within the same Water Board region in which the alleged violations occurred and is intended to measure the effectiveness of other monitoring study efforts intended to protect waters of the State and United States.

**10. Project Milestones, Schedule, and Budget**

The study will cover clam and water selenium data generated by RMP monitoring in 2019 and 2020. The final two-year dataset report will be made available through the RMP data access tool (CD3.sfei.org) and the California Environmental Data Exchange Network (CEDEN) by December 2021.

Pursuant to the October 2015 Supplemental to Memorandum of Understanding (MOU) between SFEI and the Regional Water Board, SFEI is responsible for identifying in each annual work plan and annual budget for the RMP those studies or elements, or a portion of a study or element, to be funded by SEP funds. SFEI will keep a copy of accounting records of SEP fund contributions and expenditures separate from regular RMP funds. In its annual and quarterly financial reports to the Regional Water Board, SFEI will separately itemize SEP fund contributions and expenditures by each SEP funder.

SFEI will provide notice to the Regional Water Board within one month after receiving funds from Phillips 66 for the SEP and the notice will state SFEI's agreement to use the funds received as described herein.

**11. Publicity**

Pursuant to the October 2015 MOU, SFEI will indicate on its Regional Monitoring Program website, and annual and other reports, that funding for the study is the result of settlement of a "San Francisco Bay Water Board" enforcement action.