

SETTLEMENT AGREEMENT

This Settlement Agreement (hereinafter "Settlement Agreement") is made and entered into by and between Thomas E. Perez, Secretary of Labor, United States Department of Labor (hereinafter the "Secretary") and Shell Oil Products Company LLC, Equilon Enterprises LLC d/b/a Shell Oil Products US, and Shell Chemical LP (hereinafter "Shell") by and through their duly authorized representatives (collectively referred to as the "Parties"). In consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree to be legally bound by the following terms and conditions, which constitute full settlement of any disputes between them:

1. **Authority of the Secretary of Labor and Scope of Investigation:** The Secretary is responsible for the administration and enforcement of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, et seq. ("FLSA" or "the Act"). The Secretary has conducted an investigation ("the Investigation") of Shell under the FLSA concerning whether Shell did not compensate employees for attending the company's mandatory daily Ensure Safe Production ("ESP") pre and post shift relief meetings prior to or after each shift worked or whether Shell failed to record the ESP pre and post shift relief meeting times as hours worked resulting in overtime due to certain refinery and chemical unit employees at the following Shell facilities: Deer Park, Texas; Mobile, Alabama; Geismar, Louisiana; Martinez, California; Puget Sound, Washington; and Norco Chemical, Louisiana during the investigative period. The employees to whom Shell has agreed to pay overtime wages ("eligible employees") are listed in Exhibit 1 to this Agreement. The applicable period

covered by this Agreement is from October 1, 2009 to January 31, 2014 for Shell Oil Products Company LLC's Deer Park facility. The applicable period for all other facilities covered by this Agreement is January 1, 2012 to January 31, 2014.

2. **Supervision of Release and Payment of Back Wages:** The Secretary has agreed, pursuant to 29 U.S.C. § 216(c) of the Act, to supervise Shell's payment of alleged back-wages to eligible employees and to utilize the U.S. Department of Labor's Form WH-58, attached hereto as Exhibit 2, to accompany any such payments.

3. **Release of Claims by Eligible Employees:** The Parties agree that by accepting back-wage payments supervised by the Secretary pursuant to 29 U.S.C. § 216(c), eligible employees release any claim they may have against Shell for overtime wages or minimum wage during the applicable period, including but not limited to claims for liquidated damages, interest, attorneys' fees and costs.

4. **No Further Legal Action:** In exchange for the consideration set forth in this Settlement Agreement, including Shell's agreement to pay the amounts described below, the Secretary agrees to refrain from instituting any legal action or other regulatory action against Shell concerning overtime payments allegedly due to eligible employees for uncompensated ESP time during the applicable period for the Shell facilities at which the eligible employees worked and for any preceding time period for which the Secretary obtained data from Shell regarding ESP pre and post shift relief time as part of the Secretary's Investigation.

5. **No Admission of Liability:** Nothing herein contained, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence or wrongdoing of any kind on the part of any of the Parties hereto. The Parties to this Settlement Agreement understand that this Settlement Agreement has been

entered into with the intention to avoid further dispute and litigation with its attendant uncertainty, inconvenience and expense.

6. **Effective Date of Settlement:** The effective date of the Settlement Agreement shall be the first date after its full and complete execution by all of the Parties.

7. **Mutual Cooperation:** The Parties agree to cooperate and take all steps necessary and appropriate to effectuate this Settlement Agreement.

8. **Secretary's Due Diligence:** Shell provided to the Secretary a list of all eligible employees, their rate of pay, and back wage calculations for the applicable investigative periods, hereinafter referred to as "Data File." The Secretary has reviewed the information in the Data File and has conducted his due diligence to the best of his ability to verify all the eligible employees were included in the Data File, the Data File contains the accurate rate of pay for every eligible employee and that the back wage calculations are correct.

9. **Inadvertent Omission of Eligible Employees from Data File:** In the event it is determined by the Parties that an eligible employee has been inadvertently omitted from the Data File, the Parties agree that they will use the same criteria employed to determine the amount of back wage payments to be made to eligible employees pursuant to this Agreement and reach a mutually acceptable agreement on the appropriate payment to be issued to each such employee.

10. **Payments to Eligible Employees:** On or before October 30, 2014, Shell will make payments (representing back-wages) to eligible employees identified in Exhibit I in accordance with the amounts listed next to each eligible employee's name. Each payment will be less lawful deductions and any allowed benefit deductions as set forth in paragraph 12 and each eligible employee will receive an IRS Form W2 reflecting such amount. The total

back-wage payments to be made to eligible employees shall equal \$3,287,840.15.

11. **No Retention of Unclaimed Amount:** Shell shall not accept and keep any amount returned to it or otherwise declined by persons owed compensation under this Settlement Agreement except as provided in Paragraph 16 of this Settlement Agreement. Any such amount shall be paid to the Secretary for deposit as provided below.

12. **Deductions from Back Wages:** The Parties agree that Shell may deduct from back-wages any current employee amounts related to employee benefit plans, including, but not limited to, health, life, short term disability, and 401(k) plans. The Parties further agree that Shell shall deduct from any back-wage payments any amounts Shell is required to withhold by law, including, but not limited to, federal and state taxes, social security payments, garnishments, liens and child support payments.

13. **Termination of Tolling Agreement:** The Parties agree that the tolling agreement between the U.S. Department of Labor and Shell Oil Products Company LLC to toll the statute of limitations under the FLSA was terminated by agreement of the Parties effective January 31, 2014.

14. **Record of Payments:** Shell will keep a record of all payments made, including any and all executed WH-58 forms, each check or electronic transfer number, the gross amount of each payment, the total amount of each payment, the day each payment was made, and the date each payment cleared the bank. Shell will retain the proof of payment information to include bank statements, verification of electronic funds transfer and the ability to access or obtain copies of cancelled checks for a period of three years and will provide copies of any of these documents in the form requested by the Secretary to the Secretary within twenty days of a written request by the Secretary.

15. **Information to be Provided by Shell regarding Payments:** On or before November 14, 2014, Shell will provide the Secretary with an electronic file listing of all eligible employees on Exhibit 1 for whom Shell has received evidence of payment. This electronic file will include the following information: first name, middle initial, last name, social security number, date of birth, last known street address, city, state, country, zip code, total back wage payment, deductions from wage payment and the type of proof of payment Shell possesses.

16. **Payment of Unclaimed Amounts to U.S. Department of Labor:** On or before November 21, 2014, Shell shall forward to the Secretary by means of a single cashier or certified check made payable to "Wage and Hour Division – Labor" or by wire or other electronic transfer the net amount of any back-wages that remain unclaimed. Shell shall tender this payment to U.S. Department of Labor, along with the information identified in paragraph 15 for each eligible employee who has not yet received payments, to U.S. Department of Labor, Wage Hour Division, 525 S. Griffin, Suite 800, Dallas, Texas 75202, attention Donnette Holder. Provided, however, that in the event any eligible employee, who has not otherwise accepted a back-wage payment, files a private action and alleges that he or she was due additional overtime during the applicable investigation period, the unclaimed amount for each such person shall not be paid to the Department of Labor and shall be retained by Shell to be used as an offset against any damages alleged in such private action. If Shell has retained a back-wage payment for any eligible employee who files a private action, Shell shall provide the Secretary the following information: first name, middle initial, last name, social security number, last known address and the amount of the back-wage payment withheld. If recovered wages forwarded to the DOL have not been claimed by any eligible

employees or by such individuals' estates within three years, the Secretary of Labor shall deposit such amounts with the Treasurer of the United States.

17. **Commitments by Shell:** Shell admits that they are employers as defined by section 3(d) of the FLSA and subject to the provisions of the FLSA, including all FLSA pay and recordkeeping requirements. Shell agrees that they will continue to use all reasonable and good faith efforts to comply with the applicable provisions of the Act in the future, including, but not limited to, the following:

- A. Shell agrees to assess and, as necessary, adapt their payroll and record keeping policies and procedures to ensure that hours worked by employees are accurately recorded and paid in compliance with the FLSA.
- B. Shell will provide training to its refinery/chemical plant managers, payroll personnel, and human resources personnel on the FLSA's requirements especially as it concerns the requirement to accurately record and pay for all hours worked with emphasis on pre/post shift activities and hours suffered or permitted to work.
- C. Shell has taken or will take steps to ensure that operators continue to accurately record and report all hours worked. Supervisors will be instructed that all shift time, including any additional time beyond what is scheduled, must be accurately recorded and submitted into the payroll system so the employee receives appropriate compensation.
- D. Shell will not discharge or in any way discriminate against any individual because such individual has alerted Shell of disputes, questions, and/or

concerns about hours worked and compensation. In addition, Shell will not discharge or in any way discriminate against any individual because such individual makes a complaint or provides information to the U.S. Department of Labor or any other federal, State or local governmental agency or to Shell, about any alleged failure to comply with this Settlement Agreement or the requirements of the FLSA or because such individual otherwise asserts rights relating to the FLSA, including cooperating with the Wage and Hour Division or in any internal audit or Wage and Hour Division investigation.

E. Neither Shell nor anyone on their behalf shall directly or indirectly solicit or accept the return or refusal of any sums paid as back wages under this agreement. Shell acknowledges that any attempt to directly or indirectly solicit or accept such sums will constitute a violation of Section 15(a)(3) of the FLSA.

F. Except as to the claims and causes of action released in this Agreement, by entering into this Agreement, the Secretary does not waive his rights to conduct future investigations and to take appropriate enforcement action in relation to any future investigation including assessment of liquidated damages, and/or civil money penalties, in respect to any violations disclosed by such investigations.

18. **Modification of Agreement:** This Settlement Agreement may not be amended, revoked, changed, or modified in any way, except in writing executed by all Parties. No waiver of any provision of this Settlement Agreement will be valid unless it is in writing and signed by the Party against whom such waiver is charged. The Parties acknowledge that

only an authorized representative of Shell has the authority to modify this Settlement Agreement on behalf of Shell.

19. **Interpretation:** The language of all parts of this Settlement Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the Parties. This Settlement Agreement has been negotiated by and between attorneys for the Parties and shall not be construed against the "drafter" of the Settlement Agreement.

20. **Binding Nature of Agreement:** This Settlement Agreement shall be binding upon each of the Parties and upon their respective heirs, administrators, representatives, executors, successors, and assigns, and shall inure to the benefit of each party and to their respective heirs, administrators, representatives, executors, successors, and assigns.

21. **Entire Agreement:** This Settlement Agreement sets forth the entire Settlement Agreement in this matter between the Parties hereto, and fully supersedes any prior obligation of Shell in this matter to the Secretary. The Secretary acknowledges that he has not relied on any representations, promises, or agreements of any kind made to him in connection with his decision to accept this Settlement Agreement, except for those set forth in this Settlement Agreement.

22. **Notice Requirements:** Each notice ("Notice") provided for under this Settlement Agreement must comply with the requirements as set forth in this paragraph. Each Notice shall be in writing and sent by facsimile or depositing it with a nationally recognized overnight courier service that obtains receipts (such as Federal Express or UPS Next Day Air), addressed to the appropriate party (and marked to a particular individual's attention, if so indicated) as hereinafter provided. Each Notice shall be effective upon being so telecopied

or deposited, but the time period in which a response to any notice **must** be given or any action taken with respect thereto shall commence to run from the date **of** receipt of the Notice by the addressee thereof, as evidenced by the return receipt. Rejection **or** other refusal by the addressee to accept or the inability to deliver because of a **changed** address of which no Notice was given shall be deemed to be the receipt of the Notice sent. **The Parties** shall have the right from time to time to change the address or individual's **attention** to which Notices to it shall be sent by giving to the other party at least ten (10) days **prior** Notice thereof. The Parties' addresses for providing Notices hereunder shall be as follows:

John M. Parsons
Shell Oil Company
910 Louisiana
Houston, TX 77002

Secretary of Labor
United States Department of Labor
Wage Hour Division
525 S. Griffin, Suite 800
Dallas, Texas 75202

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ACCEPTED AND AGREED TO BY THE PARTIES:

SECRETARY OF LABOR:

By: Betty R. Campbell Date: 9.8.14

Betty R. Campbell
Deputy Regional Administrator
U.S. Department of Labor
Wage and Hour Division

SHELL OIL PRODUCTS COMPANY LLC

By: Am Farid Date: 8/27/2014

EQUILON ENTERPRISES LLC D/B/A SHELL OIL PRODUCTS US

By: Am Farid Date: 8/27/2014

SHELL CHEMICAL LP

By: Shawn Besicwari Date: 9-2-2014