

Exhibit 2

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement And Release ("Settlement and Release") is made between the City of Fresno ("City") and Coastal Chem, Inc., n/k/a Coscol Petroleum Company ("Coastal Chem") regarding the settlement of all claims between them in the litigation captioned *City of Fresno v. Chevron U.S.A. Inc., et al.*, 04 Civ. 04973 (SAS) ("the Litigation"), as of the effective date set forth below. These parties are referred to herein collectively as the "Parties" and individually as a "Party."

I.

RECITALS

A. On or about October 23, 2003, the City filed a complaint in San Francisco County Superior Court, entitled *City of Fresno v. Chevron U.S.A. Inc., et al.*, seeking money damages and declaratory relief against certain members of the gasoline industry ("Defendants") who allegedly manufactured, distributed, or transported gasoline containing methyl tertiary butyl ether ("MTBE") that was ultimately delivered to service stations in the City of Fresno. The City alleges that gasoline containing MTBE was released at certain gasoline station sites in the City of Fresno and contaminated and/or threatens to contaminate the City's water system. The City contends that such releases could have been prevented if Defendants, including Coastal Chem, had provided adequate warnings and instructions regarding MTBE and its proper handling. Based on these allegations, the City asserted causes of action for strict liability (failure to warn), negligence, trespass, and nuisance, and claims that Coastal Chem is responsible, in part, for the damages the City claims to have suffered. Coastal Chem denies this claim and all other material allegations against it. The Litigation was removed to Federal Court and is currently pending as

part of a nationwide multi-district litigation in the Southern District of New York, styled *In re: Methyl Tertiary Butyl Ether ("MTBE") Products Liability Litigation*, MDL 1358.¹

B. Coastal Chem and the City, without any admission of liability and solely to avoid the expense and burden of future litigation, now desire to settle the Litigation prior to any verdict or finding of liability and prior to all of the evidence being presented to the court or any appeals from any of the decisions or rulings rendered to this point in the Litigation, all disputes between them arising from the Litigation, and all Claims (as defined below) related thereto. In entering into this Settlement and Release, no Party makes any admission of any fact, responsibility, fault, or liability.

II.

AGREEMENT

Based upon the Recitals set forth above and in consideration of the mutual promises and consideration hereinafter described, it is agreed as follows:

1. **Release by the City.**

a. The City hereby releases and forever discharges Coastal Chem and its past, present, and future related entities, parent companies, ultimate parent companies, affiliates, subsidiaries, joint ventures, partnerships, predecessors, successors, assigns, and all other persons and entities for whose acts or omissions Coastal Chem could be held legally responsible, , including but not limited to Coastal Chem, Inc., Coastal Derby Refining Company, Coastal Eagle Point Oil Company, Coastal Mart, Inc., Coastal Mobile Refining Company, Coastal Oil New England, Inc., Coastal Oil New York, Inc., Coastal Refining & Marketing, Inc., Coastal States Trading, Inc., Cosbel Petroleum Corporation, Coscol Petroleum Corporation, Colorado

¹ On or about October 28, 2004, while this litigation was pending in Federal Court, the City filed an amended complaint captioned First Amended Complaint.

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Oil and Gas Corporation, Derby Refining Company, El Paso Corporation, El Paso CGP Company, El Paso CGP Company L.L.C., El Paso Energy Corporation, El Paso Merchant Energy-Petroleum Company, and the Coastal Corporation, together with all their current and former respective officers, employees, directors, partners, members, shareholders, officials, agents, accountants, attorneys, insurance carriers and reinsurers, sureties, representatives, independent contractors, consultants, advisors, and all successors, assigns and persons/entities in privity with any one or more of such persons/entities (the "Released Parties"), of and from all Claims (as defined below) that have been or could have been asserted in the Litigation at any time up through the execution of this Settlement and Release against the Released Parties based on any and all contamination of, impacts to, or threat of contamination of, or impacts to, any of the City's water wells from the release of gasoline or its components, including but not limited to MTBE and TBA.

b. For purposes of this Settlement and Release, "Claims" means any and all demands, actions, causes of action, suits, obligations, assessments, damages, liabilities, investigation costs, remediation costs, restoration costs, other costs, losses, or expenses (including attorneys' fees and expert witness fees) of any kind or nature whatsoever (whether legal or equitable, past, present or future, ascertained or unascertained, known or unknown, suspected or unsuspected), arising out of, relating to, or resulting from: (i) the design, manufacture, transportation or sale of any gasoline containing Covered Substances (as defined below), or any Covered Substances themselves, the foreseeable use of which allegedly has or will damage or interfere with the City's usufructuary or other rights; (ii) actual or threatened ground water contamination within the City of Fresno from Covered Substances (as defined below); (iii) actual or threatened contamination of the City of Fresno's water system from

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Covered Substances manufactured, sold, marketed, stored, refined, supplied, distributed or exchanged by the Released Parties; (iv) the City's investigation and/or remediation of any such actual or threatened contamination, and any other action or response arising out of, relating to, or resulting from such actual or threatened contamination; (v) any operations of the Released Parties within the City of Fresno prior to the date of this Settlement and Release which allegedly contributed to any such actual or threatened groundwater contamination from Covered Substances, and/or the actual or threatened contamination of the City's water system from Covered Substances; (vi) any failure by the Released Parties to clean up or remove any Covered Substances from groundwater or soil on, under, or near any release site; and (vii) any fact or circumstance that has or could have been raised as part of the Litigation against the Released Parties.

c. "Covered Substances" shall mean: gasoline, benzene, toluene, ethyl benzene, xylenes, MTBE, tertiary butyl alcohol ("TBA"), diisopropyl ether ("DIPE"), tertiary amyl methyl ether ("TAME"), ethanol tertiary butyl ether ("ETBE"), ethanol, or any other petroleum hydrocarbon, gasoline constituent, oxygenate, additive, or component thereof (including without limitation any degradation products or byproducts of any such compounds).

d. Apart from the Released Parties, the City is not releasing any other parties to the Litigation or any non-parties, and the released Claims do not encompass any Claim against any other person or entity, including any other defendants in the Litigation and including (but not limited to) any other person or entity who manufactured, refined, distributed, sold and/or supplied gasoline to any facility in controversy in the Litigation.

2. Consideration.

As consideration for the foregoing releases, the Parties to this Settlement and Release shall do the following:

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a. Within 10 business days after execution of this Settlement and Release by the Parties, Coastal Chem shall file with the court in the Litigation a motion for an order determining this settlement to be in good faith in accordance with sections 877 and 877.6 of the California Code of Civil Procedure. Alternatively, Coastal Chem may make an Application for Order Determining Good Faith Settlement pursuant to Code of Civil Procedure section 877.6(a)(2).

b. Within 30 days of the date on which the court enters an order approving this Settlement and Release as a good faith settlement and confirming that the Released Parties are entitled to protection against contribution claims pursuant to California Code of Civil Procedure Section 877.6, Coastal Chem shall pay to the City the total sum of Two Hundred Thousand Dollars (\$200,000) (the "Settlement Payment") to be paid as follows: at Coastal Chem's option, either by check payable to "Miller, Axline & Sawyer, A Professional Corporation, Client Trust Account" (1050 Fulton Avenue, Suite 100, Sacramento, CA 95825) or by wire transfer to "Miller Axline & Sawyer, A Professional Corporation, Client Trust Account" (Bank of America, 9 Park Center Drive, Sacramento, CA 95825; ph. 916-878-3109; Account #16642-08592; AA Routing #121000358). The tax identification number for Miller, Axline & Sawyer is 94-2706859. The Settlement Payment does not represent a payment of punitive damages, and is intended to compensate Fresno for injury and damages that Fresno has or may suffer as a result of the allegations in the Litigation. Any distribution of the settlement payment among Fresno and its counsel is a matter that is solely between them, and is solely their concern. Fresno and its counsel agree that Coastal Chem's payment obligation is satisfied immediately upon delivering the check or making the wire transfer, and neither Fresno nor its counsel shall

look to Coastal Chem for any additional monies or payment after payment has been made pursuant to this subparagraph.

c. Within five business days of its receipt of the final payment from Coastal Chem, the City shall dismiss the Litigation against Coastal Chem with prejudice. All Parties to this Settlement and Release shall bear their own attorneys' fees, expenses and costs in connection with the Litigation.

d. The City shall cooperate in securing court approval in the Litigation of the settlement between the Parties as one made in good faith by filing appropriate papers with the court and/or appearing at any hearing(s) to consider those papers, if necessary.

3. **Waiver.**

With respect to, and subject to the terms of, the release contained in paragraph 1 above, the City expressly waives any rights or benefits available under section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

4. **Conditions Precedent.**

This Settlement and Release and all obligations of the Parties hereto are conditioned upon obtaining court approval of the settlement in the Litigation as a good faith settlement as that term is defined in California Code of Civil Procedure section 877.6. If the court does not approve the settlement as a good faith settlement, any Party shall be entitled to petition the proper court to review the determination.

5. No Admission.

This Settlement and Release is a compromise of disputed claims as to which the Parties have not had an opportunity to present all their claims and evidence, nor have they had the opportunity to appeal any decisions or rulings rendered in the Litigation. This Settlement and Release fully and finally settles all Claims by the City against the Released Parties, and prevents any further actions against the Released Parties in the Litigation. The Parties agree that in light of the expenses of further litigation, the uncertainty of any possible verdict and any appeals which might have been successful if pursued, the amount of monies paid should not be construed as anything other than the compromise of disputed liability. Neither the payment of any consideration hereunder nor anything contained in this Settlement and Release shall be interpreted or construed to be an admission on the part of, nor to the prejudice of, any person hereto. The Released Parties expressly deny any and all liability associated with or related to the Claims.

6. Warranty of Rights.

Each person who executes this Settlement and Release on behalf of a corporation, city, governmental agency, partnership, joint venture, unincorporated association, or other entity represents and warrants to each Party hereto that he or she has the authority of the shareholders or members of said entity to do so, and agrees to indemnify and hold harmless each other Party from any claim that such authority did not exist. The City represents and warrants that it has not sold, assigned, transferred, conveyed, or otherwise disposed of any Claims covered by the release set forth in Paragraph 1, and agrees to hold harmless the Released Parties in the event that anyone asserts such Claims against any of the Released Parties in the future.

7. Final Settlement.

The Parties understand and agree that this Settlement and Release shall act as a release of all future Claims whether such Claims are currently known, unknown, foreseen, or unforeseen. The Parties understand and acknowledge the significance and consequence of the specific waiver of California Civil Code section 1542 described above and hereby assume full responsibility for any injury, loss, damage or liability that may hereafter be incurred by reason of or related to the matters alleged in the Litigation or raised by said dispute or defined as Claims herein.

8. Entire Agreement; No Modification.

Each Party individually and collectively declares and represents that no promises, inducements, or other agreements not expressly contained herein have been made with regard to the settlement of the Litigation; that this Settlement and Release contains the entire agreement between the Parties hereto with respect to the subject matter of the Litigation; and that the terms of this Settlement and Release are contractual and not recitals only. All prior agreements and understandings, oral agreements and writings regarding the matters set forth herein are expressly superseded hereby and are of no further force or effect. This Settlement and Release may not be altered, amended, or modified in any respect except by a writing duly executed by the Party to be charged.

9. Binding Effect.

This Settlement and Release shall inure to the benefit of each Party hereto and benefit thereby their predecessors, successors, subsidiaries, affiliates, representatives, agents, officers, directors, employees, and personal representatives, past, present and future. The court shall retain jurisdiction in Southern District of New York Case No. 04 Civ. 04973 (SAS) to enforce the terms of this settlement.

Coastal Chem represents and warrants that its agent, which has executed this Settlement and Release on Coastal Chem's behalf, is duly authorized to do so, and that its execution of the

Settlement and Release is valid and binding as to Coastal Chem. Coastal Chem represents and warrants that the undersigned has all requisite power to execute, bind, deliver, and perform this Settlement and Release on behalf of Coastal Chem and that this Settlement and Release has been duly and validly executed and delivered by him as Coastal Chem's corporate representative. Coastal Chem further warrants that it will not challenge or contest the validity of this Settlement and Release and that it forever waives any defense to its validity, including any defense based on any claim the Settlement and Release is *ultra vires*, or otherwise void.

10. Further Documents.

To the extent any documents are required to be executed to effectuate this Settlement and Release, each Party hereto agrees to execute and deliver such other and further documents as may be required to carry out the terms of this Settlement and Release.

11. Further Actions.

To the extent any actions are required to be taken to effectuate this Settlement and Release, each Party hereto agrees to take said actions as may be required to carry out the terms of this Settlement and Release.

12. Legal Representation/Satisfaction with Terms.

In executing this Settlement and Release, the Parties acknowledge that they have consulted with and had the advice and counsel of an attorney of their choosing who is duly admitted to practice in the State of California, or had the option of doing so, concerning the advisability of executing this Settlement and Release and the meaning of California Civil Code Section 1542, that they are satisfied with the terms incorporated herein, which represent a full and fair settlement, and that they have executed this Settlement and Release after independent investigation and without any form of fraud.

13. Unknown/Unanticipated Claims.

Each of the Parties is aware that it may hereafter discover Claims or facts that were unknown or unanticipated at the time this Settlement and Release was executed, in addition to or different from those it now knows or believes to be true with respect to the matters released pursuant to this Settlement and Release, which might have materially affected its decision to execute this Settlement and Release. Nevertheless, it is the intention of the Parties to fully, finally and forever settle and release all such Claims released above that do now exist, may exist, or have existed. **THE SETTling PARTIES EXPRESSLY ASSUME THE RISK OF SUCH UNKNOWN AND UNANTICIPATED CLAIMS AND AGREE THAT THIS AGREEMENT APPLIES TO ALL SUCH UNKNOWN AND UNANTICIPATED CLAIMS, INCLUDING ANY ARISING OUT OF ANY LEAKS, SPILLS, OR DISCHARGES OF GASOLINE.**

14. Voluntary and Knowing Release.

Each Party signing this Settlement and Release represents and warrants that each of them: (i) read, knows and understands the contents hereof; (ii) has executed this Settlement and Release voluntarily; (iii) has not been influenced by any person or persons or attorney acting on behalf of any party; and (iv) understands that after signing this Settlement and Release, each Party cannot proceed against the others on account of any of the matters described herein.

15. Headings, Number and Gender.

Headings are used herein for convenience only and shall have no force or effect in the interpretation or construction of this Settlement and Release. As used in this Settlement and Release, the singular shall include the plural, the masculine, the feminine and neuter genders.

16. Ownership of Claim.

Each Party hereto represents that no other person or entity has or has had any interest in the Claims; that they have the sole right and exclusive authority to execute this Settlement and Release and receive the consideration specified in this Settlement and Release; and that each Party has not sold, assigned, transferred, conveyed, or otherwise disposed of any Claims within the scope of this Settlement and Release.

17. Payment of Attorneys' Fees and Court Costs.

Each Party hereto shall be responsible for the payment of its own court costs, attorneys' fees, and all other expenses, costs and fees in connection with the matters referred to in the Litigation and in this Settlement and Release.

18. Applicable Law.

This Settlement and Release shall be construed and interpreted in accordance with the laws of the State of California. The language in all parts of this Settlement and Release shall be in all cases construed as a whole according to its meaning and not strictly for or against either Party. In addition, each of the Parties has cooperated in the drafting and preparation of this Settlement and Release and therefore agrees that any law, legal decision or rule of construction of contracts (including Civil Code Section 1654) resolving ambiguities against the drafting party shall be inapplicable in their entirety to this Settlement and Release.

19. Severability.

If any provision or any part of any provision of this Settlement and Release is for any reason held to be invalid, unenforceable or contrary to any public policy, law, statute and/or ordinance, then the remainder of this Settlement and Release shall not be affected thereby and shall remain valid and fully enforceable.

20. Counterparts.

This Settlement and Release may be executed in counterparts, and all such executed counterparts shall constitute an agreement which shall be binding upon the Parties hereto, notwithstanding that the signatures of all Parties and Parties' designated representatives do not appear on the same page.

21. Admissibility of Agreement.

The Parties hereto expressly agree that this Settlement and Release is a protected communication under California Evidence Code section 1119; however, the same shall be admissible for the sole purpose of enforcing the terms thereof.

22. Attorneys' Fees and Costs to Enforce Agreement.

If any action is required to be taken by any Party to the Settlement and Release to enforce the terms thereof, the prevailing party in any such action shall be entitled to reasonable attorneys' fees and costs.

[Continued on next page]

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City of Fresno and Coastal Chem

The Parties below named have executed this Settlement and Release as of the date and year appearing below adjacent to the signatures of the Parties. This Settlement and Release is effective as of the final date of the Parties' signatures below.

Dated: 8.26.13

THE CITY OF FRESNO

By: [Signature]

Its: City Manager

Approved as to form:

MILLER, AXLINE & SAWYER

Dated: Aug 19, 2013

By: [Signature]

DUANE C. MILLER
Attorneys for the City of Fresno

Dated: _____

COASTAL CHEM, INC., n/k/a Coscol Petroleum
Company by merger,

By: _____
[NAME], [TITLE], [COMPANY]

Approved as to form:

GREENBERG TRAURIG, LLP

Dated: _____

By: _____
Brent H. Allen
Attorneys for Coastal Chem, Inc.

The Parties below named have executed this Settlement and Release as of the date and year appearing below adjacent to the signatures of the Parties. This Settlement and Release is effective as of the final date of the Parties' signatures below.

Dated: _____

THE CITY OF FRESNO

By: _____

Its: _____

Approved as to form:

MILLER, AXLINE & SAWYER

Dated: _____

By: _____

DUANE C. MILLER
Attorneys for the City of Fresno

Dated: 8/27/13

COASTAL CHEM, INC., n/k/a Coscol Petroleum Corporation by merger,

By:  _____ 

David Deveau
Vice President
Coscol Petroleum Corporation

Approved as to form:

GREENBERG TRAURIG, LLP

Dated: 8/27/13

By:  _____

Brent H. Allen
Attorneys for Coastal Chem, Inc.