

8 UNITED STATES DISTRICT COURT  
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
10 June 2024 Grand Jury

11 UNITED STATES OF AMERICA,  
12 Plaintiff,  
13 v.  
14 PHILLIPS 66 COMPANY,  
15 Defendant.

**2:24-CR-00699-JFW**

I N D I C T M E N T

[33 U.S.C. §§ 1317(d),  
1319(c)(1)(A), (2)(A): Clean Water  
Act Violations-Negligent and  
Knowing Violations of Local  
Pretreatment Program Requirements  
and Federal Pretreatment  
Standards]

18 The Grand Jury charges:

19 INTRODUCTORY ALLEGATIONS

20 At times relevant to this Indictment:

21 A. The Defendant

22 1. Defendant PHILLIPS 66 COMPANY ("PHILLIPS") was a publicly  
traded company that was headquartered in Houston, Texas, and  
conducted business in the Central District of California and  
elsewhere.

23 2. Defendant PHILLIPS operated oil refinery facilities in  
Carson and Wilmington, California, in Los Angeles County, within the  
24 Central District of California, at which defendant PHILLIPS processed

1 crude oil into various finished products such as gasoline and other  
2 fuels.

3           B.     The Federal Clean Water Act

4           3.     The Federal Water Pollution Control Act, 33 U.S.C. §§ 1251  
5 *et seq.*, also known as the Clean Water Act (the "CWA"), established a  
6 statutory and regulatory scheme with the objective of restoring and  
7 maintaining the chemical, physical, and biological integrity of the  
8 waters of the United States.

9           4.     The CWA prohibited the owner or operator of any source of  
10 pollutants from introducing such pollutants into a municipal sewage  
11 system in violation of pretreatment standards under the CWA.

12           5.     "Pollutant" meant, among other things, chemical and  
13 industrial waste. 33 U.S.C. § 1362(6).

14           6.     "Owner or operator" was defined as "any person who owns,  
15 leases, operates, controls, or supervises a source." 33 U.S.C.  
16 § 1316(a)(4).

17           7.     Pursuant to the CWA, 33 U.S.C. §§ 1317(b) & (c), the United  
18 States Environmental Protection Agency ("EPA") promulgated National  
19 Pretreatment Standards for industrial sources of wastewater, such as  
20 petroleum refineries, which discharge to Publicly Owned Treatment  
21 Works ("POTWs").

22           8.     POTWs were public facilities such as sewage treatment  
23 plants that treated municipal sewage or industrial waste. The term  
24 "POTWs" included sewers, trunk sewers, pipes, or other conveyances  
25 that led to sewage treatment plants.

26           9.     Industrial waste dischargers, such as petroleum refineries  
27 like defendant PHILLIPS, were required to pretreat their wastewater  
28 before discharging it to a POTW in order to comply with the National

1 Pretreatment Standards. 33 U.S.C. §§ 1317 (b), (d); 40 C.F.R. Part  
2 403, § 403.1 *et seq.*

3 10. "Pretreatment" included the reduction of the amount of  
4 pollutants, the elimination of certain pollutants, or the alteration  
5 of the nature of pollutant properties in wastewater before  
6 discharging such pollutants into a POTW. 40 C.F.R. § 403.3(s).

7 Pretreatment standards were designed to ensure that industrial users  
8 discharged into the sewer system wastewater which the POTW can  
9 effectively process and treat. 40 C.F.R. § 403.2.

10 11. Specific numerical limits had been set by EPA for  
11 discharges by categories of industrial users which were determined to  
12 be the most significant sources of pollution. 40 C.F.R. Part 403, *et*  
13 *seq.* These standards were commonly referred to as "categorical  
14 standards," and operations subject to such standards were commonly  
15 referred to as categorical industrial users. Among the promulgated  
16 categorical standards were those covering petroleum refineries, such  
17 as defendant PHILLIPS' oil refinery facility located in Carson,  
18 California (the "PHILLIPS' Carson Facility"). 40 C.F.R. Part 419.

19 12. The daily maximum concentration of oil and grease in  
20 wastewater that a petroleum refinery, such as defendant PHILLIPS'  
21 Carson Facility, could discharge to a POTW must not exceed 100  
22 milligrams per liter ("mg/L") of oil and grease. 40 C.F.R. §§ 419.15  
23 and 419.17.

24 13. EPA promulgated monitoring and reporting regulations that  
25 required categorical dischargers to submit periodic reports, submit  
26 reports of specific discharges, and monitor and analyze discharges.  
27 40 C.F.R. § 403.12.

14. The National Pretreatment Standards, categorical standards, and local pretreatment program requirements were enforceable under the CWA. 33 U.S.C. §§ 1317(d), 1319(c).

15. The National Pretreatment Standards prohibited the discharge of industrial wastewater into a POTW in violation of specific prohibitions or limits developed by the local POTW (e.g., wastewater ordinances). 40 C.F.R. § 403.5(d).

16. Under the CWA, a violation of any requirement imposed in a pretreatment program approved under 33 U.S.C. §§ 1342(a)(3) or (b)(8) was a violation of the CWA. 33 U.S.C. § 1319(c).

17. The Los Angeles County Sanitation Districts had a pretreatment program that was approved under 33 U.S.C. § 1342(b)(8) and 40 C.F.R. § 403.8.

C. The Los Angeles County Sanitation Districts

18. The Los Angeles County Sanitation Districts (the "LACSD") was a public agency that managed the collection, treatment, and disposal of waste, including industrial wastewater containing pollutants.

19. The LACSD operated POTWs where wastewater discharged by industrial users was treated through various processes for reuse or discharge to the waters of the United States.

20. The LACSD operated a POTW in Carson, California, called the Joint Water Pollution Control Plant (the "JWPCP"), which received and treated wastewater from industrial users through a sewerage system. Industrial wastewater discharged into the LACSD's sewerage system by defendant PHILLIPS' Carson Facility, namely, into a LACSD trunk sewer, was received and treated by the JWPCP. 40 C.F.R. § 403.3(q).

1           D. The LACSD's JWPCP

2       21. The LACSD's JWPCP, a POTW, was designed to handle 400  
3 million gallons of wastewater per day. The JWPCP was a treatment  
4 plant that accepted municipal and industrial waste. Municipal waste  
5 being sanitary waste from residential homes and industrial waste  
6 being wastewater from industrial dischargers, such as defendant  
7 PHILLIPS' Carson Facility.

8       22. The JWPCP was designed to remove sanitary and organic  
9 waste, as opposed to removing chemical and other industrial waste.  
10 The LACSD required industrial dischargers, such as defendant  
11 PHILLIPS' Carson Facility, to have a pretreatment compliance program.  
12 The LACSD reviewed and approved pretreatment compliance programs as  
13 part of its permitting process.

14      23. The JWPCP performed primary and secondary treatment of  
15 wastewater. Primary treatment consisted of a physical process where  
16 solids were settled out and removed from the water before being sent  
17 to an anaerobic digester. Primary treatment removed approximately 70%  
18 of solid waste matter.

19      24. Secondary treatment consisted of a biological process which  
20 utilized naturally occurring microorganisms and high purity oxygen to  
21 treat wastewater to remove suspended solids. Secondary treatment  
22 removed about 98% of the solid waste matter.

23      25. To ensure that the JWPCP could appropriately treat the  
24 wastewater it received, the LACSD issued permits identifying the  
25 maximum quantity and concentration of pollutants (e.g., oil and  
26 grease) industrial wastewater could contain to be discharged to the  
27 JWPCP. Accordingly, if an industrial wastewater discharger, such as  
28 defendant PHILLIPS' Carson Facility, discharged wastewater containing

1 a concentration of oil and grease greater than its permit allotment,  
2 multiple locations at the JWPCP would be affected.

3       E. The JWPCP's Lower Explosive Limit

4       26. In primary treatment, some, but not all, of the oil and  
5 grease would be separated alongside other solid waste. The solid  
6 waste and oil and grease would then combine before heading to the  
7 anaerobic digestors which contained naturally occurring microorganisms  
8 living in controlled environments. Disturbing the microorganisms'  
9 controlled environment with excessive amounts of oil and grease can  
10 cause, and does cause, them to die which in turn affects the JWPCP's  
11 ability to dispose of solid waste.

12       27. The oil and grease that is not removed with the solid waste  
13 proceeds to secondary treatment, where it is more detrimental to the  
14 JWPCP's operations because it can cause a safety issue; oil and  
15 grease, which may contain methane, can combust, or explode,  
16 particularly when combined with a high purity oxygen environment.

17       28. If the JWPCP determined that the combustible gas level, or  
18 lower explosive limit ("LEL"), created a safety concern, the JWPCP  
19 would purge the system by lowering the purity of the oxygen in the  
20 microorganisms' controlled environment. Without a high purity oxygen  
21 environment, the microorganisms' ability to treat wastewater would be  
22 deteriorated; it could also lead to the microorganisms' death, which  
23 would compound the problem because their death would produce methane  
24 worsening the LEL concerns.

25       29. Industrial wastewater that does not have an excessive  
26 concentration of pollutants goes through primary treatment, secondary  
27 treatment, and ultimately disinfection before the water is discharged  
28 to the Pacific Ocean.

#### F. The LACSD's Pretreatment Program

2           30. As part of its pretreatment program, the LACSD adopted the  
3 Wastewater Ordinance on April 1, 1972, as amended on July 1, 1998,  
4 which sets forth various requirements under the LACSD's pretreatment  
5 program. Among other things, the Wastewater Ordinance required  
6 defendant PHILLIPS' Carson Facility to obtain and maintain a permit  
7 to discharge industrial wastewater to the LACSD's sewerage system and  
8 POTWs. The LACSD was authorized to issue permits to industrial users  
9 for the discharge of wastewater to the LACSD's POTWs pursuant to, and  
10 consistent with, the requirements of the LACSD's pretreatment  
11 program. If an industrial discharger violated its permit, the LACSD  
12 could issue the discharger a Notice of Violation ("NOV").

13           31. The LACSD issued an industrial wastewater discharge permit  
14 to defendant PHILLIPS for the PHILLIPS' Carson Facility on or about  
15 October 5, 2017, effective for a period of approximately five years  
16 (Permit No. 21079) (the "Wastewater Permit"). The Wastewater Permit,  
17 along with the LACSD's Wastewater Ordinance, set forth certain  
18 requirements that defendant PHILLIPS' Carson Facility was obligated  
19 to follow in accordance with the LACSD's pretreatment program  
20 (collectively, "LACSD's Pretreatment Program") in order to discharge  
21 industrial wastewater to facilities maintained by the LACSD,  
22 including the JWPCP and sewerage system conveying wastewater to the  
23 JWPCP.

G. Notification Requirements Under LACSD's Pretreatment Program

26       32. LACSD's Pretreatment Program for defendant PHILLIPS' Carson  
27 Facility set forth specific limits for certain prohibited or  
28 restricted wastes, such as a maximum concentration of 75 mg/L for oil

1 and grease, that could be contained in the industrial wastewater that  
2 defendant PHILLIPS discharged to LACSD.

3       33. In the event of a discharge by defendant PHILLIPS' Carson  
4 Facility of industrial wastewater containing any prohibited waste or  
5 excessive quantities or concentrations of any restricted waste,  
6 LACSD's Pretreatment Program, such as paragraph 34 of the Wastewater  
7 Permit, required defendant PHILLIPS to immediately notify the LACSD  
8 by phone at any time of day or night.

9       34. The Wastewater Ordinance set forth certain prohibitions  
10 related to the discharge to the LACSD's facilities of industrial  
11 wastewater that contained certain prohibited waste or excess  
12 quantities of restricted waste. The Wastewater Ordinance required  
13 industrial users, such as defendant PHILLIPS, to immediately notify  
14 the LACSD of the discharge of any prohibited waste or of the  
15 discharge of excessive quantities or concentrations of any restricted  
16 waste.

17       35. Paragraph 34 of the Wastewater Permit required defendant  
18 PHILLIPS to immediately notify the LACSD of any circumstances that  
19 affected defendant PHILLIPS' Carson Facility's plant processes or  
20 facility operations that could potentially result in the discharge of  
21 prohibited or restricted wastes, including the malfunction, upset or  
22 improper operation of plant processes, pretreatment systems spill  
23 containment facilities, or diversion/bypass mechanisms.

24       36. The Wastewater Ordinance also required industrial users,  
25 such as defendant PHILLIPS, to notify the LACSD of any circumstances  
26 that affected the industrial user's plant processes or facilities  
27 including the malfunction, upset or improper operation of the  
28 industrial user's plant processes, pretreatment systems, spill

1 containment facilities, or diversion or bypass of wastewater, that  
2 could, among other things, potentially result in the discharge of  
3 wastewater containing: (1) any prohibited waste or (2) excessive  
4 quantities or concentrations of any restricted wastes.

5 37. The Wastewater Ordinance required industrial users, such as  
6 defendant PHILLIPS' Carson Facility, to comply with applicable  
7 federal regulations.

8 H. The Requirement to Have a Program of Regular Maintenance of  
9 Pretreatment Equipment

10 38. LACSD's Pretreatment Program, specifically paragraph 15 of  
11 the Wastewater Permit, required defendant PHILLIPS to have in place a  
12 program of regular pretreatment equipment maintenance and cleaning to  
13 prevent the build-up of grit, oil, or grease, or other prohibited  
14 materials which may enter the sewer and to ensure compliance with the  
15 permit. The Wastewater Permit also required defendant PHILLIPS to  
16 maintain an adequate supply of treatment chemicals as well as  
17 replacement parts for key components of defendant PHILLIPS'  
18 pretreatment system.

19 I. The Requirement to Submit Engineering Drawings for Approval  
20 by the LACSD Prior to Implementing Changes

21 39. LACSD's Pretreatment Program, specifically paragraph 40 of  
22 the Wastewater Permit, required defendant PHILLIPS' Carson Facility  
23 to submit engineering drawings for approval by the LACSD prior to  
24 implementing changes in equipment or processes at PHILLIPS' Carson  
25 Facility.

1       J.     Defendant PHILLIPS' Carson Facility's Discharge of Non-  
2                   Compliant Industrial Wastewater on November 24, 2020

3       40. On November 24, 2020, beginning at approximately 1:00 a.m.  
4 and ending at approximately 3:30 a.m., defendant PHILLIPS' Carson  
5 Facility discharged to the LACSD industrial wastewater containing a  
6 concentration of oil and grease as high as 24,700 mg/L, more than 300  
7 times the concentration allowed in the Wastewater Permit. Defendant  
8 PHILLIPS' Carson Facility failed to inform the LACSD of its non-  
9 compliant industrial wastewater discharge.

10      41. During this approximately two-and-a-half-hour time period,  
11 the LACSD roughly estimated that defendant PHILLIPS' Carson Facility  
12 discharged approximately 310,000 gallons of non-compliant industrial  
13 wastewater, which contained approximately 64,000 lbs. of oil and  
14 grease, to LACSD's sewer system.

15      42. Defendant PHILLIPS' Carson Facility's industrial wastewater  
16 pretreatment system process controls and practices were inadequate to  
17 prevent or quickly address the non-compliant discharge.

18      43. On or about December 10, 2020, the LACSD issued defendant  
19 PHILLIPS' Carson Facility multiple NOVs for discharging industrial  
20 wastewater containing an excessive concentration of oil and grease,  
21 failing to inform the LACSD of said discharge of industrial  
22 wastewater, and for discharging industrial wastewater which adversely  
23 affected an LACSD POTW, namely, the JWPCP.

24      44. On or about January 5, 2021, the Manager of defendant  
25 PHILLIPS' Carson Facility's Environmental Services Department  
26 submitted a written response to the LACSD which, in summary,  
27 acknowledged its non-compliant industrial wastewater discharge and  
28 its failure to notify the LACSD of said discharge, and represented

1 that defendant PHILLIPS would "retrain operations personnel" on  
2 potential non-compliant discharge situations and the procedure to  
3 notify the LACSD of non-compliant discharges.

K. Defendant PHILLIPS' Carson Facility's Discharge of Non-Compliant Industrial Wastewater on February 8, 2021

6       45. On February 8, 2021, beginning at approximately 6:00 p.m.  
7 and ending at approximately 11:30 p.m., defendant PHILLIPS' Carson  
8 Facility discharged to the LACSD industrial wastewater containing a  
9 concentration of oil and qrease higher than 75 mg/L.

46. Defendant PHILLIPS' Carson Facility's industrial wastewater samples for February 8, 2021, between 6:00 p.m. and 12:00 a.m. (midnight), showed an oil layer floating atop the industrial wastewater:



1       47. The LACSD determined that the samples contained a  
2 concentration of oil and grease as high as 12,900 mg/L, more than 170  
3 times the concentration allowed in the Wastewater Permit. Like with  
4 the November 24, 2020, non-compliant industrial wastewater discharge,  
5 defendant PHILLIPS' Carson Facility again failed to inform the LACSD  
6 of its non-compliant industrial wastewater discharge.

7       48. On February 8, 2021, between approximately 6:00 p.m. and  
8 midnight (12:00 a.m.), defendant PHILLIPS' Carson Facility discharged  
9 approximately 480,000 gallons of non-compliant industrial wastewater,  
10 which contained at least 33,700 lbs. of oil and grease, to LACSD's  
11 sewer system.

12       49. Defendant PHILLIPS' Carson Facility's non-compliant  
13 industrial wastewater discharge resulted in oil being sent to, and  
14 received by, the JWPCP:



24       50. On or about March 2, 2021, the LACSD issued defendant  
25 PHILLIPS' Carson Facility two NOVs for failing to notify the LACSD of  
26 an industrial wastewater discharge containing excessive quantities of  
27 restricted waste (i.e., oil and grease) and circumstances affecting  
28 plant processes or operations that could potentially result in

1 discharge of restricted waste, as well as for discharging industrial  
2 wastewater which adversely affected an LACSD POTW, namely, the JWPCP.

3 51. On or about March 9, 2021, the Manager of defendant  
4 PHILLIPS' Carson Facility's Environmental Services Department again  
5 submitted a written response to the LACSD to acknowledge its non-  
6 compliant industrial wastewater discharge and its failure to notify  
7 the LACSD of said discharge. The Manager also informed the LACSD  
8 that maintenance was ongoing on industrial wastewater pretreatment  
9 equipment, namely, an API Separator, to increase its effectiveness in  
10 skimming oil.

11 52. These Introductory Allegations are incorporated by  
12 reference into each count of this Indictment.

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COUNT ONE

[33 U.S.C. §§ 1317(d), 1319(c)(1)(A)]

3 On or about November 24, 2020, in Los Angeles County, within the  
4 Central District of California, defendant PHILLIPS 66 COMPANY  
5 ("PHILLIPS"), the owner and operator of a source, operated the source  
6 such that defendant PHILLIPS' Carson Facility negligently discharged  
7 pollutants, namely, industrial wastewater containing an excessive  
8 quantity and concentration of oil and grease, from defendant  
9 PHILLIPS' Carson Facility into a publicly owned treatment works  
10 operated and maintained by the Los Angeles County Sanitation  
11 Districts ("LACSD"), in violation of a requirement in the LACSD's  
12 Pretreatment Program that wastewater not exceed a quantity and  
13 concentration of 75 milligrams per liter ("mg/L") of oil and grease,  
14 and in violation of a National Pretreatment Standard for petroleum  
15 refineries that wastewater not exceed a quantity and concentration of  
16 100 mg/L of oil and grease, after the effective date of that  
17 standard.

COUNT TWO

[33 U.S.C. § 1319(c)(1)(A)]

3 On or about November 24, 2020, in Los Angeles County, within the  
4 Central District of California, defendant PHILLIPS 66 COMPANY  
5 ("PHILLIPS"), the owner and operator of a source, operated the source  
6 such that defendant PHILLIPS' Carson Facility negligently failed to  
7 notify the Los Angeles County Sanitation Districts (the "LACSD") of a  
8 potential, or actual, discharge of wastewater containing an excessive  
9 quantity or concentration of any restricted waste, such as oil and  
10 grease, from defendant PHILLIPS' Carson Facility into a publicly  
11 owned treatment works operated and maintained by the LACSD, in  
12 violation of a requirement in the LACSD's Pretreatment Program.

COUNT THREE

[33 U.S.C. §§ 1317(d), 1319(c)(2)(A)]

3 On or about February 8, 2021, in Los Angeles County, within the  
4 Central District of California, defendant PHILLIPS 66 COMPANY  
5 ("PHILLIPS"), the owner and operator of a source, operated the source  
6 such that defendant PHILLIPS' Carson Facility knowingly discharged  
7 pollutants, namely, industrial wastewater containing an excessive  
8 quantity and concentration of oil and grease, from defendant  
9 PHILLIPS' Carson Facility into a publicly owned treatment works  
10 operated and maintained by the Los Angeles County Sanitation  
11 Districts ("LACSD"), in violation of a requirement in the LACSD's  
12 Pretreatment Program that wastewater not exceed a quantity and  
13 concentration of 75 milligrams per liter ("mg/L") of oil and grease,  
14 and in violation of a National Pretreatment Standard for petroleum  
15 refineries that wastewater not exceed a quantity and concentration of  
16 100 mg/L of oil and grease, after the effective date of that  
17 standard.

COUNT FOUR

[33 U.S.C. § 1319(c)(2)(A)]

3 On or about February 8, 2021, in Los Angeles County, within the  
4 Central District of California, defendant PHILLIPS 66 COMPANY  
5 ("PHILLIPS"), the owner and operator of a source, operated the source  
6 such that defendant PHILLIPS' Carson Facility knowingly failed to  
7 notify the Los Angeles County Sanitation Districts (the "LACSD") of a  
8 potential, or actual, discharge of wastewater containing an excessive  
9 quantity or concentration of any restricted waste, such as oil and  
10 grease, from defendant PHILLIPS' Carson Facility into a publicly  
11 owned treatment works operated and maintained by the LACSD, in  
12 violation of a requirement in the LACSD's Pretreatment Program.

COUNT FIVE

[33 U.S.C. § 1319(c)(2)(A)]

Beginning on an unknown date no later than September 2019 and ending no earlier than March 5, 2021, in Los Angeles County, within the Central District of California, defendant PHILLIPS 66 COMPANY ("PHILLIPS"), the owner and operator of a source, operated the source such that defendant PHILLIPS' Carson Facility knowingly failed to obtain the Los Angeles County Sanitation Districts' approval of a change in equipment or process prior to implementation, and knowingly failed to notify the Los Angeles County Sanitation Districts (the "LACSD") of circumstances affecting plant processes or facility operations that could potentially result in the discharge of prohibited or excessive quantities or concentrations of restricted wastes. Specifically, defendant PHILLIPS failed to obtain approval and failed to notify LACSD of its practice of using only one API Separator instead of two in its wastewater pretreatment system at defendant PHILLIPS' Carson Facility, in violation of requirements in the LACSD's Pretreatment Program.

COUNT SIX

[ 33 U.S.C. § 1319(c)(2)(A) ]

3 Beginning on an unknown date no later than September 2019 and  
4 ending no earlier than March 5, 2021, in Los Angeles County, within  
5 the Central District of California, defendant PHILLIPS 66 COMPANY  
6 ("PHILLIPS"), the owner and operator of a source, operated the source  
7 such that defendant PHILLIPS' Carson Facility knowingly failed to  
8 adhere to and follow a program for regular pretreatment equipment  
9 maintenance and cleaning to prevent a build-up of grit, oil, or  
10 grease or other prohibited materials from entering a

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1 publicly owned treatment works operated and maintained by the Los  
2 Angeles County Sanitation Districts ("LACSD"), in violation of a  
3 requirement in the LACSD's Pretreatment Program.

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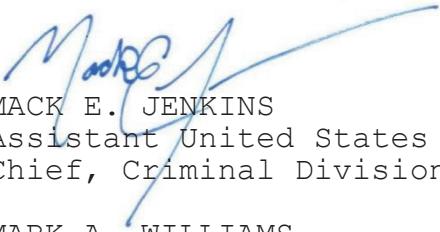
5 A TRUE BILL

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8 Foreperson

9

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