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BY HAND

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Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Shareholder Proposal of Mr. Roger K. Parsons – Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen:

On behalf of ConocoPhillips, a Delaware corporation (the "Company"), and in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), we are filing six copies of (1) this letter, (2) the proposal in the form of a proposed shareholder resolution and statement in support thereof (the "Proposal") submitted to the Company by Mr. Roger K. Parsons (the "Proponent") and (3) all correspondence between the Company and the Proponent relating to the Proposal. On November 29, 2005, the Company received a facsimile from the Proponent transmitting the Proposal and requesting its inclusion in the Company's proxy statement and form of proxy for the 2006 Annual Meeting of Stockholders (the "Proxy Materials"). For the Staff's convenience, we have also enclosed a copy of each of the no-action letters referred to herein. One copy of this letter, with copies of all enclosures, is being simultaneously sent to the Proponent.

On behalf of the Company, we hereby respectfully request your advice that the Division of Corporation Finance will not recommend any enforcement action to the United States Securities and Exchange Commission (the "Commission") if, in reliance on certain provisions of Rule 14a-8, the Company excludes the Proposal from the Proxy Materials.

Description of the Proposal

The Proposal requests that "The Board shall investigate, independent of in-house legal counsel, all potential legal liabilities that ConocoPhillips has inherited from Conoco but omitted from the February 2002 prospectus titled 'Proposed Merger of Conoco and Phillips.' The Board shall report to shareholders all potential legal liabilities omitted from the prospectus that would have a material impact on future financial statements or share value when these liabilities are realized or made public."

In addition, the Proposal contains the following statement in support:

"The Board relies upon in-house legal counsel for information on the potential legal liabilities reported to shareholders. However, in-house legal counsel have inherent conflicts in their role as lawyers who manage company legal defenses in lawsuits against the company, and in their role as the sole provider of information to the Board on the magnitude of potential legal liabilities the company faces.

The conflict has led in-house legal counsel to overestimate the strength of their defenses and underestimate the magnitude of the legal liabilities reported to the Board. This proposal seeks to have the Board, as the fiduciary of the shareholders, begin independently evaluating all potential legal liabilities against the company starting with the legal liabilities inherited from Conoco that were unreported by in-house legal counsel in the 2002 prospectus."

Bases for Exclusion

The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(4).

Rule 14a-8(i)(4) permits a company to omit a proposal from its proxy materials if it "relates to the redress of a personal claim or grievance against a company or any other person, or if it is designed to result in a benefit to [the proposal], or to further a personal interest, which is not shared by other shareholders at large." Under Rule 14a-8(c)(4), the predecessor to Rule 14a-8(i)(4), the Commission noted that even proposals presented in broad terms in an effort to suggest that they are of general interest to all shareholders may nevertheless be omitted from a proxy statement when prompted by personal concerns. Exchange Act Release No. 34-19135 (October 14, 1982). The Proposal, though not evident on its face, is designed solely for the benefit of the Proponent and relates to a long-standing and well-documented dispute with the Company, its predecessors and affiliates.

As discussed in detail below, the Proponent's personal grievance arises from a 1991 plane crash that killed his wife (the "1991 Plane Crash") and the litigation that followed. In 1991, E.I. du Pont de Nemours and Company ("DuPont") was the sole shareholder of Conoco Inc., the Company's predecessor. Since that time, the entities against which the Proponent bears a personal grievance have undergone changes in their corporate structures. In 1998, DuPont sold its stake in Conoco Inc. in a public offering. In 2002, Conoco Inc. and Phillips Petroleum Company ("Phillips") merged, forming the Company. Although the entities have changed, the grievance is the same, as demonstrated below.

Litigation

As described in *Parsons v. Turley*, 109 S.W.3d 804 (Tex. App—Dallas 2003), the plane that crashed in 1991, killing the Proponent's wife, herself an employee of Conoco Inc., was owned by DuPont, and Conoco Inc. was allegedly responsible for overseeing the health and physical competency of DuPont's pilots. Believing that the 1991 Plane Crash was a result of

negligence by DuPont and Conoco Inc., the Proponent, represented by Mr. Windle Turley, filed suit against DuPont in Texas state court. Subsequently, that case was removed to federal court. In a separate action, the Proponent filed suit against Conoco Inc. in Texas state court and then attempted, unsuccessfully, to join both suits in federal court. *Id.*

In the federal court suit against DuPont, a jury entered a verdict in favor of the Proponent on his negligence and gross negligence claims, and awarded $4,750,000 in actual damages to the Proponent and $1 million to his wife's parents. However, the federal court sustained DuPont's motion for judgment as a matter of law on the jury's gross negligence findings, holding that the evidence was legally insufficient to support such a finding. In 1994, the federal court entered judgment awarding the Proponent only the actual damages found by the jury along with prejudgment interest, postjudgment interest and court costs. The Proponent appealed the court's gross negligence ruling, this time hiring a new lawyer to represent his case on appeal. *Id.* In 1996, the Fifth Circuit Court of Appeals affirmed the lower court's judgment. When DuPont refused to compound prejudgment interest in calculating damages as the Proponent had requested, the federal court again sided against the Proponent. The Proponent again appealed, and the Fifth Circuit again affirmed the lower court. *Id.*

Meanwhile, the Proponent's case against Conoco Inc. in Texas state court was far less successful. The trial court granted Conoco Inc.'s motion for summary judgment in 1994 and entered final judgment dismissing the Proponent's remaining claims the following year. The Proponent's motion for new trial was denied, and his appeal was dismissed for lack of jurisdiction. *Id.*

Following the seeming conclusion of these suits, the Proponent came to believe that Conoco Inc. had foreknowledge that the pilot of the plane had an alcohol problem. In 1998, based on this new belief, the Proponent sued Mr. Turley, his trial attorney, alleging, among other things, that Mr. Turley negligently failed (1) to discover and use the evidence of the pilot's alcohol problem and (2) to bring suit originally against both DuPont and Conoco Inc. in state court. The trial court granted Mr. Turley's motion for summary judgment in 1999, but as recently as 2004, the Proponent has been appealing this judgment without success. *See* Petition for Review, *Parsons v. Turley* (Tex. No. 03-0911, 2003) (pet. denied May 28, 2004).

Having failed in his attempts to resolve his claim against DuPont and Conoco Inc. through lawsuits, all of which arise from the 1991 Plane Crash, the Proponent has attempted to air this personal grievance through at least four shareholder proposals, countless correspondence, and other such actions, which are as set forth in greater detail in E.I. du Pont de Nemours and Company (January 31, 1995) (the "1995 No-Action Letter") and E.I. du Pont de Nemours and Company (January 22, 2002) (the "2002 No-Action Letter"):

Proponent's prior shareholder actions

- **Shareholder Proposal #1**. On February 28, 1992, the Proponent sent by facsimile transmission a letter to DuPont's Director of Stockholder Relations advising that he would

introduce a proposal ("Proposal #1") at DuPont's 1992 Annual Meeting. DuPont's Corporate Secretary contacted the Proponent by phone to advise him that the proposal had not been timely filed and the Proponent agreed to treat the proposal as being submitted for the 1993 Annual Meeting. The Proponent also indicated his intent to speak at the 1992 Annual Meeting concerning management of DuPont's aviation operations.

- **1992 Letter to Directors**. On March 16, 1992, the Proponent sent a letter to individual members of DuPont's Board of Directors with Proposal #1 attached. In his letter, the Proponent refers to "management problems in the aviation operation," his "great personal interest in seeing these problems resolved" and reiterates his intent to raise his concerns at the 1992 Annual Meeting.

- **1992 Letter to Shareholders**. On April 29, 1992, the day of DuPont's 1992 Annual Meeting, without DuPont's prior knowledge, the Proponent distributed a printed letter addressed to "Fellow Shareholders," explaining his "great personal interest" in "safety problems in the management of DuPont's aviation operation" with an attached pre-addressed card that could be torn off and mailed to DuPont's Chairman and CEO. The same material was distributed at the National Business Aircraft Association Meeting in Dallas during the week of September 14, 1992.

- **1992 Annual Meeting**. The Proponent addressed DuPont's 1992 Annual Meeting concerning "a serious safety problem in the management of our company's aviation operations" and acknowledged his "great interest in this matter."

- **1993 Letter to Directors**. On March 12, 1993, the Proponent sent a detailed letter to individual members of DuPont's Board of Directors relating to the 1991 Plane Crash involvement in the investigation of the 1991 Plane Crash: "Ann Parsons, my wife, was killed in the DuPont crash; therefore, I am committed to a thorough investigation."

- **1993 Annual Meeting**. The Proponent addressed DuPont's 1993 Annual Meeting concerning his desire for a thorough investigation of the 1991 Plane Crash and acknowledged his personal interest in the matter. The Proponent also made repeated efforts to inject comments concerning the related litigation and investigation.

- **1993 Letter to Shareholders**. The Proponent distributed a printed letter to shareholders containing allegations about DuPont and Conoco Inc. and their role in the 1991 Plane Crash. This letter included a pre-addressed response card that could be torn off and mailed to DuPont's directors. The same material was distributed at the National Business Aircraft Association convention in Atlanta during the week of September 20, 1993.

- **Shareholder Proposal #2**. On November 4, 1993, the Proponent sent by facsimile transmission a proposal ("Proposal #2") relating to the investigation of the 1991 Plane Crash and the election to office of two members of DuPont's Board of Directors for consideration

at DuPont's 1994 Annual Meeting. DuPont requested a no-action letter regarding Proposal #2. The Staff concurred that Proposal #2 related to a personal claim and could be omitted pursuant to Rule 14a-8(c)(4). E.I. du Pont de Nemours and Company (available February 9, 1994).

- **1994 Annual Meeting**. The Proponent addressed DuPont's 1994 Annual Meeting on April 27, 1994, concerning alleged "threatening" practices in DuPont's aviations operations and referenced the 1991 Plane Crash.

- **Shareholder Proposal #3**. On November 18, 1994, the Proponent sent by facsimile transmission to DuPont a proposal ("Proposal #3"), that called for DuPont to issue a report on its activities in Malaysia in connection with the 1991 Plane Crash. DuPont requested a no-action letter regarding Proposal #3. The Staff concurred that Proposal #3 related to a personal claim and could be omitted pursuant to Rule 14a-8(c)(4). *See* 1995 No-Action Letter. Moreover, the Staff granted forward-looking relief relating to any subsequent proposals by the Proponent relating to this personal grievance: "*This response shall also apply to any future submissions to the Company of a same or similar proposal by the same proponent. The Company's statement under rule 14a-8(d) shall be deemed by the staff to satisfy the Company's future obligations under rule 14a-8(d) with respect to the same or similar proposals submitted by the same proponent.*" *Id.* (emphasis added).

- **Shareholder Proposal #4.** On February 1, 2001, the Proponent sent by facsimile transmission to DuPont a proposal ("Proposal #4") that called for DuPont to contract "an independent safety auditing firm to investigate the deaths of all DuPont employees killed while working on company business during the past ten years." DuPont requested a no-action letter regarding Proposal #4, and the Staff responded: "Noting that the proposal appears to be similar to the same proponent's proposal in E.I. DuPont de Nemours and Company (available January 31, 1995), we believe that the forward-looking relief that we provided in that earlier response is sufficient to address his recent proposal. Accordingly, we believe that a specific no-action response is unnecessary." *See* 2002 No-Action Letter.

It is apparent, given the numerous similar proposals, lawsuits, correspondence and other actions taken by the Proponent, that the "potential liabilities inherited from Conoco" refer to the alleged liability arising from the 1991 Plane Crash. As result of his failure to resolve his personal grievance either in court or through his actions against the Company's former parent, predecessor and affiliate, which have been prospectively precluded by the Staff, it seems clear that the Proponent is now seeking satisfaction by way of the Proposal. It is no coincidence that the Proponent calls for the Board to investigate unreported liabilities in the 2002 prospectus, as this is the first filing of the Company that would have included information related to the 1991 Plane Crash, had any such information been material to the merger proposed therein.

The Staff has consistently taken the position that shareowner proposals relating to litigation in which a proponent holds a personal interest may be omitted from a company's proxy

statement under Rule 14a-8(i)(4). *See*, *e.g.*, Schlumberger Ltd. (available August 27, 1999) (proposal followed conclusion of litigation on the same subject as the proposal); Unocal Corp. (March 15, 1999) (same); Burlington Northern Santa Fe Corp. (available February 5, 1999) (proposals followed litigation, grievances and harassment by former employee); General Electric Company (available January 20, 1995) (proposal by a group of former GE employees seeking discontinuance of company's opposition to a pending lawsuit in which they had an interest); Xerox Corp. (available November 17, 1988 and March 2, 1990) (proposals seeking appointment of an outside consultant to investigate Xerox's conduct in an EEOC investigation and related litigation arising out of the proponent's termination of employment).

Although the Proponent attempts to conceal this personally beneficial nature of the Proposal by reference to the issue of the proper role of in-house counsel (a false and misleading reference, as discussed below), the Proponent's true motive, given the overwhelming body of documentation cited above, is a personal grievance, designed to result in a benefit to the proponent and to further a personal interest, which benefit or interest is not shared with the other security holders at large, and is therefore excludable under Rule 14a-8(i)(4). *See* Southern Company (available March 19, 1990) (allowing the exclusion of a proposal requiring the company to form a shareholder committee to investigate complaints against management, the proponent of which was a disgruntled former employee who had raised numerous claims during the prior seven years and had sent the company more than 40 letters, faxes, requests, and proposals seeking redress for his personal grievance); International Business Machines Corp. (available December 12, 2005) (allowing the exclusion of a proposal and affirming prospective relief after the same proponent, who after unsuccessfully litigating his wrongful termination claim, submitted stockholder proposals 12 times in as many years relating to the same personal grievance over his termination).

In this case, just as the Staff noted in the 2002 No-Action Letter, the same Proponent is submitting a similar proposal based on the same personal grievance. Given the relatedness of DuPont and the Company as corporate entities, not to mention the Proponent's attempt to make them co-defendants, there is no valid reason to disapply the forward-looking relief granted in the 1995 No-Action Letter. Regardless of the applicability of any prior relief, however, for the foregoing reasons, the Company believes that the Proposal may be excluded from the Proxy Materials in accordance with Rule 14a-8(i)(4) because the Proposal relates to a personal grievance against the Company.

The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(10).

Under Rule 14a-8(i)(10), a shareholder proposal may be excluded if a company has already substantially implemented the proposal. According to the Commission, this provision "is designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management." Exchange Act Release No. 34-12598 (July 7, 1976) (the "1976 Release"). The Staff has stated that "a determination that the company has substantially implemented the proposal depends upon whether its particular policies, practices and procedures compare favorably with the guidelines of the proposal."

Texaco, Inc. (available March 28, 1991). Consequently, a shareholder proposal does not have to be implemented exactly as proposed; it merely needs to be "substantially implemented." *Id.*

The Company has implemented controls and other procedures that are designed to ensure that information required to be disclosed in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms. These disclosure controls and procedures include controls and procedures designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the Company's management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure. These controls and procedures are designed to ensure that any material "omission" in the Company's periodic reports of the type referred to in the Proposal does not occur.

The subject matter of the Proposal — the Company's evaluation and disclosure of material liabilities — is monitored by the Company's senior management and the Audit Committee of the Board of Directors. The Company maintains accounting systems and internal accounting controls designed to provide reasonable assurance that assets are safeguarded and transactions are executed in accordance with the Company's authorizations, and that transactions are recorded as necessary to permit the preparation of financial statements in conformity with generally accepted accounting principles. The accounting systems and internal accounting controls are supported by written policies and procedures, by the selection and training of qualified personnel and by an internal audit program. In addition, the Company's code of business conduct requires employees to discharge their responsibilities in conformity with the law and a high standard of business conduct. The Company's independent registered public accounting firm audits the Company's financial statements in accordance with generally accepted auditing standards and would be required to call to the Company's attention any material undisclosed liabilities of the type referred to in the Proposal.

Accordingly, through the operation of the Company's disclosure controls and procedures and its internal controls, the "investigation" the Proponent seeks into the Company's assessment and disclosure practices has already been substantially implemented. For these reasons, the Company believes that the Proposal may be excluded from the Proxy Materials in accordance with Rule 14a-8(i)(10). *See, e.g.*, Columbia/HCA Healthcare Corp. (available February 18, 1998) (proposal substantially implemented because company had in place a committee charged with investigating fraud); The Limited, Inc. (available March 15, 1996) (proposal substantially implemented because company had compliance program for foreign supplier standards); Louisiana-Pacific Corp. (available March 18, 1994) (proposal to conduct internal investigation on potential environmental violations substantially implemented because company had established committee to investigate environmental law compliance).

The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(7).

Rule 14a-8(i)(7) allows a company to omit a shareholder proposal that relates to the ordinary business operations of the company. One of the key policy considerations underlying the Rule is the "degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment. This consideration may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies." Exchange Act Release No. 34-40018 (May 28, 1998) (the "1998 Release").

While recent high-profile corporate scandals have raised public consciousness of the financial accounting and disclosure process, the responsibility for overseeing this process is a complex task, which shareowners, as a group, are not in a position to make an informed judgment, having left the implementation of these complex procedures to their elected Board. Indeed, the Staff has repeatedly held that proposals relating to accounting and disclosure decisions and presentations are excludable under Rule 14a-8(i)(7) as matters involving the ordinary business operations of a company. *See, e.g.*, Johnson Controls, Inc. (available October 26, 1999); The Travelers Group, Inc. (available March 13, 1998); LTV Corp. (available November 25, 1998); General Electric Company (available January 28, 1997); American Telephone & Telegraph Company (available January 29, 1993); American Stores Company (available April 7, 1992); Pacific Gas & Electric Co. (available December 13, 1989); General Motors Corp. (available March 10, 1989); Minnesota Mining & Manufacturing Co. (available March 23, 1988).

The fact that the Proposal does not seek to discard existing disclosure requirements does not save it from the exclusionary reach of Rule 14a-8(i)(7). Although the Proposal seeks what appears to be a simple request to merely "investigate" any potential liabilities inherited from Conoco rather than demanding the implementation of an entirely new process of disclosure, Rule 14a-8(i)(7) has long been interpreted to exclude proposals seeking special investigations, reviews or reports on a given matter. In its 1983 release, the Commission stated that, henceforth, "the staff will consider whether the subject matter of the special report . . . involves a matter of ordinary business; where it does, the proposal will be excludable under Rule 14a-8(c)(7)." Exchange Act Release No. 34-20091 (August 16, 1983); *see also* Kmart Corp. (available February 24, 1999); Johnson Controls, Inc. (available October 26, 1999). This Rule continues to apply following the publication of Staff Legal Bulletin No. 14C (CF) (June 28, 2005), which did not significantly alter the analysis of ordinary business exclusions not involving important social concerns.

Moreover, as an independent ground for exclusion under Rule 14a-8(i)(7), the Staff has consistently permitted companies to exclude proposals related to the "general conduct of a legal compliance program." *See, e.g.*, Monsanto Corp. (available November 3, 2005) ("There appears to be some basis for your view that Monsanto may exclude the proposal under rule 14a-8(i)(7) as relating to its ordinary business operations (i.e., general conduct of a legal

compliance program)."); Associates First Capital Corp. (available February 23, 1999) (proposal to form a committee to investigate possible improper lending practices); United HealthCare Corp. (available February 26, 1998) (proposal to form a committee to investigate potential healthcare fraud). As in the cases above, the Proponent has requested that the Company take measures that are inherently related to the general conduct of a legal compliance program. As such, the Proposal may similarly be excluded under Rule 14a-8(i)(7).

The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(3).

Under Rule 14a-8(i)(3), a shareholder proposal may be excluded if violates any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false or misleading statements. The notes to Rule 14a-9 expressly prohibit material that directly or indirectly impugns character, integrity or personal reputation, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation.

The Proposal impugns the character of the Company's in-house counsel by suggesting that they would conceal from the Board material liabilities of the Company. The Proponent also suggests that in-house counsel are incompetent in evaluating the merits of litigation involving the Company and the risks associated therewith. The Proponent has no basis for these derogatory assertions, rendering the Proposal false and misleading under Rule 14a-9. *See* Idacorp, Inc. (available January 9, 2001) (allowing the exclusion of a proposal stating that potential merger partners were in a conspiracy to deceive shareholders).

To ensure that shareholders are not misled by these false and misleading statements into believing that in-house counsel is both inherently conflicted and incompetent, and to defend the integrity of the Company's employees against unsubstantiated attack, the Company believes that it may properly exclude the Proposal under Rule 14a-8(i)(3).

Conclusion

For the foregoing reasons, the Company respectfully requests your advice that the Division of Corporation Finance will not recommend any enforcement action to the Commission if the Company excludes the Proposal from the Proxy Materials. The Company presently intends to file its definitive Proxy Materials for the 2006 Annual Meeting with the Commission on or about March 21, 2006.

If the Staff has any questions with respect to the foregoing, or if additional information is required in support of the Company's position, please call the undersigned at (713) 229-1379.

Please acknowledge receipt of this letter and the enclosure by date-stamping the enclosed copy of this letter and returning it to our waiting messenger.

Very truly yours,

BAKER BOTTS L.L.P.

By: _____
Tull R. Florey

cc: Mr. Roger K. Parsons (by FedEx)
Elizabeth A. Cook
ConocoPhillips