Filed in The District Court
of Travis County, Texas
JUN 29 2009 TR
At 9:25 A M.
Amelia Rodriguez-Mendoza, Clerk

NO. D-1-GV-09-000921

STATE OF TEXAS,	§	**THE DISTRICT COURT OF**
Plaintiff	§	
	§	
	§	
v.	§	**TRAVIS COUNTY, TEXAS**
	§	
BP PRODUCTS NORTH AMERICA	§	
INC.,	§	
Defendant	§	**201st JUDICIAL DISTRICT**

AGREED TEMPORARY INJUNCTION

On this day the State of Texas and BP Products North America Inc. presented to the Court this Agreed Temporary Injunction. The State appeared through Texas Attorney General Greg Abbott on behalf of the Texas Commission on Environmental Quality ("TCEQ"). BP Products North America Inc. appeared through Vinson & Elkins, L.L.P. and Baker & Botts L.L.P.

Upon review of this Agreed Temporary Injunction, the Court determines that it is a proper resolution of the matters raised in the State's application for temporary injunction. The Court, therefore, approves this Agreed Temporary Injunction.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

1. DEFINITIONS

1.1 As used in this Agreed Temporary Injunction the words and terms set forth below shall have the following meanings:

A. "BP Products" shall mean BP Products North America Inc.

B. "Days" shall mean calendar days. However, if the time for response or action

is 10 days or less, then "Days" shall mean working days.

C. "Effective Date" shall mean the date the Injunction is signed by the Court.

D. "Emissions Event" or "EE" shall mean any upset event or unscheduled maintenance, startup, or shutdown activity that results in an unauthorized emission of air contaminants from one or more emission points. 30 TAC § 101.1.

E. "Emissions Event Report" shall mean the reporting required by 30 TAC § 101.201(a)(1)(B), 30 TAC § 101.201(f), 30 TAC § 101.201(b).

F. "Injunction" shall mean this Agreed Temporary Injunction.

G. "Parties" shall mean the State of Texas and BP Products.

H. "Refinery" shall mean the petroleum refinery owned and operated by BP Products, and/or any of its successors, located at 2401 5th Avenue South, Texas City, Texas.

I. "Reportable Emissions Event" shall mean any emissions event that in any 24-hour period, results in an unauthorized emission from any emissions point equal to or in excess of the reportable quantity as defined in 30 TAC § 101.1.

J. "Startup, Shutdown and Maintenance Reports" shall mean the reporting required by 30 TAC § 101.211(a) & (b).

K. "State" shall mean the State of Texas.

L. "TAC" shall mean the Texas Administrative Code.

2. NO ADMISSION OF LIABILITY

2.1 BP Products does not admit liability on any of the allegations made by the State but agrees to enter into this Injunction.

3. APPLICABILITY

3.1 The terms of this Agreed Temporary Injunction shall apply only to the Refinery.

4. TEMPORARY INJUNCTION

Emissions Event Reporting

4.1 Beginning 30 Days after TCEQ Executive Director approval of the Reporting Proposal described below, BP Products shall be enjoined from violating at the Refinery the Emissions Event reporting provisions of 30 TAC § 101.201(a)(1)(B), 30 TAC § 101.201(f), 30 TAC § 101.201(b), 30 TAC § 101.211(a), and 30 TAC § 101.211(b) subject to any potential defenses to the alleged violation.

4.2 No later than 60 Days after the Effective Date, BP Products shall submit to the TCEQ Executive Director for approval a written proposal (the "Reporting Proposal") outlining in detail the steps and procedures BP Products has implemented at the Refinery to ensure that it will timely and properly submit required Emissions Event, Startup, Shut-down and Maintenance Reports and to ensure that it will respond timely to the TCEQ's requests for information. The Reporting Proposal shall describe, at a minimum:

A. Any procedures and training BP Products currently has in place at the Refinery

to address Emissions Event, Startup, Shut-down and Maintenance reporting, including a copy of BP Products's current reporting policies and procedures and/or reporting training manuals or guides for the Refinery; and

B. Categories of personnel that are assigned to identify and report Emissions Events.

The TCEQ may require, and BP Products shall provide no later than 10 Days after any request, additional information which the TCEQ deems necessary for the evaluation of the Reporting Proposal.

4.3 BP Products shall continue implementation of the Reporting Proposal and begin implementation of any additional items in the approved Reporting Proposal upon TCEQ Executive Director approval.

Emissions Event Review

4.4 BP Products shall continue to implement all practicable measures necessary to minimize the likelihood of Emissions Events at the Refinery including but not limited to the emission of air contaminants not authorized by TCEQ Air Permit 47256, Permit 2231, and Permit 2612 or in excess of emissions limits specified in these permits.

4.5 No later than 60 Days after the Effective Date of the Injunction, BP Products shall submit to the TCEQ for approval a written EE Review Proposal. The proposal for the EE Review shall include, at a minimum: (1) a detailed description of how each element of the EE Review, set forth in paragraph 4.6 below, will be accomplished and (2) a detailed

schedule demonstrating how BP Products will complete the EE Review on or before the deadline in paragraph 4.7. The TCEQ may require, and BP Products shall provide no later than 10 Days after any request, additional information which the TCEQ deems necessary for the evaluation of the EE Review Proposal.

4.6 The EE Review shall include:

A. A full review of all Reportable Emissions Events that occurred after July 27, 2005, and those Reportable Emissions Events occurring up to and including the Effective Date of the Injunction. This includes all of the Reportable Emissions Events described in the original petition in this cause and those that occur after the filing of the original petition and up to the Effective Date of the Injunction. The review shall include, but not be limited to:

1. A detailed explanation of the causes of each of the Reportable Emissions Events;

2. A review of any corrective actions and the estimated cost of such corrective actions taken by BP Products in response to each Reportable Emissions Event, including BP Products' actions taken to rectify failures to report or respond to requests for information concerning the Reportable Emissions Event;

3. An assessment of the effectiveness of any corrective action taken by BP Products in response to each Reportable Emissions Event;

4. For each Excessive Emissions Event, a review of BP Products' submitted Corrective Action Plan ("CAP") and BP Products' actions to comply with the proposed CAP;

5. A list of proposed additional corrective actions needed to address the root cause of each Reportable Emissions Event and to prevent a recurrence of the Reportable Emissions Event;

6. A list of needed corrective actions for BP Products to comply with the reporting requirements of 30 TAC § 101.201 for each Emissions Event; and

7. An analysis of the Reportable Emissions Events as a whole to identify systemic problems that should be addressed on a refinery-wide basis to prevent similar Reportable Emissions Events in the future. This analysis shall include but not be limited to:

   (a) listing common causes for the Reportable Emissions Events;

   (b) identifying methods to minimize the potential for Reportable Emissions Events, including the adequacy of existing:

      (i) routine operating and maintenance procedures;

      (ii) shut-down control systems;

      (iii) procedures to track the integrity of aging equipment; and

(iv) redundant equipment and controls and modified procedures, if any, to minimize air contaminant emissions.

(c) A review of and proposal for modifications to preventative maintenance, training, and record keeping programs to prevent Reportable Emissions Events.

B. A description of any other system improvements which would further minimize the possibility of Reportable Emissions Events.

C. A process for a TCEQ designee to access or obtain electronic copies of flow diagrams and process descriptions of all Refinery operations, indicating all major equipment, control valves, and instrumentation.

D. Any other recommendations, reviews, or proposals that BP Products believes are necessary to reduce the number of Reportable Emissions Events at the Refinery.

E. A detailed description and cost scoping estimates for all of the recommendations contained in the EE Review, including any operational or physical modifications to the Refinery that are necessary to reduce the number of Reportable Emissions Events at the Refinery.

4.7 No later than 14 Days after the TCEQ Executive Director's approval of the EE Review Proposal, BP Products shall begin the EE Review and perform its requirements on the approved schedule. BP Products shall fully complete the requirements of the EE Review

no later than 180 Days after the TCEQ Executive Director's approval of the EE Review Proposal. BP Products shall make available to the TCEQ status reports regarding the EE Review at the request of the Executive Director.

4.8 BP Products shall submit to the TCEQ a final EE Review Report in accordance with the schedule in the approved EE Review Proposal. The TCEQ may require, and BP Products shall provide no later than 10 Days after any request, additional information which the TCEQ deems necessary for the evaluation of the EE Review Report.

4.9 No later than 30 Days after the TCEQ Executive Director's approval of the EE Review Report, BP Products shall begin implementation of the approved recommendations contained in the EE Review Report. No later than 60 Days after the implementation of each recommendation commences, BP Products shall make written certification to the TCEQ that the subject recommendation has been or is being implemented. BP Products shall maintain records sufficient to document compliance with the requirements of this paragraph onsite at the Refinery.

4.10 Reportable Emissions Event Investigation and Prevention:

A. In response to any Reportable Emissions Event, BP Products, as expeditiously as practicable, shall take such interim and long-term corrective actions as are reasonable and consistent with good engineering practice to minimize the likelihood of a recurrence of the root cause of that incident.

B. Beginning 60 days after the first calendar quarter after the Effective Date, BP Products shall submit a quarterly report to TCEQ with a detailed investigation report for each Reportable Emissions Event containing the following information:

1. A detailed explanation of the Reportable Emissions Event and associated causes;
2. Corrective actions to rectify failures to report or respond to requests for information concerning the Reportable Emissions Event if needed;
3. Immediate actions to rectify or mitigate the consequences of the event if possible;
4. A list of recommendations for corrective actions needed to address the root cause of the Reportable Emissions Event and to prevent a recurrence of the Reportable Emissions Event;
5. A list of recommendations stemming from the event for which the report is prepared that should be applied to other areas of the Refinery; and
6. A fault tree diagram graphically describing the causes leading to the event.

However, if the Reportable Emission Event occurs within 30 Days of the end of a reporting period, BP Products may defer the detailed investigation

report to the next reporting period.

Air Monitoring

4.11 No later than 60 Days after the Effective Date of the Injunction, BP Products shall submit to the TCEQ Executive Director for approval a written Monitoring Program Proposal. The Monitoring Program Proposal is structured to identify possible emissions of air contaminants from the Refinery, to assess and minimize potential off-site impacts of air contaminant releases from the Refinery, and to provide data to be used to modify operating processes and procedures during startup, shut-down, and maintenance and any other activity to reduce emissions. The Monitoring Program Proposal shall include:

A. A detailed description of how each element of the Monitoring Program set forth in paragraph 4.13 below will be performed;

B. A detailed schedule demonstrating how BP Products will have the Monitoring Program fully operational on or before the deadline in paragraph 4.14; and

C. A Quality Assurance Project Plan ("QAPP") in EPA QA/R-5 format which shall establish data quality objectives, site locations, monitoring hardware, configuration, calibration, operation, maintenance, acceptance criteria, corrective action measures, data processing, reporting, and validation protocols as well as all audit activities. A minimum data completeness of 85 percent shall be required in the QAPP for all parameters for each month at each site.

D. A detailed schedule and process for setting the approval notification trigger

level described in paragraph 4.13.B below, and the investigation trigger levels described in paragraph 4.13.C below.

E. A description of BP Products' existing IR camera program, including survey dates, times and areas inspected.

4.12 The TCEQ may require, and BP Products shall provide no later than 10 Days after any request, additional information which the TCEQ deems necessary for the evaluation of the Monitoring Program Proposal.

4.13 This Monitoring Program shall include but not be limited to:

A. Monitors at three locations in the Refinery along its fenceline as follows:

1. BP Products shall install, operate, and maintain equipment at three sites on the Refinery's fenceline including one site along the predominant upwind (southeast) fenceline and two sites along the north fenceline. All fenceline monitoring locations must be pre-approved by the TCEQ.

2. The fenceline monitors shall collect time integrated values for volatile organic compounds including at a minimum pentane, hexane, benzene, and toluene at least every 20 minutes with a minimum detection limit no greater than 0.5 parts per billion (ppb). The fenceline monitors shall also collect wind speed, wind direction, H_2S (measured as total reduced sulfur), SO_2, and temperature on a continuous basis. Resultant wind direction, resultant wind speed, wind speed average, standard deviation

of wind direction, and maximum wind gust shall be calculated from on-site measurements. BP Products shall electronically report to the TCEQ the data from this equipment in accordance with paragraph 4.13.F.1.

3. Once every six months beginning six months after the date the first monitor is operational, BP Products shall perform and report to the TCEQ the results of a semi-annual audit of all fenceline monitors for the prior six months. The semi-annual audit report shall include findings, a review of corrective measures taken or proposed to be taken to correct any problems identified by the audit, implementation dates for corrective action, and the impact on reported data of problems cited in the audit. BP Products shall submit the semi-annual audit report to the TCEQ in the next quarterly report due in accordance with paragraph 4.13.F.3, 45 days after each deadline to perform the audit.

4. BP Products may, instead of installing new monitors at two of the three locations, upgrade existing monitors required by BP Products's March 5, 2003 agreed order with TCEQ on docket numbers 2001-0329-AIR-E and 2001-1088-AIR-E (the "March 5, 2003 Agreed Order"). The locations of the two existing monitors required by the March 5, 2003 Agreed Order shall meet the requirements for the one site along the

predominant upwind (southeast) fenceline and one of the two sites along the north fenceline without further approval by TCEQ. The monitoring and reporting obligations of the March 5, 2003 Agreed Order will be superceded by this Injunction while the fenceline monitors are out-of-service for the upgrade.

B. BP Products shall install, maintain, and operate an automatic notification system capable of producing an automatic electronic notification to BP Products personnel at the Refinery every time a monitored contaminant from any air monitor exceeds a predetermined trigger level. BP Products shall propose for TCEQ Executive Director approval notification trigger levels for all of the contaminants monitored by fenceline monitors. BP Products may thereafter propose for TCEQ Executive Director approval alternative notification trigger levels based upon the results of ongoing monitoring. BP Products shall include a list of the exceedances for the reporting period and corrective actions taken or planned by BP Products to address each exceedance in the next report submitted to the TCEQ pursuit to paragraph 4.13.F.3.

C. BP Products shall perform a follow-up and probable cause investigation every time a monitored contaminant from any air monitor exceeds a predetermined investigation trigger level. BP Products shall propose, for TCEQ Executive Director approval, investigation trigger levels for all of the contaminants

monitored by fenceline monitors. BP Products shall include a report of the exceedance, the investigation into its cause, and corrective actions taken or planned by BP Products to address each exceedance in the next report following the exceedance submitted to the TCEQ pursuant to paragraph 4.13.F.3. However, if the exceedance occurs within 30 Days of the end of a reporting period, BP Products may defer the report of planned corrective actions to the next reporting period. If more than one contemporaneous exceedance of the investigation trigger results from a single cause, then BP Products may address that contemporaneous group of exceedances with a single investigation and report.

D. BP Products shall install, operate, and maintain recorders on its flare monitoring cameras. BP Products shall retain on-site the last two years of recorded images. BP Products shall make the specific video images available to TCEQ upon request.

E. BP Products shall report to the TCEQ any IR camera monitoring including the survey dates, times, areas inspected, findings, and corrective actions taken or planned by BP Products to address each finding in each quarterly report submitted to the TCEQ in accordance with 4.13.F.3.

F. Monitoring Program reporting to the TCEQ as follows:

1. BP Products shall electronically report all monitoring data from the

fenceline monitors into TCEQ's electronic data acquisition system within 15 minutes after initial data collection. BP Products shall conduct a validation review of the data. Upon conclusion of its review and if necessary to qualify data, BP Products shall reload and enter validation notes into TCEQ's electronic data acquisition system within 30 Days of the initial acquisition of data.

2. BP Products shall submit a Monitoring Program Report to the TCEQ on the 15th day of each month beginning the first full month following the TCEQ's approval of the Monitoring Program Proposal until all of the equipment to implement the Monitoring Program is in place and functional. The Monitoring Program Report shall describe all actions taken during the previous month to implement the Monitoring Program.

3. After one or more components of the Monitoring Program are operational BP Products shall submit to TCEQ quarterly, 45 days after the end of a calendar quarter beginning with the first full calendar quarter after the program is operational, a Monitoring Program Report that shall include (for the components of the Monitoring Program that are operational):

   (a) the status of all monitoring equipment listing any downtime and maintenance;

(b) quality assurance data as set forth in the approved QAPP. At a minimum the quality assurance data shall include information regarding instrument calibrations, daily calibration checks, second source standard challenges, zero or blank checks, audits, data limitations, and an explanation of any data BP Products has invalidated;

(c) audit results for the fenceline monitors as set forth in paragraph 4.13.A.3;

(d) a list of all exceedances of automatic notification trigger levels results as described in paragraph 4.13.B;

(e) a report of the exceedance and the investigation into the cause for all exceedances of investigation trigger levels results as described in paragraph 4.13.C; and

(f) quarterly IR camera investigation results as described in paragraph 4.13.E.

4.14 No later than 14 Days after the TCEQ Executive Director's approval of the Monitoring Program Plan, BP Products shall begin implementation of the Monitoring Program and perform its requirements on the approved schedule. BP Products shall have all elements of the Monitoring Program fully operational as soon as practicable but no later than 365 Days after the TCEQ Executive Director's approval of the Monitoring Program Plan.

BP Products shall preserve and retain at the Refinery all reports required by the Monitoring Program.

4.15 BP Products shall keep all components of the Monitoring Program operational to the extent practicable through regular maintenance, repair, and replacement.

5. DEADLINE EXTENSIONS

5.1 The State may grant an extension of any deadline in this Injunction or in any plan, report, or other document to be submitted pursuant to this Injunction. All requests for extensions by BP Products shall be made in writing to the Office of the Attorney General at the addresses listed in Section 6 of this Injunction. Such request must be sent to the Office of the Attorney General at least 14 Days before the deadline BP Products seeks to extend, unless the time allowed for the action sought to be extended is less than 15 Days in which case BP Products shall make the request for extension as soon as the need for the extension is apparent.

5.2 Extensions are not effective until BP Products receives written approval from the TCEQ Executive Director.

6. GENERAL PROVISIONS

6.1 BP Products shall send all submittals required by this Injunction to be sent to the TCEQ or the State to:

Jane E. Atwood
AG# 06-2281779
Office of the Attorney General of Texas
Environmental Protection and
Administrative Law Division
P.O. Box 12548
Austin, Texas 78711-2548.

John Sadlier
Deputy Director
TCEQ Office of Compliance and Enforcement
Texas Commission on Environmental Quality
P.O. Box 13087, MC-172
Austin, Texas 78711-3087

Laura Burnett
Team Leader, Air Section
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023

6.2 The State and the TCEQ shall send all responses required by this Temporary Injunction to be sent to BP Products to:

Gabe Cuadra
Manager Compliance
Texas City Refinery
BP Products North America Inc.
2401 5th Avenue South
Texas City, Texas 77592-0401

Stephen Palmer
Managing Attorney - HSSE
BP Legal
501 Westlake Park Boulevard
Houston, Texas 77079

6.3 Each party and its counsel represent and warrant that they have participated fully in the drafting, review, and revision of this Injunction. Each party and its counsel represent and warrant that they understand the conduct prohibited by, and required by, this Injunction. Each party and its counsel represent and warrant that they understand the meaning, definition, use, and intent of all terms in this Injunction.

6.4 The following shall apply to all plans, reports, or other documents that are required to be submitted for approval to the TCEQ:

A. The TCEQ shall in writing either accept or reject with a request for modification the plan, report, or other document. The TCEQ shall send such acceptances, rejections, requests or other documents by U.S. certified mail, return receipt requested.

B. If the TCEQ requests modifications to the plan, report, or other document, in the TCEQ's written request the TCEQ shall state a reasonable deadline for responding to the request for modifications.

C. BP Products shall respond in writing to the TCEQ's request for modifications within the time specified in the TCEQ's request. Failure to respond to a request for modification by the specified deadline shall be considered a violation of this Injunction.

6.5 Any Plan, Schedule or Report required to be submitted to the State or TCEQ pursuant to this Injunction shall include a one page executive summary of the contents of

such Plan, Schedule, or Report, unless the Plan, Schedule or Report has a total length of five pages or less.

6.6 Any Plan, Schedule or Report required to be submitted to the State or TCEQ pursuant to this Injunction and approved by the State or TCEQ shall be considered an integral part of this Injunction and shall be enforceable as if set forth herein.

6.7 Any document required to be submitted to the State or TCEQ pursuant to this Injunction is relevant and admissible in any further proceedings in this cause.

6.8 BP Products waives the requirement for the issuance and service of a writ of injunction as a prerequisite for the enforcement of this Injunction.

6.9 Each of the undersigned representatives of a party to this Injunction certifies that he or she is fully authorized to enter into the terms and conditions of the Injunction and to legally execute and bind that party to this Injunction.

6.10 The Parties hereby waive the right of appeal from this Injunction.

6.11 Unless expressly set forth herein, nothing herein shall relieve BP Products of any duties or obligations set forth in the agreed order in TCEQ Docket No. 2005-0224-AIR-E or any other TCEQ order, permit, or rule.

7. TRIAL SETTING

7.1 It is further ORDERED that this case is set for trial on the merits at 9 o'clock a.m. on March 22, 2010, on the Central Settings Docket pursuant to Rules 2.2 and 2.3 of the Local Rules of Civil Procedure of the District Courts of Travis County.

8. TERMINATION

8.1 The terms and requirements of this Injunction shall terminate 2 years after the Effective Date.

SIGNED ON June 29, 2009 at 9:13 A.M.

JUDGE PRESIDING

AGREED AS TO FORM AND SUBSTANCE AND ENTRY REQUESTED:

GREG ABBOTT
Attorney General of Texas

C. ANDREW WEBER
First Assistant Attorney General

DAVID S. MORALES
Deputy Attorney General for Civil Litigation

WILLIAM J. COBB III
Special Assistant and Senior Counsel to the Attorney General

BARBARA B. DEANE
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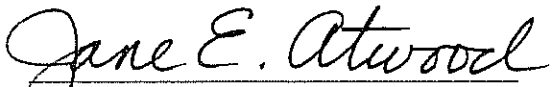
DAVID PREISTER
Chief, Environmental Protection Section



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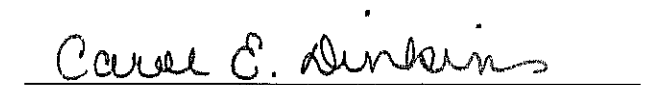
ATTORNEYS FOR THE STATE OF TEXAS

AGREED AS TO FORM AND SUBSTANCE AND ENTRY REQUESTED:

KEITH CASEY
Vice-President, BP Products North America Inc.
Business Unit Leader, Texas City Refinery



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