

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil No. 2:96 CV 095 RL
)	
and)	Judge Rudy Lozano
)	
THE STATE OF INDIANA, STATE OF OHIO, and)	
the NORTHWEST AIR POLLUTION AUTHORITY,)	
WASHINGTON,)	
)	
Plaintiff-Intervenors,)	
)	
v.)	
)	
BP EXPLORATION & OIL CO., ET AL.)	
)	
Defendants.)	
)	
)	
)	
)	
)	

TENTH AMENDMENT TO CONSENT DECREE

WHEREAS, the United States of America (hereinafter “the United States”); the State of Indiana, the State of Ohio, and the Northwest Pollution Control Authority of the State of Washington (hereinafter “Plaintiff-Intervenors”); and BP Products North America Inc. (successor in interest to BP Exploration and Oil, Co. and formerly known as Amoco Oil Company, and hereinafter referred to as “BP Products”), and BP West Coast Products LLC (the owner of refining assets previously owned by Atlantic Richfield Company) (hereinafter collectively referred to as “BP”) are parties to a Consent Decree entered by this Court on August 29, 2001 (hereinafter the “2001 Consent Decree”);

WHEREAS BP sold its Mandan and Salt Lake City Refineries to Tesoro Petroleum Corporation (now known as Tesoro Corporation) (“Tesoro”) on September 6, 2001, and Tesoro

assumed the obligations of the 2001 Consent Decree as they relate to the Mandan and Salt Lake City Refineries pursuant to the *First Amendment To Consent Decree*, which was approved and entered as a final order of the Court on October 2, 2001;

WHEREAS, BP sold its Yorktown Refinery to Giant Yorktown, Inc. (“Giant”) on May 14, 2002, and Giant assumed the obligations of the 2001 Consent Decree as they relate to the Yorktown Refinery pursuant to the *Second Amendment To Consent Decree*, which was approved and entered as a final order of the Court on June 7, 2002;

WHEREAS, BP sold a hydrogen plant located at its Texas City Refinery to Praxair on August 6, 2004 and Praxair assumed the obligations of the 2001 Consent Decree as they relate to that hydrogen plant pursuant to the *Third Amendment To Consent Decree*, which was approved and entered as a final order of the Court on October 25, 2004;

WHEREAS a Fourth Amendment to the 2001 Consent Decree was entered by the Court on June 20, 2005, establishing, *inter alia*, final SO₂ and NO_x emission limits for a number of FCCUs owned and operated by BP;

WHEREAS, a Fifth Amendment to the 2001 Consent Decree was entered by the Court on February 22, 2007, requiring, *inter alia*, Tesoro to install certain NO_x controls on the Mandan FCCU/CO Furnace;

WHEREAS, a Sixth Amendment to the 2001 Consent Decree was entered by the Court on September 18, 2009, requiring upgraded controls, facility upgrades and equipment for benzene waste management at BP’s Texas City refinery, as well as for management of asbestos waste and HCFCs used in industrial refrigeration and comfort cooling appliances at the refinery;

WHEREAS, a Seventh Amendment of the 2001 Consent Decree was entered by the Court on December 28, 2012, that removed the Whiting Refinery from the 2001 Consent Decree; and

WHEREAS, an Eighth Amendment of the 2001 Consent Decree was entered by the Court on August 23, 2012, as a result of the fact that Giant sold the Yorktown Refinery to Plains Marketing, L.P. (hereinafter "Plains") on December 29, 2011, and Plains assumed the obligations of the Consent Decree as they relate to the Yorktown Refinery; and

WHEREAS, a Ninth Amendment of the 2001 Consent Decree was entered by the Court on November 4, 2013, to address, *inter alia*, BP Products sale of the Texas City Refinery to Marathon Petroleum Company LP ("MPC") and the assignment of the Texas City Refinery from MPC to Blanchard Refining Company LLC; and

WHEREAS, BP sold the Carson Refinery to Tesoro Refining & Marketing Company LLC ("Tesoro") on June 1, 2013; and

WHEREAS, Tesoro has contractually agreed to assume the obligations of, and to be bound by the terms and conditions of, the 2001 Consent Decree as such obligations, terms and conditions relate to the Carson Refinery; and

WHEREAS, Tesoro represents that it has the financial and technical ability to assume the obligations and liabilities of the Consent Decree as they relate to the Carson Refinery; and

WHEREAS this Tenth Amendment does not affect, alter, or amend any obligation or requirement pertaining to any refinery or facility covered by the 2001 Consent Decree and its amendments other than the Carson Refinery; and

WHEREAS, the United States, BP, and Tesoro desire to amend the 2001 Consent Decree to: 1) transfer to Tesoro the obligations, liabilities, rights and releases of the 2001 Consent Decree as it pertains to the Carson Refinery; 2) make Tesoro a party to the 2001 Consent Decree, as amended, with respect to the Carson Refinery; and 3) to release BP from its obligations and liabilities under the 2001 Consent Decree, as amended, insofar as they relate to the Carson Refinery; and

WHEREAS, Section II, Paragraph 6 of the 2001 Consent Decree provides for the transfer of ownership and/or operation of refineries that are subject to the Consent Decree, including the Carson Refinery; and

WHEREAS, Paragraph 85 of the Consent Decree requires that this Amendment be approved by the Court before it is effective;

NOW THEREFORE, the United States, BP and Tesoro hereby agree that, upon approval of this Amendment by the Court, the 2001 Consent Decree shall be amended as follows:

1. Effective as of June 1, 2013, the date of sale of the Carson Refinery from BP Products to Tesoro, Tesoro hereby assumes, and BP is hereby released from, all obligations and liabilities imposed by the 2001 Consent Decree, as amended, on the Carson Refinery, and the terms and conditions of the 2001 Consent Decree, as amended, as they relate to the Carson Refinery shall thereafter exclusively apply to, be binding upon, and be enforceable against Tesoro to the same extent as if Tesoro were specifically identified and/or named in those provisions of the 2001 Consent Decree applicable to the Carson Refinery. BP Products shall retain liability for any violations of the Consent Decree that arose or occurred at the Carson Refinery on or before May 31, 2013

2. Tesoro shall not be responsible for any portion of any civil penalty provided for in the 2001 Consent Decree, which civil penalty the United States acknowledges to have been paid in full.

3. Subparagraphs 15.B.i. and ii. of the 2001 Consent Decree, as amended, is further modified to read as follows:

B.i. BP shall select the heaters and boilers that shall be controlled at the Carson, Cherry Point, Texas City, and Toledo Refineries. The combined heat input capacity of the heaters and boilers selected by BP for future control, together with the heaters and boilers on which controls identified in Paragraph 15.E. have already been installed, must represent a minimum of 18,064.5 MMBtu of the four refineries' heaters and boilers greater than 40 MMBtu/hr. Further, not less than 30% of the heater and boiler heat input capacity for heaters and boilers greater than 40 MMBtu/hr at any individual refinery must be controlled in accordance with Paragraph 15.E. For purposes of this Paragraph, the phrase "heaters and boilers" shall include the turbines associated with sources PRS4-410 and PRS4-420 at the Texas City Refinery.

For purposes of this subparagraph, 10,055.9 MMBtu in combined heater and boiler firing capacity shall be allocated to Blanchard, 4260.5 MMBtu in combined heater and boiler firing capacity shall be allocated to the Carson Refinery and 3,748.1 MMBtu shall be allocated to the Cherry Point and Toledo Refineries.

.ii. No later than January 18, 2005, BP shall complete installation of controls on heaters and boilers at the Carson, Cherry Point, Texas City, and Toledo Refineries having a combined firing capacity of 12,709.5 MMBtu/hr heat input capacity. No later than January 18, 2005, BP shall propose a schedule for installation of the controls on the remaining heaters and boilers required to be controlled under Paragraph 15.B.i.

For purposes of this subparagraph, 9,008.3 MMBtu in combined heater and boiler firing capacity shall be allocated to Blanchard and 3701.2 MMBtu shall be allocated to the

Carson Refinery. There are no allocations under this Subparagraph to the Cherry Point and Toledo Refineries.

4. Subparagraph F.i. of Paragraph 15 of the 2001 Consent Decree, as amended, are further modified to read as follows:

F.i. Following installation of all controls required by Paragraph 15.B.i., BP shall demonstrate that the allowable emissions from the controlled heaters and boilers at the Cherry Point and Toledo Refineries satisfy the following inequality:

$$\sum_{i=1}^n (E_{\text{Final}})_i \leq \sum_{i=1}^n (E_{\text{Baseline}})_i - 881.7$$

Where:

$(E_{\text{Final}})_i$ = Permit allowable pounds of NO_x per million Btu for heater or boiler *i* times the lower of permitted or maximum rated capacity in million Btu per hour for heater or boiler *i*;

and

$(E_{\text{Baseline}})_i$ = The ton per year actual emissions shown in Appendix A for controlled heater or boiler *i*.

5. Subparagraph F.v. of Paragraph 15 of the Consent Decree is hereby added to read as follows:

v. Tesoro shall not be required to make a demonstration of the allowable emissions from the controlled heaters and boilers at the Carson Refinery because 0 tons per year of combined boiler and heater NO_x emissions have been allocated to the Carson Refinery.

6. Paragraph 82 of the Consent Decree is hereby amended to include the following information as to Tesoro:

Douglas Price

Director, Refining Environmental
19100 Ridgewood Parkway
San Antonio, Texas 78259

and

Office of the General Counsel
19100 Ridgewood Parkway
San Antonio, Texas 78259

7. The undersigned representatives are fully authorized to enter into the terms and conditions of this Tenth Amendment. This Tenth Amendment may be executed in several counterparts, each of which will be considered an original.

ORDER

Before the taking of any testimony, without adjudication of any issue of fact or law, and upon the consent and agreement of the Parties, it is:

ORDERED, ADJUDGED and DECREED that the foregoing Tenth Amendment to the Consent Decree is hereby approved and entered as a final order of this Court.

Dated and entered this ____ day of _____, 2014.

Rudy Lozano
United States District Judge

WE HEREBY CONSENT to the foregoing Tenth Amendment to the Consent Decree entered in *United States, et al., v. BP Exploration and Oil Co., et al.*, Civil No. 2:96 CV 095 ILL on August 29, 2001.

FOR PLAINTIFF THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

DATE

/s/ Susan Shinkman
SUSAN SHINKMAN
Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
Washington, D.C. 20460

DATE

/s/ John Fogarty
JOHN FOGARTY
Associate Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
Washington, D.C. 20460

WE HEREBY CONSENT to the foregoing Tenth Amendment to the Consent Decree entered in *United States, et al., v. BP Exploration and Oil Co., et al.*, Civil No. 2:96 CV 095 ILL on August 29, 2001.

FOR DEFENDANT BP PRODUCTS NORTH AMERICA INC.:

DATE

/s/ Robert Genovese
ROBERT GENOVESE
Vice President
BP Products North America, Inc.
150 W. Warrenville Road
Naperville, IL 60563

DATE

/s/ Jessica L. Gonzalez
JESSICA L. GONZALEZ
Senior Counsel
BP Products North America, Inc.
150 W. Warrenville Road
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ATTORNEY FOR BP PRODUCTS NORTH AMERICA
INC.

WE HEREBY CONSENT to the foregoing Tenth Amendment to the Consent Decree entered in *United States, et al., v. BP Exploration and Oil Co., et al.*, Civil No. 2:96 CV 095 ILL on August 29, 2001.

FOR DEFENDANT TESORO REFINING & MARKETING COMPANY LLC:

DATE

/s/ Brian S. Coffman
BRIAN S. COFFMAN
Senior Vice President, Refining
19100 Ridgewood Parkway
San Antonio, Texas 78259

DATE

/s/ Deborah Perfetti Felt
DEBORAH PERFETTI FELT
Authorized Signatory-Legal
Tesoro Refining & Marketing Company LLC
2350 E. 223rd Street 416D
Carson, CA 90810