

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

|   |   |                           |
|---|---|---------------------------|
| UNITED STATES OF AMERICA                  | ) |                           |
|   | ) |                           |
| Plaintiff,                                | ) |                           |
|   | ) |                           |
| and                                       | ) |                           |
|   | ) | Civil No. 2:96 CV 095 RL  |
| THE STATE OF INDIANA, STATE OF OHIO       | ) |                           |
| and THE NORTHWEST AIR POLLUTION           | ) | Judge Rudy Lozano         |
| AUTHORITY, WASHINGTON                     | ) |                           |
|   | ) | Magistrate Judge Rodovich |
|   | ) |                           |
| Plaintiff-Intervenors,                    | ) |                           |
|   | ) |                           |
| v.  | ) |                           |
|   | ) |                           |
| BP EXPLORATION & OIL CO., et al.,         | ) |                           |
|   | ) |                           |
| Defendants.                               | ) |                           |
| <hr style="width: 40%; margin-left: 0;"/> | ) |                           |

**EIGHTH 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 “Consent Decree”); and

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 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; and

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

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 Consent Decree as they relate to that hydrogen plant pursuant to the Third Amendment of the Consent Decree, which was approved and entered as a final order of the Court on October 25, 2004; and

WHEREAS, a Fourth Amendment to the Consent Decree was entered by the Court on June 20, 2005, establishing, *inter alia*, final SO<sub>2</sub> and NO<sub>x</sub> emissions limits for a number of FCCUs owned and operated by BP; and

WHEREAS, a Fifth Amendment to the Consent Decree was entered by the Court on February 22, 2009, requiring, *inter alia*, Tesoro to install certain NO<sub>x</sub> controls on the Mandan FCCU/CO Furnace; and

WHEREAS, a Sixth Amendment to the Consent Decree was entered by the Court on September 18, 2001 to resolve alleged violations of the Consent Decree and Clean Air Act by BP at the Texas City Refinery; and

WHEREAS, a Seventh Amendment to the Consent Decree was lodged with the Court on May 23, 2012 to resolve alleged violations of the Consent Decree and Clean Air Act by BP at the Whiting Refinery; and

WHEREAS, Giant has sold the Yorktown Refinery, previously acquired by Giant from BP, which was the subject of the Second Amendment to the Consent Decree, to Plains Marketing, L.P. (herein after “Plains”) on December 29, 2011; and

WHEREAS, Plains has contractually agreed to assume the obligations of, and to be bound by the terms and conditions of, the Consent Decree, including the Second Amendment to the Consent Decree, as such obligations, terms and conditions relate to the Yorktown Refinery; and

WHEREAS, the Eighth Amendment to Consent Decree only applies to and affects requirements of the Consent Decree that pertain to the Yorktown Refinery; and

WHEREAS, the Eighth Amendment to the Consent Decree does not affect the interest of any of the parties to the Consent Decree other than the United States, Giant, and Plains; and

WHEREAS, the United States, Giant and Plains desire to amend the Consent Decree, including the Second Amendment to the Consent Decree, to transfer to Plains the obligations, liabilities, rights and releases of the Consent Decree, including the Second Amendment to the Consent Decree as it pertains to the Yorktown Refinery and to release Giant from its obligations and liabilities under the Consent Decree, including the Second Amendment to the Consent Decree; and

WHEREAS, each of the undersigned has reviewed and hereby consents to this Eighth Amendment; and

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

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

1. As of December 29, 2011, the date of sale of the Yorktown Refinery from Giant to Plains, Plains assumes, and Giant is hereby released from, all obligations and liabilities imposed by the Consent Decree, including the Second Amendment to the Consent Decree, on the Yorktown Refinery and the terms and conditions of the Consent Decree as they relate to the Yorktown Refinery shall from December 29, 2011 forward exclusively apply to, be binding upon, and be enforceable against Plains to the same extent as if Plains were specifically identified and/or named in those provisions of the Consent Decree, except as provided in Paragraph 2 of this Amendment.
2. Plains shall not be responsible for any portion of the civil penalty provided for in Section IX of the Consent Decree, which civil penalty the United States hereby acknowledges has been paid in full.
3. Paragraph 4 of the Second Amendment to the Consent Decree is hereby stricken and Paragraph 82 of the Consent Decree is hereby amended to include the following information:

**As to Plains:**

Richard S. Anderson  
Director-Air Quality Compliance  
333 Clay St., Suite 1600, Houston, TX 77002  
Direct: (713) 646-4286; Fax: (713) 646-4310

The undersigned representatives are fully authorized to enter into the terms and conditions of this Eighth Amendment. This Eighth 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 Eighth Amendment to the Consent Decree is hereby approved and entered as a final order of this Court.

Dated and entered this \_\_\_\_ day of \_\_\_\_\_, 2012

\_\_\_\_\_  
United States District Judge

WE HEREBY CONSENT to the foregoing Eighth 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 RL on August 29,2001.

FOR PLAINTIFF THE UNITED STATES OF AMERICA

Date: 7/19/12

/s/ Ignacia Moreno  
IGNACIA MORENO  
Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice

/s/ Robert Brook  
ROBERT BROOK  
Assistant Section Chief  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611  
(202) 514-4046

WE HEREBY CONSENT to the foregoing Eighth 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 RL on August 29, 2001.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Date: 6/28/12

/s/ Pamela J. Mazakas  
PAMELA J. MAZAKAS  
Acting Director, Office of Civil Enforcement  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

/s/ John Fogarty  
JOHN FOGARTY  
Associate Director, Office of Civil Enforcement  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

WE HEREBY CONSENT to the foregoing Eighth 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 RL on August 29, 2001.

FOR DEFENDANT WESTERN REFINING YORKTOWN, INC. f/k/a  
GIANT YORKTOWN, INC.

Date: 6/12/12

/s/ Mark J. Smith  
MARK J. SMITH  
Executive Vice President  
Western Refining Yorktown, Inc.  
1250 West Washington Street  
Suite 101  
Tempe, AZ 85281  
(915) 534-1414

WE HEREBY CONSENT to the foregoing Eighth 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 RL on August 29, 2001.

FOR PLAINS MARKETING, L.P.  
By: Plains Marketing GP Inc.  
Its General Partner

Date: 6/14/12

By: /s/ Troy E. Valenzuela  
Name: Troy E. Valenzuela  
Title: Vice President – Environmental,  
Health & Safety