

United States Courts
Southern District of Texas
FILED

MAR 12 2009

Michael N. Milby, Clerk of Court

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,)	
)	
v.)	Criminal No. 4:07-cr-434
)	
BP PRODUCTS NORTH AMERICA INC.)	Honorable Gray Miller
)	
Defendant.)	

PLEA AGREEMENT

The United States of America, by and through Donald J. DeGabrielle, United States Attorney for the Southern District of Texas, Abe Martinez and Mark McIntyre, Assistant United States Attorneys, Ronald J. Tenpas, Acting Assistant Attorney General, and Daniel W. Doohar and David B. Joyce, Trial Attorneys, Environmental Crimes Section (“the Government”), and the Defendant, BP Products North America Inc. (“BP Products” or “the Defendant”), and the Defendant’s counsel, pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, state that they have entered into a Plea Agreement (“Agreement”), the terms and conditions of which are as follows:

TERMS OF THE AGREEMENT

1. The Defendant agrees to give up the right to be indicted by a grand jury and agrees to plead guilty to Count One of the Criminal Information (hereinafter “Information”) in this case and to persist with that plea.

a The Defendant agrees that this Agreement will be executed by an authorized representative. The Defendant further agrees that a Resolution duly adopted by the Board of

Directors of BP Products, in the form attached to this Agreement as Exhibit 1, or in substantially similar form, authorizes the signature on this Agreement by BP Products' representative.

b. The Defendant further agrees to pay the United States a fine in the amount of fifty million dollars (\$50,000,000) within three (3) days of sentencing. The Defendant agrees to pay immediately upon sentencing a special assessment fee of four hundred dollars (\$400).

c. The Defendant agrees to serve a term of probation of three (3) years. The Defendant understands and agrees that during the term of probation, the Defendant will be required to comply fully with the Settlement Agreement executed between the Defendant and the United States Occupational Health and Safety Administration ("OSHA"). The Settlement Agreement is attached hereto as Exhibit 2. The Defendant understands and agrees that during the term of probation, the Defendant also will be required to comply fully with the Agreed Order executed between the Defendant and the Texas Commission on Environmental Quality ("TCEQ"). The Agreed Order is attached hereto as Exhibit 3. In the event the Defendant is unable to complete its obligation under the TCEQ order within the three year term of probation, the Defendant shall inform the United States sixty (60) days before the end of the three year term of probation and the Defendant and the United States shall jointly move the Court for extension of the term of probation for a period mutually agreed upon and shall ask the Court to set compliance with and completion of the TCEQ order as the only terms of the extended probation period.

2. Count One of the Information charges Defendant BP Products with one knowing violation of Section 112(r)(7) of the Clean Air Act, in violation of Title 42, United States Code, Section 7413(c)(1); 40 C.F.R. Part 68, Sections 73(b), 87(b)(2).

3. The Defendant agrees to provide cooperation to the Government in its ongoing investigation of possible criminal violations related to the explosion that occurred at the blowdown

stack at the Texas City refinery. Specific conditions of that cooperation include the following:

- a. The Defendant will take all reasonable steps to make its employees available to the United States to participate in judicial proceedings, and the Defendant will make all reasonable efforts to ensure that its officers and employees cooperate with the investigation and truthfully disclose all information about their activities and those of others relating to the subject matter. The Defendant will advise its employees that: (a) they are encouraged to cooperate; cooperation can include providing information to the Government, being interviewed by Government agents or attorneys, and testifying in official proceedings; (b) the Defendant will grant liberal leave if necessary to facilitate their cooperation with the Government; and (c) no employees will be fired, demoted, reassigned or otherwise suffer a reduction in pay or other benefits because of their cooperation with the United States with respect to the alleged criminal violations under investigation. No waiver of attorney-client or attorney work-product privileges is intended by this paragraph.
- b. The Defendant will make all documents, records and other technical information available to Government investigators which have been subpoenaed to date in this matter that relate to the explosion on March 23, 2005, regarding emissions from the F-20 blowdown stack and emissions from components leading to the F-20 blowdown stack. The Government agrees that it is not seeking documents prepared by or with counsel pursuant to BP Products' internal investigation concerning the criminal investigation for the explosion that occurred on March 23, 2005, at the BP Products Texas City refinery. No waiver of attorney-client or attorney work-product privileges is intended by this paragraph.
- c. During the period of probation, at all reasonable times and with reasonable prior notice by the Government as practicable, the Defendant shall provide to Government agents full access to BP Products Texas City refinery employees to the extent such access does not violate their constitutional rights against self incrimination or preclude their right to counsel, including access to, production and authentication of all records described in subparagraphs a. and b. herein.

4. The Defendant agrees to provide the United States Attorney's Office for the Southern District of Texas and the United States Probation Office with immediate notice of any name change, business reorganization, sale or purchase of assets, divestiture of assets or similar action affecting the Defendant's performance of this Agreement. The Defendant shall not through a

change of name, business reorganization, sale of purchase of assets, divestiture of assets, or similar action, seek to avoid the obligations and conditions set forth in this Agreement.

5. Other than the offenses to which the Defendant agrees to plead guilty pursuant to this Agreement, the United States agrees not to charge the Defendant, or any other affiliated or related corporate entity, with any additional offenses known to the Government at the time of this Agreement that are based upon evidence in the Government's possession at this time and that arose out of the conduct giving rise to the criminal investigation of the March 23, 2005, explosion that occurred at the BP Products Texas City refinery. The Defendant understands that this provision does not bar prosecution by any other federal, state, or local jurisdiction. The Defendant also understands that this Agreement does not provide or promise any waiver of any civil or administrative actions, sanctions, or penalties that may apply, including but not limited to: fines, penalties, suspension, debarment, listing, licensing, injunctive relief or remedial action to comply with any applicable regulatory requirement.

MAXIMUM PENALTY

6. The maximum penalty for a violation of Title 42, United States Code, Section 7413(c)(1) includes a period of probation of five years, the greater of a fine of \$500,000 or up to twice the gross gain or loss resulting from the offense, and a \$400 mandatory Special Assessment per count of conviction. Title 18, United States Code, Sections 3551(c), 3561, 3571(d), and 3013(a)(2)(B).

WAIVERS

7. The Defendant is aware that Title 18, United States Code, Section 3742 affords a defendant the right to appeal the sentence imposed. Knowing that, the Defendant waives the right to appeal the plea, conviction and sentence (or the manner in which it was determined) on the grounds set forth in Title 18, United States Code, Section 3742. This Agreement does not affect the rights or

obligations of the United States as set forth in Title 18, United States Code, Section 3742(b).

8. The Defendant is also aware that the United States Constitution and the laws of the United States include the right to contest or collaterally attack its conviction or sentence after its conviction has become final. Knowing that, the Defendant knowingly waives the right to contest or collaterally attack the Defendant's plea, conviction and sentence by means of any post-conviction proceeding.

9. The Defendant waives all defenses based on venue, speedy trial under the Constitution and Speedy Trial Act, and the statute of limitations, in the event that:

- a. The Defendant's conviction is later vacated for any reason;
- b. The Defendant violates any provision of this Agreement; or
- c. The Defendant's plea is later withdrawn.

Further the Defendant waives any and all constitutional and non-jurisdictional defects.

RIGHTS AT TRIAL

10. The Defendant represents to the Court that the Defendant is satisfied that the Defendant's attorney has rendered effective assistance. The Defendant understands that by entering into this Agreement, the Defendant surrenders certain rights as provided in this Agreement. The Defendant understands that the rights of the Defendant include the following:

- a. If the Defendant persisted in a plea of not guilty to the charges, the Defendant would have the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if the Defendant, the United States and the court all agreed.
- b. At a trial, the United States would be required to present its witnesses and other evidence against the Defendant. The Defendant would be able to confront those

witnesses and its attorney would be able to cross-examine them. In turn, the Defendant could, but would not be required to, present witnesses and other evidence on its own behalf. If the witnesses for the Defendant would not appear voluntarily, it could require their attendance through the subpoena power of the Court.

11. The Defendant understands that nothing in this Agreement will restrict access by the United States Probation Office or the Court to information and records in the possession of the United States or any of its investigative law enforcement agencies, including State and local law enforcement agencies, as well as information, documents and records obtained from the Defendant.

FACTUAL BASIS

12. The Defendant will plead guilty because the Defendant is in fact guilty of the charged offense. The Defendant admits the facts set forth in the Statement of Facts, attached hereto as Exhibit 4, and agrees that those facts establish guilt of the offense charged beyond a reasonable doubt. The Statement of Facts, which is hereby incorporated into this Agreement, constitutes a stipulation of facts for purposes of Section 1B1.2(a) of the Sentencing Guidelines.

BREACH OF THE PLEA AGREEMENT

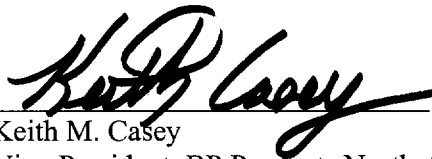
13. The Defendant understands and agrees that if it fails specifically to perform or to fulfill completely each and every one of its obligations under this Agreement, or commits any federal (including those laws and regulations for which primary enforcement has been delegated to state authorities) environmental or process safety crimes relating to its Texas City refinery operations (excluding Class C misdemeanors and infractions, as defined by 18 U.S.C. § 3559), it will have breached this Agreement. In the event of such a breach, (a) the United States will be free from its obligations under this Agreement; (b) the Defendant will not have the right to withdraw the guilty

plea; (c) the Defendant shall be subject fully to criminal prosecution for any other crimes which it has committed or might commit, if any, including perjury and obstruction of justice; and (d) the United States will be free to use against the Defendant, directly or indirectly, in any criminal or civil proceeding, all statements made by the Defendant's employees, except to the extent that any employee's individual rights might prohibit such use, and any of the information or materials provided by the Defendant, including such statements, information and materials provided pursuant to this Agreement or during the course of any debriefings conducted in anticipation of, or after entry of this Agreement, including the Defendant's statements made during proceedings before the Court pursuant to Federal Rule of Criminal Procedure 11. The determination of whether a violation fits within the category of criminal violations referenced above shall be within the discretion of the Government, and in making this determination, the Government will provide the Defendant an opportunity to present its position to the United States Department of Justice, Environmental Crimes Section, and/or the United States Attorney's Office. The Defendant understands and agrees that the Government shall only be required to prove a breach of this Agreement by a preponderance of the evidence. The Government's position on whether a subsequent violation is an appropriate basis for a probation violation does not bind the United States Probation Office or the Court. Nothing herein shall prohibit the United States from proceeding administratively, civilly, or criminally against the Defendant in any separate proceeding for any alleged environmental violation.

CONCLUSION

14. This written Agreement constitutes the complete Agreement between the United States, the Defendant, and the Defendant's counsel. No promises or representations have been made by the Government except as set forth in writing in this Agreement. The Defendant acknowledges that no threats have been made against the Defendant and that the Defendant is pleading guilty freely and voluntarily because the Defendant is guilty. Any modification of this Agreement shall be valid only as set forth in writing in a supplemental or revised Agreement signed by all parties.

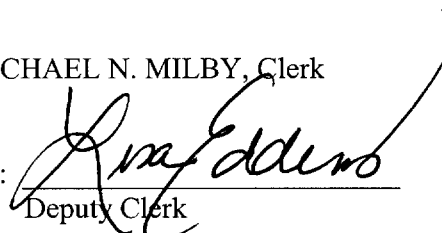
Executed on this the 24th day of October, 2007.



Keith M. Casey
Vice-President, BP Products North America Inc.
Business Unit Leader, Texas City Refinery
Corporate Representative for
Defendant BP Products North
America Inc.

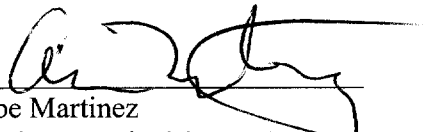
SUBSCRIBED AND SWORN TO BEFORE ME on this the 12th day of
March, 2009.

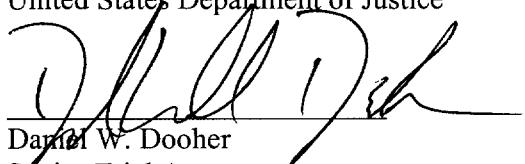
MICHAEL N. MILBY, Clerk


By: 
Deputy Clerk


DONALD J. DeGABRIELLE, Jr.
United States Attorney
Southern District of Texas

RONALD J. TENPAS
Acting Assistant Attorney General
Environment and Natural Resources
Division
United States Department of Justice

By: 
Abe Martinez
Assistant United States Attorney
Southern District of Texas

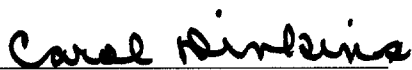
By: 
Daniel W. Dooher
Senior Trial Attorney
Environmental Crimes Section

By: 
Mark McIntyre
Assistant United States Attorney
Southern District of Texas

By: 
David B. Joyce
Trial Attorney
Environmental Crimes Section

I, Carol Dinkins, Esq., have explained to the Defendant BP Products North America Inc. its rights with respect to the pending Information. To my knowledge, the Defendant's decision to enter into this Agreement is an informed and voluntary one.

Date: October 24, 2007


Carol Dinkins, Esq.
Attorney for BP Products North
America Inc.

UNITED STATES OF AMERICA)
STATE OF ILLINOIS)
COUNTY OF DUPAGE)
CITY OF WARRENVILLE)

CERTIFICATE

D. A. Plumb, of lawful age, first being duly sworn on oath, deposes and says:

1. That she is a duly elected, qualified and acting Secretary of BP Products North America Inc., a company organized and existing under the laws of the State of Maryland, U.S.A. (hereinafter the "Company");

2. That the following is a true, correct and complete copy of resolutions adopted by the Board of Directors of the Company at a meeting duly called and convened on October 24, 2007:

WHEREAS, BP PRODUCTS NORTH AMERICA INC. ("BP PRODUCTS" or the "Company") has been engaged in discussions with the United States Department of Justice in connection with the causes and consequences of the March 2005 explosion at the Company's Texas City, Texas refinery; and

WHEREAS, in order to resolve such discussions, it is proposed that the Company enter into a plea agreement and statement of facts with the United States Department of Justice; and

WHEREAS counsel for the Company have advised the Board of Directors of the Company's rights, possible defenses, and the consequences of entering into such plea agreement and statement of facts with the United States Department of Justice;

Therefore, this Board hereby RESOLVES that:

1. The Company consents, approves and accepts entering into the Plea Agreement and Statement of Facts on behalf of the Company with the United States Department of Justice in the form and content materially similar to the form and content as presented to this Board;

2. Counsel for the Company, his delegate, or the President, any Vice President, or the Treasurer of the Company, are hereby each individually authorized, empowered and directed, on behalf of the Company, to execute the Plea Agreement and Statement of Facts substantially in such form as reviewed by this Board of Directors with such



changes as the General Counsel of the Company, or his delegate, may approve;

3. Counsel for the Company, or his delegate, the President or his delegate, and any Vice President are hereby each individually authorized, empowered and directed to take any and all actions as may be necessary or appropriate, and to approve the forms, terms or provisions of any agreement or other documents as may be necessary or appropriate to carry out and effectuate the purpose and intent of the foregoing resolutions; and

4. All of the actions of the counsel for the Company, which actions would have been authorized by the foregoing resolutions except that such actions were taken prior to the adoption of such resolutions, are hereby severally ratified, confirmed, approved and adopted as actions on behalf of the Company.

3. That the aforesaid resolutions have not been amended, rescinded, or annulled, but remain in full force and effect on the date hereof.

EXECUTED in the City of Warrenville and State of Illinois on this 24th day of October 2007.


D. A. Plumb, Secretary

Subscribed and sworn to before me
this 24th day of October 2007


Notary Public



**UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION**

In Re Inspection of:)
)
BP PRODUCTS NORTH AMERICA INC.,) Inspection Nos. 308314640,
and its Successors,) 308314988, 308314632, 308316942,
) 308316322, 308316314, 308314996,
) 308315019, 308316751
)

SETTLEMENT AGREEMENT

WHEREAS, the United States Department of Labor, Secretary of Labor, Occupational Safety and Health Administration ("OSHA") has issued citations in connection with Inspection Nos. 308314640 and 308314988 (the "citations"), and its investigation of an explosion and fire at the Refinery owned by BP Products North America Inc. ("BP Products") located at Texas City, Texas (the "Texas City Refinery" or "Refinery");

WHEREAS, OSHA has other ongoing investigations at the Texas City Refinery identified by the Inspection Nos. 308314632, 308316942, 308316322, 308316314, 308314996, 308315019, and 308316751 (the "other inspections");

WHEREAS, OSHA has presented its findings concerning the other inspections to BP Products; and

WHEREAS, OSHA and BP Products desire to resolve all issues involving the citations and matters connected with all of the identified inspections;

OSHA and BP Products hereby agree as follows with respect to the Texas City Refinery:

1. PSM Expert: BP Products agrees, as a condition of settlement, to perform the following with respect to the Texas City Refinery:



a. BP Products shall retain one or more firms with expertise in the field of process safety management, including pressure relief systems, safety instrumented systems, human factor analysis and performing process safety audits and PSM system audits ("PSM Expert") to conduct a comprehensive audit and analysis of the PSM Systems at BP Products' Refinery and assess the robustness of the PSM systems. BP Products shall nominate a firm or firms and shall provide credentials for the firm(s) and its principals to the OSHA office within sixty (60) days following the execution of this Settlement Agreement. If OSHA does not concur in the retention of a firm, BP Products shall continue the search until it nominates a firm which is accepted by OSHA. That firm(s) shall be retained by BP Products within thirty (30) days following OSHA's concurrence. For purposes of this Agreement, the retained firm or firms is referred to as the "PSM Expert."

b. The audit and analysis shall be comprehensive, conducted in accordance with best practices in the industry, and shall include, but is not limited to, the following matters:

- (1) The safe location of personnel in relation to hazardous processes;
- (2) The safe movement of vehicles into process areas;
- (3) The construction of fired and unfired pressure vessels, particularly the relief of overpressures to a safe location, in accordance with 29 CFR 1910.106(i)(3) and the referenced ASME codes;
- (4) The classification of hazardous locations as defined in 29

CFR 1910.399;

- (5) The notification of contractors and employees regarding potential hazards;
- (6) The inspection and maintenance of alarms providing personnel with notification of hazardous conditions that may be developing;
- (7) The standard operating procedures (particularly start up and emergency shut down procedures);
- (8) The adequacy of pressure relief for individual pieces of equipment;
- (9) The adequacy of safety instrumented systems;
- (10) Human factor analysis; and
- (11) Lock out/Tag out programs, procedures, and applications.

In conducting the audit and assessment, the PSM Expert shall seek input from BP Products' authorized employee representative.

c. The PSM Expert shall produce to BP Products, pursuant to the terms of this Agreement, his first audit report within six (6) months from the date of retention by BP Products. Thereafter, the PSM Expert shall provide two semi-annual progress reports and one final report (collectively, the "Safety Reports"). The final report shall be submitted to BP Products two (2) years from the date BP Products retains the PSM Expert. Each Safety Report shall include the deficiencies found and recommendations for correction. These recommendations shall be prioritized to place those recommendations first that address the most imminent hazards posed to personnel.

Within ten days of BP Products' receipt of a Safety Report, BP Products will provide the Report to OSHA's Houston South Area Office and to BP Products' authorized employee representative for review and comment. Should any Safety Report contain confidential business information ("CBI"), BP Products will provide that portion of the Report only to OSHA; BP Products will also provide that portion of the Report to any authorized employee representative that has executed a confidentiality agreement with BP Products in which the employee representative agrees not to disclose any CBI in the Report to third parties. BP Products shall implement all feasible recommendations in the Safety Reports. BP Products shall prepare and provide a copy of a statement of action to be taken on the recommendations set forth in the Safety Report ("statement of action") to OSHA and the authorized employee representative within thirty days (30) of receipt of the Safety Report. If BP Products determines not to implement any recommendation(s) contained in the Safety Report, BP Products will state in detail in the statement of action the reason(s) why the recommendation will not be implemented and an indication of the action(s) to be taken to deal with the stated issue, including measures BP Products will employ to protect employees from the stated issue.

d. OSHA and the authorized employee representative shall have fifteen (15) business days to respond to BP Products' statement of action. In the event OSHA and BP Products disagree, they will confer to resolve such disagreement within a reasonable time after OSHA's comments are received. The responsibility to confer within a reasonable time does not waive BP Products' right to file a petition for modification under 29 CFR 1903.14a, nor does it waive BP Products' obligations to comply with the time periods and posting requirements provided in 29 CFR 1903.14a.

2. Organizational Expert: BP Products agrees to retain an expert who is qualified by education, experience and training in organizational communication, organizational behavior, or organizational analysis ("Organizational Expert"). The names and credentials of firms and their principals having this expertise that are under consideration shall be provided to the OSHA office within sixty (60) days following the execution of this Settlement Agreement. If OSHA does not concur in the retention of a firm, BP Products shall continue the search until it locates a firm with whose retention OSHA concurs. That firm shall be retained by BP Products within thirty (30) days following OSHA's concurrence.

a. The Organizational Expert's focus and recommendations should address, at a minimum, the following concepts and desired results:

1. Concepts:

Management Commitment/Employee Involvement:

Management commitment and employee involvement are complementary. Management commitment provides the motivating force and the resources for organizing and controlling activities within an organization. In any effective safety and health program, management regards workers' safety and health as a fundamental core value of the organization and applies its commitment to safety and health protection with as much vigor as to other organizational purposes. Employee involvement provides the means through which workers develop and/or express their own commitment to safety and health protection, for themselves and for their fellow workers.

2. Results:

(a). State clearly a worksite policy on safe and healthful work and working conditions so that all personnel with responsibility at the site and personnel at other locations with responsibility for the site understand the priority of safety and health protection in relation to other organizational values.

(b). Provide visible top management involvement in developing and implementing the program, so that all will understand that management is committed to establishing safety and health as a core value of all company operations.

(c). Strive to develop a process with represented organized labor, such as the Triangle of Prevention System ("TOPS Program") or the Safety Training Operations Maintenance Process Program ("STOMP Program"), to encourage employee involvement in the structure and operation of the program and in decisions that affect their safety and health.

(d). Provide adequate authority and resources to responsible parties, so that assigned responsibilities can be met.

(e). Hold managers, supervisors, and employees directly accountable for meeting their safety and health responsibilities, so that essential tasks will be performed.

b. The Organizational Expert will provide a written interim and final assessment of the communication within BP Products' Refinery with respect to safety and safety commitment (collectively the "Organizational Reports"). The Organizational Reports shall be submitted to BP Products at six months and at one (1) year from the date this Settlement Agreement is executed if the Organizational Expert has been previously retained by BP Products or, if that is not the case, from the date BP Products retains the Organizational Expert. The Organizational Reports will include communication within and between the following groups: management employees, supervisors, authorized employee representatives and non-management employees, and will assess the impact of the communication on the implementation of safety practices and procedures. Within ten days of BP Products' receipt of an Organizational Report, it shall provide that Report to OSHA's Houston South Area Office and to BP Products' authorized employee representative for their review and comment. Should any Organizational Report contain

CBI, BP Products will provide that portion of the Report only to OSHA; BP Products will also provide that portion of the Report to any authorized employee representative that has executed a confidentiality agreement with BP Products in which the employee representative agrees not to disclose any CBI in the Report to third parties.

c. BP Products will implement all feasible recommendations in the Organizational Reports. BP Products shall prepare and provide a copy of a statement of action to be taken on the recommendations set forth in the Organizational Report ("statement of action"). In the event BP Products determines not to implement any recommendation(s) contained in the Organizational Report, BP Products will detail in the statement of action the reason(s) why the recommendation is not to be implemented and an indication of the action(s) to be taken to deal with the stated issue. BP Products agrees to provide a copy of the statement of action to the company's authorized representative at the same time OSHA is provided such statements. OSHA shall have fifteen (15) business days to respond to BP Products' statement of action. In the event OSHA and BP Products disagree over any actions being or not being taken as a result of the recommendations, they will confer to resolve such disagreement within a reasonable time after OSHA's comments are received. The responsibility to confer within a reasonable time does not waive BP Products' right to file a petition for modification under 29 CFR 1903.14a, nor does it waive BP Products' obligations to comply with the time periods and posting requirements provided in 29 CFR 1903.14a.

3. Safety and Health Training: BP Products shall ensure that all employees (management and labor) and contractors (to the extent training and communication is required for contractors by 29 CFR 1910.119) understand the hazards to which they may

be exposed and how to prevent harm to themselves and others from exposure to these hazards, so that employees accept and follow established safety and health protections, including safe operating procedures.

a. So that supervisors will carry out their safety and health responsibilities effectively, ensure that they understand those responsibilities and the reasons for them.

b. Supervisors shall reinforce the employee training on the nature of potential hazards in their work and on needed protective measures through continual performance feedback and, if necessary, through enforcement of safe work practices.

4. Occupational Injuries and Illnesses Logs: Every six (6) months, beginning six (6) months after the execution of this Agreement, for a total period of three (3) years, BP Products agrees to submit to OSHA, and to BP Products' authorized employee representative, its Logs of Occupational Injuries and Illnesses ("OSHA 300 Logs") and all incident reports related to PSM issues that are required by 29 CFR. 1910.119(m), including near misses. Copies of reports provided pursuant to this paragraph (and any questions regarding such notices) shall be directed to: Occupational Safety and Health Administration, c/o Charles Williams, Area Director, Houston South Area Office, 17625 El Camino Real, Suite 400, Houston, Texas 77058. In addition, BP Products shall notify OSHA's Houston South Area Office of any accident or injury involving PSM and/or Lock out/Tag out related issues at BP Products' Refinery that results in an employee losing work-time of one or more days during the three (3) year period following the date this Settlement Agreement is executed. Further, BP Products agrees to permit OSHA access to the workplace at BP's Products' Refinery to inspect and investigate any such

accident or injury.

5. Enforcement of Agreement: BP Products agrees that the citations incorporate the abatement measures set forth in Paragraphs numbered 1 through 4 (including subparagraphs) of this Settlement Agreement and that these measures are required abatement of the cited conditions. BP Products waives its right to contest the Texas City Refinery citations and consents to the entry of a Final Order by the Occupational Safety and Health Review Commission that incorporates the terms of this Settlement Agreement, the citations, penalties, and abatement dates. The failure to perform any measure required in this Agreement may be cited as a failure to abate under Section 10(b) of the Occupational Safety and Health Act (the "Act"), 29 U.S.C. § 659(b). BP Products agrees that this Settlement Agreement and its terms, including the abatement measures set forth in Paragraphs 1 through 4 (including subparagraphs), shall be enforceable under Section 11(b) of the Act, 29 U.S.C. § 660(b). BP Products agrees that it will not oppose the filing of a petition for summary enforcement of this Agreement and citations under Section 11(b) of the Act, 29 U.S.C. § 660(b). Nor will BP Products oppose the entry of an order of enforcement in such a proceeding by the United States Court of Appeals. Nothing in this agreement limits BP Products' defenses and arguments in an action for contempt or failure to abate (other than the argument that the provisions of this Agreement are not required abatement).

6. Abatement: BP Products represents that hazardous conditions are, or will be, abated as follows:

a. The citation items listed below are related to the Isomerization Unit ("ISOM unit") itself and have been abated by the shutdown of the ISOM unit. If BP

Products elects to restart the ISOM unit, BP Products will submit an abatement action plan addressing these items to OSHA at the Houston South Area Office at least ninety (90) days prior to restarting the ISOM unit. OSHA will then have thirty (30) days to review the plan and make requests or modifications to the plan by submitting them to the Texas City Refinery. BP Products will then have thirty (30) days to respond to OSHA's requests or modifications and to discuss with OSHA any disagreements concerning the requests or modifications. The responsibility to confer with OSHA does not waive BP Products' right to file a petition for modification under 29 CFR 1903.14a, nor does it waive BP Products' obligations to comply with the time periods and posting requirements provided in 29 CFR 1903.14a.

- **Inspection Number 308314640:**

- Citation 1, Items 1, 2a, 2b, 2c, 2d, 3, 4, 6, 7a, 7b, 8, 9, 10, 11, 12 and 13;
- Citation 2, Items 2, 3, 4, 5, 6, 7, 8;
- Citation 2, Items 10 through 39;
- Citation 2, Items 41 through 109;
- Citation 2, Item 110 and 116.

b. The citation items related to the blowdown stack in the ISOM unit, as listed below, are hereby abated by BP Products' representation that the ISOM unit blowdown stack system has been permanently removed from service, other than for use required to de-inventory the ISOM process unit as part of the ongoing investigation by governmental agencies. Deinventory will be done in a manner that avoids exposing employees to hazards.

- **Inspection Number 308314640:**
 - Citation 1, Item 5;
 - Citation 2, Items 1, 40 and 111 through 115.

c. BP Products represents that the citation items listed below have been abated as of the signing of this Agreement. Specifically, BP Products states that it has moved the contractor trailers and the electrical equipment connected to and added on to the contractor trailers, to a location a safe distance from any process units and other hazards of the work site.

- **Inspection Number 308314640:**
 - Citation 2, Items 117 through 134 and Items 147 through 301.

d. The items listed below will be deemed to be abated when BP Products notifies OSHA of the completion of the work of the Organizational Expert and the PSM Expert(s), as outlined previously in this Agreement. Each notice shall be submitted within thirty (30) days of the completion of the experts' work.

- **Inspection Number 308314640:**
 - Citation 2, Item 9;
 - Abatement specified in Paragraphs 1, 2, 3 and 4 of this Agreement.

e. BP Products agrees that it will notify OSHA how it intends to abate the items listed below in an abatement action plan to be submitted to OSHA, pursuant to 29 CFR 1903.19(e), within sixty (60) days of the execution of this Agreement. OSHA will then have thirty (30) days to review the plan and make requests or modifications to the plan by submitting them to the Texas City facility. BP will then

have thirty (30) days to respond to OSHA's requests or modifications and to discuss with OSHA any disagreements concerning the requests or modifications. The responsibility to confer with OSHA does not waive BP Products' right to file a petition for modification under 29 CFR 1903.14a, nor does it waive BP Products' obligations to comply with the time periods and posting requirements provided in 29 CFR 1903.14a.

- **Inspection Number 308314640:**
 - Citation 2, Items 135 through 146.
- **Inspection Number 308314988 (The Health Inspection):**
 - Citation 1, Items 1 through 9;
 - Citation 2, Items 1 through 2;
 - Citation 3, Items 1a, 1b and 2.

f. The items addressed in this section 6(f) relate to the other inspections at the Texas City Refinery listed below. To the extent such items are not addressed in this Agreement or have not already been abated, BP Products agrees that it will notify OSHA how it intends to abate the items listed below in an abatement action plan to be submitted to OSHA, pursuant to 29 CFR 1903.19(e), within sixty (60) days of the execution of this Agreement. OSHA will then have thirty (30) days to review the plan and make requests or modifications to the plan by submitting them to the Texas City Refinery. BP Products will then have thirty (30) days to respond to OSHA's requests or modifications and to discuss with OSHA any disagreements concerning the requests or modifications. The responsibility to confer with OSHA does not waive BP Products' right to file a petition for modification under 29 CFR 1903.14a, nor does it waive BP Products' obligations to comply with the time periods and posting requirements provided

in 29 CFR 1903.14a.

Under BP Products' siting procedures, BP Products has examined the location of all temporary and permanent occupied structures, in particular trailers and satellite control rooms, in the Texas City Refinery, and will re-examine these structures in compliance with the findings of the PSM Expert. Pursuant to its examination, BP Products has either evacuated or removed all trailers within 500 feet of blowdowns and flares, moved approximately 190 people from trailers to other buildings and has leased offsite space for further movement of personnel. Additionally, as to the Satellite Control Room ("Pump Room") in the Fluid Catalyst Cracking Unit No. 1, BP Products has relocated resident employees from that room to the Central Control Room. In the future, BP Products will construct a substitute Satellite Control Room that is properly placed pursuant to BP Products' policies and procedures on the siting of permanent facilities.

Further, as part of the audit by the PSM expert, BP Products will address a positive material identification program for its piping system and the use of safety integrity levels ("SILs") in its PHAs.

- **The other inspections:** OSHA Inspection Nos. 308314632, 308316942, 308316322, 308316314, 308314996, 308315019, and 308316751.

7. Abatement Verification: BP Products will comply with all applicable abatement verification provisions of 29 C.F.R. 1903.19, including but not limited to, all certification, documentation, and posting requirements. Abatement certification shall be accomplished within 45 calendar days after the abatement dates specified in the OSHA-approved abatement plan, by mailing a letter to Occupational Safety and Health Administration, c/o Charles Williams, Area Director, Occupational Safety and Health

Administration, Houston South Area Office, stating that abatement has been completed, the date and method of abatement, and that affected employees and their representatives have been informed, in writing, of the abatement. Any required abatement documentation shall be submitted along with the abatement certification.

8. Abatement Monitoring: BP Products shall permit OSHA, including its experts, to have access to the workplace at BP Products' Refinery subsequent to the dates fixed for abatement for the specific and limited purpose of determining if the conditions described in the citations and this Agreement have been corrected. BP Products also agrees to allow OSHA (including its experts) access to the Texas City Refinery to determine progress and compliance with this Agreement. Any experts retained by OSHA to assist in the monitoring effort shall execute a confidentiality agreement which prohibits such experts from disclosing to third parties any information related to the operation of the Texas City Refinery learned in connection with the monitoring. OSHA shall provide such confidentiality agreement(s) to BP Products prior to any such expert's entry onto the Texas City Refinery. Nothing in this Agreement shall be construed as limiting OSHA's authority to conduct any type of inspection authorized by the Act.

9. Settlement Payment: BP Products shall pay the total penalty of \$21,361,500.00 within forty five (45) days after the date this Settlement Agreement is executed. BP Products shall tender payment to: U.S. Department of Labor, Occupational Safety and Health Administration, c/o Charles Williams, Area Director, Houston South Area Office, 17625 El Camino Real, Suite 400, Houston, Texas 77058. The check shall be made payable to "U. S. Department of Labor - OSHA."

10. Compliance with OSH Act: BP Products shall comply with the

Occupational Safety and Health Act.

11. Authorized Employee Representative(s): BP Products certifies that the names and addresses of all authorized employee representatives of affected employees are: Joe Bilancich, Chairman, United Steelworkers of America, 2327 Texas Avenue, Texas City, Texas 77590-8341. 12. No Other Authorized Employee Representative(s):

BP Products further certifies that there are no other unions representing affected employees except those set forth above.

13. Service on Authorized Employee Representative(s): OSHA certifies that service of the fully executed Settlement Agreement was made on the authorized employee representative(s) on the 22 day of September, 2005.

14. Non-Admissions: Neither this Settlement Agreement nor BP Products' consent to entry of a final order by the Commission pursuant to this Agreement constitutes any admission by BP Products, its parents, subsidiaries, affiliates, representatives, agents, officers, directors, or employees (the "BP Products Parties") of violation of the Occupational Safety and Health Act ("OSH Act") or regulations or standards promulgated there under. Neither this Settlement Agreement nor the Texas City Refinery citations, related reports or any order entered pursuant to this Agreement (collectively, the "Enforcement Documents") is intended to be offered, used or admitted in evidence against any BP Products Parties in any proceeding or litigation, except for proceedings and matters brought by the United States Government. This does not preclude any BP Products Party from arguing the admissibility or non-admissibility of the Enforcement Documents under applicable rules of evidence in any subsequent proceedings, other than in proceedings brought by the Secretary of Labor to enforce this

Agreement. BP Products is entering into this Agreement without any prejudice to the BP Products Parties' rights to raise any defense or argument in any future or pending cases, proceeding, or litigation. The BP Products Parties retain the right to assert in any subsequent action or proceeding that any future existing conditions identical or similar to those alleged in the Texas City Refinery citations do not violate the Occupational Safety and Health Act or any standard promulgated there under. By BP Products' entry into this Agreement, the BP Products Parties do not admit, and in fact specifically deny, the truth of any alleged facts, any of the characterizations of BP Products Parties' alleged conduct or any of the conclusions set forth in the Texas City Refinery citations or amended citations issued in this matter. The parties acknowledge that the agreements, statements, stipulations, and actions herein are made solely for the purpose of settling this matter economically and without litigation or further expense.

15. Compliance with this Agreement: The parties agree that OSHA reserves the right to take appropriate action in the event it deems BP Products has not appropriately complied with this Agreement in good faith.

16. Resolution of Other OSHA Inspections: Since the abatement contained in this Agreement is extensive and Refinery-wide, this Agreement resolves all pending issues in OSHA Inspection Nos. 308314640, 308314988, 308314632, 308316942, 308316322, 308316314, 308314996, 308315019 and 308316751.

17. Costs: Each party agrees to pay its own attorney's fees, costs, and other expenses incurred by such party in connection with any stage of the above-referenced proceeding including, but not limited to, attorney's fees which may be available under the Equal Access to Justice Act, as amended.

18. Expiration: This Agreement shall expire four years from the date of execution of this Agreement or 45 days after BP Products certifies that it has completed the abatement actions required by Paragraphs 1-6 and 7, whichever is earlier.

19. Notice or Communication to Texas City Refinery: When notice or communication to the Texas City Refinery is required herein, such notification will be accomplished by notifying all of the following:

Pat Gower
Refining Vice-President, U.S. Region
BP Products North America Inc.
Naperville Complex
150 West Warrenville Road
Mail Station 605-1E
Naperville, IL 60563

James Pickett
BP Legal Department
BP America Inc.
Mail Code 4 West
4101 Winfield Road
Warrenville, IL 60555

Paul Kaufman
HSSE Compliance Manager, Texas City Refinery
BP Products North America Inc.
2401 5th Avenue South
P. O. Box 401
Mail Code NOB-4A
Texas City, TX 77590-0401

Should there be a change in the person(s) occupying the above positions during the term of this Agreement, BP Products will provide OSHA with the name of the new person.

20. Force Majeure: No BP Products Party shall be sanctioned or otherwise held liable for any failure to perform the obligations in connection with any actions described in this Agreement, if such failure results from any act of God, riot, war, civil unrest, terrorism, hurricane, flood, earthquake or other cause beyond BP Products Party's

control. Nothing in this Agreement shall be construed as any type of limitation of OSHA's authority or ability to conduct any type of inspection authorized by the Act.

21. Construction: The headings in this Agreement are for convenience and are not intended to affect construction or interpretation. The plural includes the singular and the singular includes the plural; "and" and "or" are each used both conjunctively and disjunctively; "any" and "all" each mean "any and all"; "each" and "every" each mean "each and every"; and "including" and "includes" are each "without limitation."

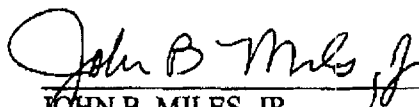
Respectfully submitted,

BP PRODUCTS NORTH AMERICA INC.

UNITED STATES DEPARTMENT OF
LABOR, OCCUPATIONAL SAFETY AND
HEALTH ADMINISTRATION

BY:

BY:



PATRICK E. GOWER
Refining Vice-President, U. S. Region

JOHN B. MILES, JR.
OSHA Regional Administrator, Region VI

Signed this 22nd day of
September, 2005.

Signed this 22 day of
September, 2005.

BP Products North America, Inc.
Naperville Complex
150 West Warrenville Road
Mail Station 605-1E
Naperville, Illinois 60563

U. S. Department of Labor
Occupational Safety & Health Administration
Region VI Office
525 S. Griffin Street, Suite 602
Dallas, Texas 75202

Authorized Representative of Respondent.

Representative for OSHA.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS
COUNTY OF TRAVIS
I, LaDorna Costenuela, am a true and correct copy of a
Texas Commission on Environmental Quality document,
which is filed in the permanent records of the Commission,
Given under my hand and the seal of office on
JUN 12 2006
LaDorna Costenuela, Chief Clerk
Texas Commission on Environmental Quality

IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BP PRODUCTS NORTH AMERICA
INC.
RN102535077

§ BEFORE THE
§
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2005-0224-AIR-E

At its MAY 31 2006 agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding BP Products North America, Inc. ("BP Products") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and BP Products presented this agreement to the Commission.

BP Products understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, BP Products agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon BP Products.

The Commission makes the following Findings of Fact and Conclusions of Law:

L. FINDINGS OF FACT

1. BP Products owns and operates a petroleum refinery located at 2401 Fifth Avenue South, Texas City, Galveston County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation on October 20, 2004, TCEQ staff documented that BP Products failed to comply with the following permitted emission limits for the Resid Hydrotreating Unit ("RHU") 400 Reactor Train (Emission Point Number ("EPN") 501, Incident 42479): Sulfur dioxide ("SO₂).



BP Products North America Inc.
DOCKET NO. 2005-0224-AIR-E

Page 2

emission limit of 0.20 pounds per hour ("lbs/hr"), nitrogen oxide ("NOx") emission limit of 0.80 lbs/hr and carbon monoxide ("CO") emission limit of 0.11 lbs/hr. Since these emissions could have been foreseen and avoided by good design, operation and maintenance, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11). Emission limits were exceeded as specified in the table below.

4. During an investigation on October 20, 2004, TCEQ staff documented that BP Products failed to comply with the following permitted emission limits for the RHU 200 Reactor Train (EPN 501, Incident 43416): SO₂ emission limit of 0.20 lbs/hr, NO_x emission limit of 0.80 lbs/hr and CO emission limit of 0.11 lbs/hr. Since these emissions could have been foreseen and avoided by good design, operation and maintenance, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11). Emission limits were exceeded as specified in the table below.
5. During an investigation on October 20, 2004, TCEQ staff documented that BP Products failed to comply with the following permitted emission limits for the RHU 200 Reactor Train (EPN 501, Incident 42576): SO₂ emission limit of 0.20 lbs/hr, NO_x emission limit of 0.80 lbs/hr and CO emission limit of 0.11 lbs/hr. Since these emissions could have been foreseen and avoided by good design, operation and maintenance, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11). Emission limits were exceeded as specified in the table below.
6. During an investigation on October 20, 2004, TCEQ staff documented that BP Products failed to comply with the following permitted emission limits for the RHU 200 Reactor Train (EPN 501, Incident 42415): SO₂ emission limit of 0.20 lbs/hr, NO_x emission limit of 0.80 lbs/hr and CO emission limit of 0.11 lbs/hr. Since these emissions could have been foreseen and avoided by good design, operation and maintenance, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11). Emission limits were exceeded as specified in the table below.
7. During an investigation on December 15, 2004, TCEQ staff documented that BP Products failed to comply with the following permitted emission limits for the RHU 300 Reactor Train (EPN 501, Incident 44783): SO₂ emission limit of 0.20 lbs/hr, NO_x emission limit of 0.80 lbs/hr and CO emission limit of 0.11 lbs/hr. Since these emissions could have been foreseen and avoided by good design, operation and maintenance, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11). Emission limits were exceeded as specified in the table below.
8. During an investigation on October 21, 2004, TCEQ staff documented that BP Products failed to comply with the following permitted emission limits for the Sulfur Recovery Unit ("SRU") (EPN 384, Incident 42573): SO₂ emission limit of 161.9 lbs/hr and opacity of zero. Since these emissions could have been foreseen and avoided by good design, operation and maintenance, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11). Emission limits were exceeded as specified in the table below.

BP Products North America Inc.
DOCKET NO. 2005-0224-AIR-E
Page 3

9. During an investigation on October 21, 2004, TCEQ staff documented that BP Products failed to comply with the following permitted emission limits for the SRU (EPN 384, Incident 42484): SO₂ emission limit of 161.9 lbs/hr and opacity of zero. Since these emissions could have been foreseen and avoided by good design, operation and maintenance, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11). Emission limits were exceeded as specified in the table below.
10. During an investigation on October 20, 2004, TCEQ staff documented that BP Products failed to comply with the following permitted emission limits for the SRU (EPN 384, Incident 43704): SO₂ emission limit of 161.9 lbs/hr and opacity of zero. Since these emissions could have been foreseen and avoided by good design, operation and maintenance, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11). Emission limits were exceeded as specified in the table below.
11. During an investigation on October 21, 2004, TCEQ staff documented that BP Products failed to comply with the following permitted emission limits for the SRU (EPN 384, Incident 42429): SO₂ emission limit of 161.9 lbs/hr and opacity of zero. Since these emissions could have been foreseen and avoided by good design, operation and maintenance, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11). Emission limits were exceeded as specified in the table below.
12. During an investigation on August 4, 2004, TCEQ staff documented that BP Products failed to comply with the following permitted emission limits for the Coker Resid De-Asphalting Unit and Cooling Tower (EPN 412, Incident 26814): Volatile organic compounds ("VOC") emission limit of 0.01 lbs/hr. Since these emissions could have been foreseen and avoided by good design, operation and maintenance, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11). Emission limits were exceeded as specified in the table below.
13. During an investigation on December 22, 2004, TCEQ staff documented that BP Products failed to comply with the following permitted emission limits for the Ultracracker Flare (EPN 351, Incident 46092): NO_x emission limit of 1.76 lbs/hr and SO₂ emission limit of zero and for the Ultraformer Unit (EPN F-160, Incident 46044), VOC emission limit of 21.95 lbs/hr. Since these emissions could have been foreseen and avoided by good design, operation and maintenance, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11). Emission limits were exceeded as specified in the table below.
14. During an investigation on June 8, 2004, TCEQ staff documented that BP Products failed to comply with the following permitted emission limits for the Fluid Catalytic Cracking Unit (EPN 334, Incident 15795): VOC emission limit of 55 lbs/hr. Since these emissions could have been foreseen and avoided by good design, operation and maintenance, the emissions do not meet the

BP Products North America Inc.
DOCKET NO. 2005-0224-ADR-E
Page 4

demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11). Emission limits were exceeded as specified in the table below.

15. During an investigation on June 8, 2004, TCEQ staff documented that BP Products failed to comply with the following permitted emission limits for the Fluid Catalytic Cracking Unit (EPN 321, Incident 15810): VOC emission limit of 55 lbs/hr. Since these emissions could have been foreseen and avoided by good design, operation and maintenance, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11). Emission limits were exceeded as specified in the table below.
16. During an investigation on August 4, 2004, TCEQ staff documented that BP Products failed to comply with the following permitted emission limits for the Ultracracker Unit (EPNF-200), Incident 33000): VOC emission limit of 5.48 lbs/hr. Since these emissions could have been foreseen and avoided by good design, operation and maintenance, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11). Emission limits were exceeded as specified in the table below.
17. During an investigation on June 7, 2004, TCEQ staff documented that BP Products failed to comply with the following permitted emission limits for the Aromatics Recovery Unit 2 (EPN 611, Incident 38814): VOC emission limit of 0.36 lbs/hr. Since the final notification for this shutdown event was not submitted to the TCEQ in a timely manner, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11). Emission limits were exceeded as specified in the table below.

EMISSION PARAMETER

EPN No.	VOCs	SO ₂	NO _x	CO	Opacity	Incident	Emission Events Period	Date
	lbs	lbs	lbs	lbs	%	No.	hrs:min	mm/dd/yy
501		1,783	21	225		42479	0:41	07/09/04
501		8,452		18		43416	24:49	07/26/04
501		7,076	84	897		42576	4:19	07/12/04
501		3,734	45	473		42415	0:30	07/08/04
501		3,217	25	246		44783	10:11	08/18/04
384		9,475			80	42573	22:50	07/12/04
384		8,712			100	42484	18:18	07/10/04
384		1,557			100	43704	5:59	07/31/04
384		9,704			85	42429	12:00	07/08/04
412	7,608					26814	247:00	08/28/03

BP Products North America Inc.
DOCKET NO. 2005-0224-AIR-E
Page 5

351		619	101		46092	10:50	09/13/04
334	3,185				15795	1:28	02/08/03
321	4,815				15810	1:07	02/08/03
F-200	3,124				33000	5:34	12/23/03
611	1,122				38814	24:00	05/11/04
F-160	1,707				46044	0:18	09/13/04

18. During an investigation on June 7, 2004, TCEQ staff documented that BP Products failed to timely submit the final notification for a shutdown event. Specifically, a shutdown event occurred on May 11, 2004 in the Aromatics Recovery Unit 2 and BP Products failed to submit the final notification no later than two weeks after the end of the scheduled activity.
19. During an investigation on August 4, 2004, TCEQ staff documented that BP Products failed to notify the TCEQ within 24 hours of an emissions event. Specifically, an emissions event occurred in the Ultracking Unit, and BP Products did not submit notification until August 4, 2004.
20. During a record review on September 23, 2005, TCEQ staff documented that BP Products failed to perform an applicability determination and compliance review. The permit's Compliance Plan and Schedule required the determination and review be completed by December 31, 2004, and BP Products has not yet complied.
21. During a record review on September 23, 2005, TCEQ staff documented that BP Products failed to install monitoring equipment or obtain an alternate means of compliance. The permit's Compliance Plan and Schedule requires the installation of monitoring equipment or alternate means of compliance for monitoring for flares and other combustion devices subject to New Source Performance Standards by December 31, 2005, and BP Products reported on September 20, 2005 that it cannot comply with this requirement before the due date.
22. During a record review on September 23, 2005, TCEQ staff documented that BP Products failed to submit a complete semiannual deviation report. BP Products submitted the semiannual deviation report for the period December 7, 2004 to June 6, 2005 without including the failure to complete the applicability determination and compliance review that was due December 31, 2004.
23. During an investigation on October 13, 2003, TCEQ staff documented that BP Products failed to comply with permitted emissions limits. An emissions event occurred on February 8, 2003 when the SRU was over-pressurized and safety relief valves routed emissions to Flare 381, SRU Incinerator Stack 384, and Flare 383. Flare 383 emitted 46,520 lbs/hr of SO₂ over a period of 1.9 hours, SRU Incinerator Stack 384 emitted 205 lbs/hr of SO₂ over a period of 10.6 hours, and Flare 381 emitted 7,693 lbs/hr of SO₂ over a period of 11.8 hours. The permitted limits for SO₂ from those emission points are 0.3, 161.9, and 0 lbs/hr, respectively. Because the emission event was improperly reported, and additionally, could have been avoided by better operations and maintenance practices, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11).

BP Products North America Inc.
DOCKET NO. 2005-0224-AIR-E
Page 6

24. During an investigation on October 13, 2003, TCEQ staff documented that BP Products failed to properly report an emissions event. BP Products submitted three final emissions event reports for an emissions event that occurred on February 8, 2003, but those reports failed to identify permit number and emissions limits.
25. During an investigation on May 4, 2005, TCEQ staff documented that BP Products failed to comply with permitted emissions limits. During an emissions event that began on December 23, 2004, a valve positioner in the Resid Hydrotreating Unit (FIN TCH-RHU) failed and the CFH/RHU Flare (EPN 501) emitted 47.9 pounds per hour lbs/hr of SO₂ and 2.3 lbs/hr of CO over a 61.6 hour period, while the permit limits are 0.20 lbs/hr for SO₂ and 0.11 lbs/hr for CO. Since these emissions could have been avoided by good design, operation, and maintenance practices, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11).
26. During a record review on July 25, 2005, TCEQ staff documented that BP Products failed to comply with permitted emissions limits. During an emissions event on January 14, 2005, a gas stream with a high hydrogen sulfide content was routed to the CRP II Flare (EPN TCH-RHU) in the Cat Feed Hydrotreater Unit in order to keep the flare lit during an outage of gas from the flare's normal source. This resulted in the flare emitting 368 lbs/hr of SO₂ and 3.3 lbs/hr of CO over a 10 hour period, while the permit limits are 0.20 lbs/hr for SO₂ and 0.11 lbs/hr for CO. Since these emissions could have been avoided by better operations practices, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11).
27. During a record review on June 2, 2005, TCEQ staff documented that BP Products failed to comply with permitted emissions limits. During an emissions event on September 25, 2004, the CFH/RHU Flare (EPN 501) in the Resid Hydrotreating Unit emitted 1,120 lbs/hr of SO₂ and 77 lbs/hr of CO over a 5.35 hour period, while the permit limits are 0.20 lbs/hr for SO₂ and 0.11 lbs/hr for CO. Since these emissions were not properly reported, and additionally, could have been avoided by better maintenance practices, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11).
28. During a record review on June 2, 2005, TCEQ staff documented that BP Products failed to submit a complete emissions event report. The initial report was submitted two hours and 57 minutes late, and the final report did not include the permit number and authorized emissions limits.
29. During a record review on April 5, 2005, TCEQ staff documented that BP Products failed to comply with permitted emissions limits. During an emissions event on December 13, 2004, bad wiring on the 557J compressor caused the compressor to shutdown and emissions were routed to the CPR II Flare in the Resid Hydrotreating Unit. The flare emitted 1,332 lbs of SO₂ over a 42 minute period, while the permit limit is 0.20 lbs/hr. Since these emissions could have been avoided by better maintenance practices, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11).

BP Products North America Inc.
DOCKET NO. 2005-0224-AIR-E
Page 7

30. BP Products received notices of the violations on January 1, 2005, January 2, 2005, January 3, 2005, January 4, 2005, January 5, 2005, January 9, 2005, on or about October 14, 2005, October 16, 2005, July 22, 2005, July 23, 2005, and August 12, 2005. Additional violations were documented during a record review of self-reported violations conducted on September 23, 2005.
31. The Executive Director recognizes that BP Products has implemented the following corrective measures at the Plant:
 - a. On June 4, 2004, submitted the final notification for shutdown event (Incident 38814);
 - b. On August 4, 2004, notified the TCEQ of an emissions event (Incident 33000);
 - c. By April 19, 2005, provided additional emissions event report training and inspected and/or replaced components that contributed to the September 25, 2004 emission event;
 - d. By April 18, 2005, established an additional step in flare startup procedures designed to prevent unpermitted emissions of sulfur dioxide, as occurred on January 14, 2005; and
 - e. On July 13, 2005, revised Flexible Air Permit No. 47256 in order to include emissions, such as those that occurred on January 14, 2005, in a separate emission cap for maintenance, startups, and shutdowns.

II. CONCLUSIONS OF LAW

1. BP Products is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, BP Products failed to comply with permitted emission limits for the RHU 400 Reactor Train (EPN 501), in violation of 30 TEX. ADMIN. CODE §§ 116.115(b) and (c) and 101.20(3), Permit No. 8810/PSD-TX-402M2, General Conditions F and G and Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 4, BP Products failed to comply with permitted emission limits for the RHU 200 Reactor Train (EPN 501), in violation of 30 TEX. ADMIN. CODE §§ 116.115(b) and (c) and 101.20(3), Permit No. 8810/PSD-TX-402M2, General Conditions F and G and Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. As evidenced by Finding of Fact No. 5, BP Products failed to comply with permitted emission limits for the RHU 200 Reactor Train (EPN 501), in violation of 30 TEX. ADMIN. CODE §§ 116.115(b) and (c) and 101.20(3), Permit No. 8810/PSD-TX-402M2, General Conditions F and G and Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
5. As evidenced by Finding of Fact No. 6, BP Products failed to comply with permitted emission limits for the RHU 200 Reactor Train (EPN 501), in violation of 30 TEX. ADMIN. CODE §§ 116.115(b) and

BP Products North America Inc.
DOCKET NO. 2005-0224-AIR-E
Page 8

- (c) and 101.20(3), Permit No. 8810/PSD-TX-402M2, General Conditions F and G and Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
6. As evidenced by Finding of Fact No. 7, BP Products failed to comply with permitted emission limits for the RHU 300 Reactor Train (EPN 501), in violation of 30 TEX. ADMIN. CODE §§ 116.115(b) and (c) and 101.20(3), Permit No. 8810/PSD-TX-402M2, General Conditions F and G and Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
 7. As evidenced by Finding of Fact No. 8, BP Products failed to comply with permitted emission limits for the SRU (EPN 384), in violation of 30 TEX. ADMIN. CODE §§ 116.115(b) and (c), 111.111(a)(1)(C) and 101.20(3), Permit No. 8810/PSD-TX-402M2, General Conditions F and G and Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
 8. As evidenced by Finding of Fact No. 9, BP Products failed to comply with permitted emission limits for the SRU (EPN 384), in violation of 30 TEX. ADMIN. CODE §§ 116.115(b) and (c), 111.111(a)(1)(C) and 101.20(3), Permit No. 8810/PSD-TX-402M2, General Conditions F and G and Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
 9. As evidenced by Finding of Fact No. 10, BP Products failed to comply with permitted emission limits for the SRU (EPN 384), in violation of 30 TEX. ADMIN. CODE §§ 116.115(b) and (c), 111.111(a)(1)(C) and 101.20(3), Permit No. 8810/PSD-TX-402M2, General Conditions F and G and Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
 10. As evidenced by Finding of Fact No. 11, BP Products failed to comply with permitted emission limits for the SRU (EPN 384), in violation of 30 TEX. ADMIN. CODE §§ 116.115(b) and (c), 111.111(a)(1)(C) and 101.20(3), Permit No. 8810/PSD-TX-402M2, General Conditions F and G and Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
 11. As evidenced by Finding of Fact No. 12, BP Products failed to comply with permitted emission limits for the Coker Resid De-Asphalting Unit and Cooling Tower (EPN 412), in violation of 30 TEX. ADMIN. CODE § 116.115(b) and (c), Permit No. 20982, General Condition G and Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
 12. As evidenced by Finding of Fact No. 13, BP Products failed to comply with permitted emission limits for the Ultracracker Flare (EPN 351) and the Ultraformer Unit (EPN F-160), in violation of 30 TEX. ADMIN. CODE § 116.115(b) and (c), Permit No. 2610, General Conditions F and G and Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
 13. As evidenced by Finding of Fact No. 14, BP Products failed to comply with permitted emission limits for the Fluid Catalytic Cracking Unit (EPN 334), in violation of 30 TEX. ADMIN. CODE § 116.115(b) and (c), Permit No. 18707, General Conditions F and G and Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
 14. As evidenced by Finding of Fact No. 15, BP Products failed to comply with permitted emission limits for the Fluid Catalytic Cracking Unit (EPN 321), in violation of 30 TEX. ADMIN. CODE

BP Products North America Inc.
DOCKET NO. 2005-0224-AIR-E
Page 9

- § 116.115(b) and (c), Permit No. 18707, General Conditions F and G and Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
15. As evidenced by Finding of Fact No. 16, BP Products failed to comply with permitted emission limits for Flare # 3 (EPN F-200) in the Ultracracker Unit, in violation of 30 TEX. ADMIN. CODE § 116.115(b) and (c), Permit No. 2609, General Conditions F and G and Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
 16. As evidenced by Finding of Fact No. 17, BP Products failed to comply with permitted emission limits for the Aromatics Recovery Unit (EPN 611), in violation of 30 TEX. ADMIN. CODE § 116.115(b) and (c), Permit No. 2612, General Condition F and Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
 17. As evidenced by Finding of Fact No. 18, BP Products failed to timely submit the final notification for a shutdown event, in violation of 30 TEX. ADMIN. CODE § 101.211(o) and TEX. HEALTH & SAFETY CODE § 382.085(b).
 18. As evidenced by Finding of Fact No. 19, BP Products failed to notify the TCEQ within 24 hours of an emissions event, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and (2)(G) and TEX. HEALTH & SAFETY CODE § 382.085(b).
 19. As evidenced by Finding of Fact No. 20, BP Products failed to perform an applicability determination and compliance review, in violation of 30 TEX. ADMIN. CODE §§ 122.142(a) and 122.143(4) and Federal Operating Permit ("FOP") No. O1541, Compliance Plan and Schedule, and TEX. HEALTH & SAFETY CODE § 382.085(b).
 20. As evidenced by Finding of Fact No. 21, BP Products failed to install monitoring equipment or obtain an alternate means of compliance, in violation of 30 TEX. ADMIN. CODE §§ 122.142(a) and 122.143(4), FOP No. O1541, Compliance Plan and Schedule, and TEX. HEALTH & SAFETY CODE § 382.085(b).
 21. As evidenced by Finding of Fact No. 22, BP Products failed to submit a complete semiannual deviation report, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(A), FOP No. O1541, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b).
 22. As evidenced by Finding of Fact No. 23, failed to comply with permitted emission limits for Flare 381, SRU Incinerator Stack 384, and Flare 383, in violation of 30 TEX. ADMIN. CODE §§ 116.115 (c) and 101.20(3), Permit No. 8810/PSD-TX-402M2, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
 23. As evidenced by Finding of Fact No. 24, failed to properly report an emissions event that occurred on February 8, 2003, in violation of 30 TEX. ADMIN. CODE § 101.201(b)(8) and TEX. HEALTH & SAFETY CODE § 382.085(b).

BP Products North America Inc.
DOCKET NO. 2005-0224-AIR-E
Page 10

24. As evidenced by Finding of Fact No. 25, failed to comply with permitted emission limits for the CFH/RHU Flare, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 101.20(3), Permit No. 8810/PSD-TX-402M2, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
25. As evidenced by Finding of Fact No. 26, failed to comply with permitted emission limits for the CRP II Flare, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 101.20(3), Permit No. 8810/PSD-TX-402M2, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
26. As evidenced by Finding of Fact No. 27, failed to comply with permitted emission limits for the CFH/RHU Flare, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 101.20(3), Permit No. 8810/PSD-TX-402M2, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
27. As evidenced by Finding of Fact No. 28, failed to submit a complete emissions event report for an emissions event that occurred on September 25, 2004, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and 101.201(b)(8) and TEX. HEALTH & SAFETY CODE § 382.085(b).
28. As evidenced by Finding of Fact No. 29, failed to comply with permitted emission limits for the CPR II Flare, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 101.20(3), Permit No. 8810/PSD-TX-402M2, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b).
29. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against BP Products for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
30. An administrative penalty in the amount of Three Hundred Thirty-Six Thousand Five Hundred Fifty-Six Dollars (\$336,556) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. BP Products has paid the Three Hundred Thirty-Six Thousand Five Hundred Fifty-Six Dollar (\$336,556) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. BP Products is assessed an administrative penalty in the amount of Three Hundred Thirty-Six Thousand Five Hundred Fifty-Six Dollars (\$336,556), as set forth in Section II, Paragraph 30 above, for violations of TCEQ rules and state statutes. The imposition of this administrative penalty and BP Products' compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: BP Products North America Inc., Docket No. 2005-0224-AIR-E" to:

BP Products North America Inc.
DOCKET NO. 2005-0224-AIR-E
Page 11

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Immediately after the effective date of this Agreed Order, until the date on which BP Products submits its last certification of compliance as required by Ordering Provisions No. 4.a. of this section, BP Products shall be liable to the Commission for stipulated penalties for each calendar day during which BP Products fails to comply with any deadline in Ordering Provisions No. 4. The amount of the stipulated penalty will be \$10,000 per day for each day, or part of a day, that a deadline is exceeded. Deadline exceedances to which this Paragraph applies shall not (1) be the subject of a notice of violation; or (2) be treated as violations under 30 TEX. ADMIN. CODE Chapter 60.
3. Within 30 days after the end of each calendar quarter for which stipulated penalties are due, BP Products shall send to TCEQ the stipulated penalties due for that quarter. The stipulated penalties shall be made payable to "TCEQ" and shall be sent, by certified mail, return receipt requested, and with the notation "Re: BP Products North America Inc., Docket No. 2005-0224-AIR-E," to the address in Paragraph 1 of this section. At the time payment is sent, a copy of the payment and a report concerning the stipulated penalties shall be sent to the TCEQ regional office. The report shall include the total amount of the stipulated penalties due, the dates for which stipulated penalties are due.
4. It is further ordered that BP Products shall undertake the following technical requirements:
 - a. Immediately after the effective date of this Agreed Order, BP Products shall implement the NSPS Subpart J Plan attached as Exhibit A, which is hereby incorporated into and made part of this Agreed Order, and:
 - i. During the period before the deadline specified in Paragraph 7.(c) of the NSPS Subpart J Plan, if BP Products submits a permit application to authorize the construction, modification (as that term is defined in 40 Code of Federal Regulations ("C.F.R.") § 60.2), reconstruction [as that term is defined or described in 40 C.F.R. §§ 60.15 and 60.100(e)], and operation of a flare or other combustion device at the Plant that will combust one or more streams that previously were vented to a blowdown stack at the Plant ("Blowdown Retirement Combustion Device"), BP Products shall reference in its permit application(s) this Agreed Order, and each such Blowdown Retirement Combustion Device shall be considered an "affected facility" pursuant to NSPS Subpart J and shall be subject to the NSPS Subpart J Plan as if it were included in Exhibit A-1 thereto. BP shall certify compliance with Subpart J for each Blowdown Retirement Combustion Device no later than 180 days after initial startup of such device, except that if BP Products elects to employ either of the compliance methods in Paragraphs 3(a) or 3(b) of the NSPS Subpart J Plan, BP Products shall not be required to certify compliance to the TCEQ with such compliance method until 3 years after submission of the permit

BP Products North America Inc.
DOCKET NO. 2005-0224-AJR-E
Page 12

application for the Blowdown Retirement Combustion Device or until 5 years after the effective date of this Agreed Order, whichever is sooner. If BP certifies compliance with Subpart J within 180 days for a Blowdown Retirement Device, then there is no need for the device to be subject to the NSPS Subpart J Plan. As long as such Blowdown Retirement Combustion Devices are constructed, modified, reconstructed, and operated in compliance with the requirements of this Agreed Order and the NSPS Subpart J Plan, TCEQ shall consider their construction, modification, reconstruction, and operation to be in compliance with NSPS Subpart J;

- ii. Nothing in this Agreed Order shall prevent the Executive Director from initiating an enforcement action against BP Products alleging that emissions from any Affected Combustion Device constitute an emissions event, as that term is defined in TEX. HEALTH & SAFETY CODE § 382.0215(a)(1). For each emissions event from an Affected Combustion Device, BP shall comply with the requirements of 30 TEX. ADMIN. CODE § 101.201. In addition, following the effective date of the Agreed Order, for each flaring event at an Affected Combustion Device or Blowdown Retirement Combustion Device that involves the release of 500 or more pounds of sulfur dioxide in a period of 24 hours (an "Acid Gas Flaring Event"), BP Products shall prepare a detailed analysis (a "flaring root cause report") that sets forth the root cause and all significant contributing causes of that Acid Gas Flaring Event, to the extent determinable, and undertakes an analysis of the measures, if any, that are available to reduce the likelihood of a recurrence of the incident resulting from the same root cause or significant contributing causes in the future. If two or more reasonable alternatives exist to address the root cause, the analysis shall discuss the alternatives, if any, that are available, the probable effectiveness and cost of the alternatives, and whether or not an outside consultant should be retained to assist in the analysis. Possible design, operation and maintenance changes shall be evaluated. If BP Products concludes that corrective action(s) is (are) required, the flaring root cause report shall include a description of the action(s) and, if not already completed, a schedule of its (their) implementation, including proposed commencement and completion dates. If BP Products concludes corrective action is not required, then the flaring root cause report shall explain the basis for that conclusion. The flaring root cause report shall be submitted within 30 days of the flaring event, and BP Products may request an extension to the 30 day period for good cause shown;
- iii. During the period before the applicable deadline specified in Paragraph 7 of the NSPS Subpart J Plan, the Executive Director agrees not to pursue enforcement action against BP Products alleging that any Affected Combustion Device does not comply or has not complied with NSPS Subpart J or seeking corrective action with respect to NSPS Subpart J beyond or different from the requirements in the NSPS Subpart J Plan;
- iv. After the termination of this Agreed Order, the Executive Director will not pursue an enforcement action against BP Products alleging that any of the Affected

BP Products North America Inc.
Docket No. 2005-0224-AIR-E
Page 13

Combustion Devices for which BP Products has certified compliance with NSPS Subpart J pursuant to the NSPS Subpart J Plan did not comply with NSPS Subpart J before the applicable deadline specified in Paragraph 7 of the NSPS Subpart J Plan or seeking corrective action with respect to NSPS Subpart J to address violations alleged to have occurred before the applicable deadline specified in Paragraph 7 of the NSPS Subpart J Plan, unless the Executive Director determines that BP Products' certification was not correct; and

- v. The submittal of documents required by Ordering Provision 4.a. shall be made to:

Air Permits Division, MC 162
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 30 days after the effective date of this Agreed Order:

- i. Implement improvement to designs, operations, and/or maintenance practices that address the causes leading to the emissions events enumerated in Findings of Fact 3 through 17, 23, 25, 26, and 29;
- ii. In order to correct the deficiencies noted in Findings of Fact 24, submit corrected emissions event reports, in accordance with 30 TEX. ADMIN. CODE § 101.201(b)(8);
- iii. In order to correct the deficiency noted in Findings of Fact 22, submit a revised semiannual deviation report, in accordance with 30 TEX. ADMIN. CODE § 122.145(2)(A); and
- iv. Submit the reports required by Ordering Provisions 4.b.ii and 4.b.iii. to:

Order Compliance Team
Enforcement Division, MC-149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager, Air Section
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023

BP Products North America Inc.
Docket No. 2005-0224-AIR-E
Page 14

- c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions 4.b.;
- d. Within 365 days after the effective date of this Agreed Order, above, submit written certification of compliance that the Plan required by Exhibit A 5. has been submitted;
- e. Within two years after the Exhibit A 5. Plan submittal, submit written certification of compliance with Exhibit A 7.(a);
- f. Within three years after the Exhibit A 5. Plan submittal, submit written certification of compliance with Exhibit A 7.(b);
- g. Within four years after the Exhibit A 5. Plan submittal, submit written certification of compliance with Exhibit A 7.(c); or in the alternative to the scheduling in Exhibit A 7;
- h. Within three years after submittal of a permit application, or within five years after the effective date of this Agreed Order, whichever is earlier, pursuant to Ordering Provision 4.a.i., submit written compliance with that Ordering Provision; and
- i. The certifications required by Ordering Provisions 4.c. through 4.j. shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify that under the penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtained the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager, Air Section
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H

BP Products North America Inc.
Docket No. 2005-0224-AIR-E
Page 15

Houston, Texas 77023

5. The provisions of this Agreed Order shall apply to and be binding upon BP Products. BP Products is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
6. If BP Products fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, BP Products' failure to comply is not a violation of this Agreed Order. BP Products has the burden of establishing to the Executive Director's satisfaction that such an event has occurred. BP Products shall notify the Executive Director within seven days after BP Products becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by BP Products shall be made in writing to the Executive Director. Extensions are not effective until BP Products receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to BP Products if the Executive Director determines that BP Products has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. This Agreed Order, issued by the Commission, shall not be admissible against BP Products in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
11. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
12. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOVT CODE § 2001.142.

BP Products North America Inc.
Docket No. 2005-0224-AIR-E
Page 16

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Kathleen H. White
For the Commission

John Leroy Perdue
For the Executive Director

5/31/06
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of BP Products North America Inc.. I am authorized to agree to the attached Agreed Order on behalf of BP Products North America Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, BP Products North America Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Colin H. J. MacLean
Signature

3/22/06
Date

COLIN H. J. MACLEAN
Name (printed or typed)
Authorized Representative
BP Products North America Inc.

BUSINESS UNIT LEADER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Section at the address in Ordering Provision 1 of this Agreed Order.

BP Products North America Inc.
Docket No. 2005-0224-AIR-E
Exhibit A, Page 1

EXHIBIT A

NSPS SUBPART J PLAN

BP Products owns and operates the flares and other combustion devices at the Plant listed on the attached Exhibit A-1 (the "Affected Combustion Devices"). Subject to the terms of this Agreed Order, BP Products accepts that the Affected Combustion Devices are subject to the New Source Performance Standard Subpart J, 40 C.F.R. Part 60 Subpart J ("NSPS Subpart J") as fuel gas combustion devices, in addition to being emergency control devices for releases of combustible gases. BP Products' entry into this Agreed Order shall be considered to satisfy any notification obligations to TCEQ for the Affected Combustion Devices pursuant to 40 C.F.R. § 60.7.

BP Products shall at all times, and to the extent practicable, including during periods of startup, shutdown, and malfunction, implement good air pollution control practices for minimizing emissions from the Affected Combustion Devices consistent with 30 TEX. ADMIN. CODE § 101.221 and 40 C.F.R. § 60.11(d).

For each of the Affected Combustion Devices, BP Products will elect to use one or any combination of the following NSPS Subpart J compliance methods:

- (a) Operate and maintain a flare gas recovery system to control continuous or routine combustion in the Affected Combustion Device. Use of a flare gas recovery system on an Affected Combustion Device eliminates the need to continuously monitor and maintain records of hydrogen sulfide in the gas as otherwise required by 40 C.F.R. §§ 60.105(a)(4) and 60.7.
- (b) Operate the Affected Combustion Device as a fuel gas combustion device and comply with NSPS monitoring requirements by use of a continuous emissions monitoring system ("CEMS") pursuant to 40 C.F.R. § 60.105(a)(4) or with a predictive monitoring system approved by TCEQ as an alternative monitoring system pursuant to 40 C.F.R. § 60.13(i);
- (c) Eliminate the routes of continuous or intermittent, routinely generated fuel gases to an Affected Combustion Device and operate the Affected Combustion Device such that it receives only process upset gases (as defined in 40 C.F.R. § 60.101(e)), fuel gas released as a result of relief valve leakage or gases released due to other emergency malfunctions; or
- (d) Eliminate to the extent practicable routes of continuous or intermittent, routinely generated fuel gases to an Affected Combustion Device and monitor the Affected Combustion Device by use of a CEMS (in accordance with 40 C.F.R. § 60.105(a)(4)) and a flow meter; provided, however, that this compliance method may not be used unless BP Products: (i) demonstrates to TCEQ that the Affected Combustion Device in question emits less than 500 pounds per day of SO₂ under normal conditions; (ii) secures TCEQ approval for use of this method as the selected compliance method; and (iii) uses this compliance method for 5 or fewer of the Affected Combustion Devices.

BP Products North America Inc.
Docket No. 2005-G224-AIR-E
Exhibit A, Page 2

4. For the compliance method described in Paragraph 3(b) above, to the extent that BP Products seeks to use an alternative monitoring method at a particular Affected Combustion Device to demonstrate compliance with the limits of 40 C.F.R. § 60.104(a)(1), EPA must approve any alternate monitoring plan for NSPS Subpart J Refinery Fuel gas before implementation; provided, however, that upon submitting the application for approval to TCEQ and EPA, BP Products may begin to use immediately the alternative method for which approval is being sought if it is the same as or is substantially similar to the method identified as the "Alternative Monitoring Plan for NSPS Subpart J Refinery Fuel Gas" attached hereto as Exhibit A-2.
5. BP Products will submit a Compliance Plan for the Affected Combustion Devices (the "Plan") to TCEQ by no later than 365 days following the effective date of this Agreed Order. The Plan will have the objective of reducing to the extent practicable: (a) the routing of continuous or intermittent, routinely generated fuel gas streams that contain hydrogen sulfide of greater than 230 mg/dscfm (0.10 gr/dscf) to Affected Combustion Devices; and (b) the streams that contain hydrogen sulfide that BP Products considers to be the result of alleged malfunctions, process upsets, and/or relief valve leakage, taking into consideration the source, frequency, and expected hydrogen sulfide concentration of the stream.
6. In the Plan, BP Products will:
 - (a) Identify which compliance method in Paragraph 3 BP Products anticipates using for each Affected Combustion Device;
 - (b) Describe the activities that BP Products has taken or anticipates taking to meet the objectives of Paragraph 5 for each Affected Combustion Device and the schedule for undertaking those activities consistent with the requirements of Section 7 below.

BP Products shall be free to modify the Plan from time to time with respect to any or all of: (i) the compliance method that BP Products anticipates using for a particular Affected Combustion Device; (ii) the activities that BP Products anticipates taking to meet the objectives of Paragraph 5 for a particular Affected Combustion Device; or (iii) the schedule by which BP Products will undertake activities to meet the objectives of Paragraph 5 for a particular Affected Combustion Device; provided, however, that BP Products shall comply with the schedule in Paragraph 7 and BP Products shall provide prompt written notice of the Plan changes to TCEQ.
7. BP Products shall achieve and certify compliance with NSPS Subpart J for all Affected Combustion Devices on the following schedule:
 - (a) For at least one-third Affected Combustion Devices: by no later than 3 years after the effective date of this Agreed Order;
 - (b) For at least one-third additional Affected Combustion Devices: by no later than 4 years after the effective date of this Agreed Order; and
 - (c) For all remaining Affected Combustion Devices: by no later than 5 years after the effective date of this Agreed Order.

BP Products North America Inc.
Docket No. 2005-0224-AIR-E
Exhibit A, Page 3

8. By no later than ninety (90) days after bringing an Affected Combustion Device that is also a flare into compliance by using the methods in Paragraph 3, BP Products will conduct a flare performance test pursuant to 40 C.F.R. §§ 60.8 and 60.18, or a TCEQ-approved equivalent method, unless such performance test has previously been performed. In lieu of conducting the velocity test required in 40 C.F.R. § 60.18, BP Products may submit velocity calculations that demonstrate that the Affected Combustion Device meets the performance specification required by 40 C.F.R. § 60.18. Nothing in this Paragraph is intended to prevent BP Products from seeking approval of an alternative method of demonstrating compliance with the requirements of 40 C.F.R. § 60.18.
9. The combustion in an Affected Combustion Device of process upset gas or fuel gas that is released to the Affected Combustion Device as a result of relief gas leakage or other emergency malfunctions is exempt from the requirement to comply with 40 C.F.R. § 60.104(a)(1).
10. The parties recognize that periodic maintenance may be required for properly designed and operated flare gas recovery systems. To the extent that BP Products currently operates or will operate flare gas recovery systems, BP Products will take all reasonable measures to minimize emissions while such periodic maintenance is being performed.
11. The parties recognize that under certain conditions, a flare gas recovery system may need to be bypassed in the event of an emergency or in order to ensure safe operation of a refinery process. Nothing in this Agreed Order precludes BP Products from temporarily bypassing a flare gas recovery system under such circumstances.

BP Products North America Inc.
Docket No. 2005-0224-AIR-E
Exhibit A, Page 4

EXHIBIT A - 1

LIST OF COMBUSTION DEVICES AT THE BP PRODUCTS TEXAS CITY REFINERY TO BE
SUBJECT TO THE REQUIREMENTS OF THE NSPS SUBPART J PLAN

TCH-1 (EPN 301)	TCH-SRU CD (EPN 383)
TCH-2 (EPN 311)	TCH-UC (EPN 351)
TCH-3 (EPN 321)	TO-WWTP (EPN 293)
TCH-4 (EPN 331)	TCH-SW (EPN FLR-SW)
TCH-5 (EPN FLR-5)	TCH-SRUAB (EPN 381)
TCH-6-ALK3 (EPN 530)	LD-RKS (EPN 294-1)
TCH-7 (EPN 14)	LD-RKS (EPN 294-2)
TCH-ARU (EPN 341)	LD-RKS (EPN 294-3)
TCH-AU2 (EPN611)	TO-Dock 54E (EPN 379)
TCH-DDU (EPN 396)	FLRAULC (EPN 351A)
TCH-RHU (EPN 501)	FLRA-DDU (EPN 396A)

BP Products North America Inc.
Docket No. 2005-0224-AIR-E
Exhibit A, Page 5

EXHIBIT A-2

ALTERNATIVE MONITORING PLAN FOR NSPS SUBPART J REFINERY FUEL GAS

Conditions for Approval of the Alternative Monitoring Plan for Miscellaneous Refinery Fuel Gas Streams

Refinery fuel gas streams/systems eligible for the Alternative Monitoring Plan (AMP) should be inherently low in H₂S content, and such H₂S content should be relatively stable. The refiner requesting an AMP should provide sufficient information to allow for a determination of appropriateness of the AMP for each gas stream/system requested. Such information should include, but need not be limited to:

1. A description of the gas stream/system to be considered, including submission of a portion of the appropriate piping diagrams indicating the boundaries of the gas stream/system, and the affected fuel gas combustion device(s) to be considered and an identification of the proposed sampling point for the alternative monitoring;
2. A statement that there are no crossover or entry points for sour gas (high H₂S content) to be introduced into the gas stream/system. (This should be shown in the piping diagrams);
3. An explanation of the conditions that ensure low amounts of sulfur in the gas stream (i.e., control equipment or product specifications) at all times;
4. The supporting test results from sampling the requested gas stream/system using appropriate H₂S monitoring (i.e., detector tube monitoring following the Gas Processor Association's Test for Hydrogen Sulfide and Carbon Dioxide in Natural Gas Using Length of Stain Tubes, 1986 Revision), at minimum:
 - a. for frequently operated gas streams/systems - two weeks of daily monitoring (14 samples); and
 - b. for infrequently operated gas streams/systems, 7 samples shall be collected and analyzed unless other additional information would support reduced sampling.

Note: All samples are grab samples.

5. A description of how the two weeks (or seven samples for infrequently operated gas streams/systems) of monitoring results compares to the typical range of H₂S concentration (fuel quality) expected for the gas stream/system going to the affected fuel gas combustion device, (e.g., the two weeks of daily detector tube results for a frequently operated loading rack included the entire range of products loaded out, and, therefore, should be representative of typical operating conditions affecting H₂S content in the gas stream going to the loading rack flare);
6. Identification of a representative process parameter that can function as an indicator of a stable and low H₂S concentration for each fuel gas stream/system, (e.g., review of gasoline sulfur content as an indicator of sulfur content in the vapors directed to a loading rack flare);

BP Products North America Inc.
Docket No. 2005-0224-AIR-E
Exhibit A, Page 6

7. Suggested process parameter limit for each stream/system, the rationale for the parameter limit and the schedule for the acquisition and review of the process parameter data. The refiner will collect the proposed process parameter data in conjunction with the testing of the fuel gas stream's stable and low H₂S concentration.

The following shall be used for measuring H₂S in fuel gas within these types of AMPs unless the refiner requests, in writing, for approval of an alternative methodology:

- a. Conduct H₂S testing using detector tubes ("length-of-stain tube" type measurement);
- b. Detector tube ranges 0-10/0-100 ppm (N = 10/1) shall be used for routine testing; and
- c. Detector tube ranges 0-500 ppm shall be used for testing if measured concentration exceeds 100 ppm H₂S.

Data Range and Variability Calculation and Acceptance Criteria

For each step of the monitoring schedule, sample range and variability will be determined by calculating the average plus 3 standard deviations for that test data set.

1. If the average plus 3 standard deviations for the test data set is less than 81 ppm H₂S, the sample range and variability are acceptable and the refiner can proceed to the next step of the monitoring schedule.

Note: 81 ppm is one-half the maximum allowable fuel gas standard under NSPS Subpart J, and the Agency believes that using 81 ppm acceptance criteria provides a sufficient margin for ensuring that the emission limit is not exceeded under normal operating conditions.

2. If the data shows an unacceptable range and variability at any step (the average plus 3 standard deviations is equal to or greater than 81 ppm H₂S), then move to Step 7. Agency approval is required to proceed to the next step if the average plus 3 standard deviations is between 81 ppm and 162 ppm H₂S. As an example, approval may be granted based on a review of the test data and any pertinent information which demonstrates that sample variability during the test period was due to unusual circumstances. Supplemental test data may be taken to demonstrate that process variability is within the plan requirements. Data may be removed from the variability calculations for cause after agency approval.
3. For Steps 3 and 4, if the data shows an unacceptable range and variability (the average plus 3 standard deviations is equal to or greater than 81 ppm H₂S), the source will drop back to the previous step's monitoring schedule.
4. If at any time, one detector tube sample value is equal to or greater than 81 ppm H₂S, then begin sampling as specified in Step 6. Note: Standard deviation cannot be calculated for a data set containing one point.

P Products North America Inc.
ocket No. 2005-0224-AJR-E
xhibit A, Page 7

Monitoring Schedule for Approved AMPs

For gas streams which must meet product specifications for sulfur content, one time only detection tube sampling along with a certification that the gas stream is subject to product or pipeline specifications is sufficient for the AMP. If the gas stream composition changes (i.e., new gas sources are added), or if the gas stream will no longer be required to meet product or pipeline specifications, then the gas stream must be resubmitted for approval under the AMP.

The following are examples of streams needing one time only monitoring:

1. Certified commercial grade natural gas;
2. Certified commercial grade LPG;
3. Certified commercial grade hydrogen;
4. Gasoline vapors from a loading rack that only loads gasoline meeting a product specification for sulfur content.

For other gas streams, the H₂S content of each refinery fuel gas stream/system with an approved AMP shall be monitored per the following schedule:

Step 1:

The refiner will monitor the selected process parameter for each stream/system, according to the established process parameter monitoring or review schedule approved by the agency in the AMP, and at times when conducting H₂S detector tube sampling.

Step 2:

The refiner will conduct random detector tube sampling twice per week for each stream/system for a period of six months (52 samples). For fuel gas streams infrequently generated and combusted in affected fuel gas combustion devices (i.e., less frequent than bi-weekly), detector tube samples shall be taken each time the fuel gas stream is generated and combusted. A total of at least 24 samples shall be collected for infrequently generated gas streams. Monitor and record the selected process parameter in accordance with the established schedule, and at times when conducting H₂S testing. Move to Step 3 if the calculated range and variability of the data meets the established acceptance criteria. Submit test data (raw measurements plus calculated average and variability) to the agency quarterly.

Step 3:

The refiner will conduct random H₂S sampling once per quarter for a period of six quarters (6 samples) with a minimum of 1 month between samples. A minimum of 9 samples are required for infrequently generated and combusted fuel gas streams before proceeding to Step 4. Continue to monitor and record the selected process parameter in accordance with the established schedule, and at times when conducting H₂S testing.

BP Products North America Inc.
Docket No. 2005-0224-AIR-E
Exhibit A, Page 8

Move to Step 4 if the calculated range and variability of the data meets the established acceptance criteria. Submit test data (raw measurements plus calculated average and variability) to the agency quarterly.

Step 4:

The refiner will conduct random H₂S sampling twice per year for a period of two years (4 samples); sample randomly in the 1st and 3rd quarters with a minimum of 3 months between samples. Continue to monitor and record the selected process parameter in accordance with the established schedule, and at times when conducting H₂S testing. Move to Step 5 if the calculated range and variability of the data meets the established criteria. Submit test data (raw measurements plus calculated average and variability) to the agency semiannually.

Step 5:

The refiner will continue to conduct testing on semi-annual basis. Testing is to occur randomly once every semi-annual period with a minimum of 3 months between samples. Continue to monitor and record the selected process parameter in accordance with the established schedule, and at times when conducting H₂S testing. If any one sample is equal to or greater than 81 ppm H₂S, then proceed to the sampling specified in Step 7. Note: Standard deviation cannot be calculated for a data set containing one point.

Step 6:

If, at any time, the selected process parameter data indicates a potential change in H₂S concentration, or a single detector tube sample value is equal to or greater than 81 ppm H₂S, then the fuel gas stream shall be sampled with detector tubes on a daily basis for 7 days (or for infrequently generated gas streams - 7 samples during the same period of an indicated change in H₂S concentration, or as otherwise approved by the agency). If the average detector tube result plus 3 standard deviations for those seven samples is less than 81 ppm H₂S, the date and value of change in the selected process parameter indicator and the sample results shall be included in the next quarterly report, and the refiner shall resume monitoring in accordance with the schedule of the current step. If the average plus 3 standard deviations for those seven samples is equal to or greater than 81 ppm H₂S, sampling shall follow the requirements of Step 7.

Step 7:

If sample detector tube data indicates a potential for the emission limit to be exceeded (the average plus 3 standard deviations is equal to or greater than 81 ppm H₂S), as determined in the Data Range and Variability Calculation and Acceptance Criteria or in Step 6, the refiner shall notify the agency of those results before the end of the next business day following the last sample day. The fuel gas stream shall subsequently be tested daily for a two week period (or 14 samples during the same event or as otherwise approved by the agency for infrequently generated gas streams). After the two week

Products North America Inc.
cket No. 2005-0224-AIR-E
hibit A, Page 9

period is complete, sampling will continue once per week, until the agency approves a revised sampling schedule or makes a determination to withdraw approval of the gas stream/system from the AMP. Note: At any time, a detector tube value in excess of the 162 ppm limit is evidence that the emission standard has been exceeded.

General Provisions of Approved AMPs

Upon agency request, the refiner shall conduct a test audit for any gas stream with an approved AMP. The audit shall consist of daily detector tube samples collected over a one week period (7 samples). For fuel gas streams infrequently generated and combusted in affected fuel gas combustion devices, an audit shall consist of 3 consecutive sampling events. (e.g., Rail loading may occur once per month, an audit would consist of 3 consecutive loading events). The United States Environmental Protection Agency, with due notice, reserves the right to withdraw approval of the AMP for any gas stream/system.

The course shall keep records of the H₂S detector tube test data and the representative process parameter data and fuel source for at least two years.

If a new fuel gas stream is introduced into a fuel gas stream with an approved AMP, the refiner shall again apply for an AMP and repeat Steps 1-5.

Example:

An AMP Application for a Hydrogen Plant PSA Off-Gas Stream Combusted Exclusively in the Hydrogen Plant Process Heater:

Process Description

Hydrogen production for the refinery by the steam methane reforming process. CO₂ is the primary impurity in the hydrogen produced; small amounts of CO and methane are also present. Unpurified hydrogen is passed over molecular sieve absorbent beds to remove these impurities. The off gas from regeneration of the absorbent beds is called PSA off-gas. It is sent to the hydrogen plant heater to recover heat and control CO emissions.

Pipe Diagrams

Piping diagrams should be supplied to show monitoring location and to demonstrate that there is no potential for cross over or entry points for sour gas.

Basis for PSA Off-Gas Low H₂S Content

Since PSA off-gas is a byproduct of hydrogen purification, any H₂S in the PSA purge gas must come from the hydrogen unit feed. Levels of H₂S in the PSA gas are negligible because H₂S must be controlled to prevent deactivation of the unit's catalyst.

BP Products North America Inc.
Docket No. 2005-0224-AIR-E
Exhibit A, Page 10

H₂S is a permanent catalyst poison. The hydrogen unit has 2 scrubbers to remove H₂S from the feed gas to protect the unit's catalyst from H₂S poisoning. The scrubbers are operated in series. The lead scrubber must exhibit at least a 70% reduction in H₂S content. If not, the scrubber is taken off line and the absorbent is replaced. After the absorbent is replaced, the scrubber is placed on line as the second scrubber in series. This maximizes the amount of H₂S removal and assures maximum scrubbing potential when one scrubber is off line for absorbent replacement.

Process Parameter Monitoring and Suggested Process Parameter Limit

Operation of the scrubbers is checked on a monthly basis with detector tubes. The feed gas H₂S content is measured at the inlet and outlet of the lead scrubber. If natural gas is used as hydrogen plant feed; both readings are below the 1 ppm detection limit. If refinery fuel gas is the feed gas, 30 ppm to 40 ppm H₂S is normally detected at the inlet. A lead scrubber outlet reading of 10-12 ppm H₂S would trigger absorbent replacement. The suggested process parameter limit is 20 ppm H₂S at the lead H₂S absorber outlet. Absorber outlet H₂S measurements will be taken in conjunction with the PSA gas measurements during Steps 2 and 3.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,)
)
 v.) Criminal No. 4:07-cr-434
)
 BP PRODUCTS NORTH AMERICA INC.) Honorable Gray Miller
)
 Defendant.)

STATEMENT OF FACTS

The United States of America and the Defendant, BP Products North America Inc. ("BP Products" or "the Defendant") agree and stipulate that if this matter were to come to trial, the United States would prove the following facts regarding the Defendant's conduct beyond a reasonable doubt:

Introduction

1. On March 23, 2005, at the BP Products refinery located in Texas City, Texas (hereinafter "BP Products Texas City refinery") in the Southern District of Texas, a catastrophic explosion occurred when hydrocarbon vapor and liquid released to the open air reached an ignition source. The explosion caused the deaths of 15 contractor employees at the BP Products Texas City refinery, who were located in temporary trailers approximately 150 feet from where the hydrocarbons were released to the open air. Their names were: Glenn Bolton, Lorena Cruz-Alexander, Rafael Herrera, Daniel Hogan, Jimmy Hunnings, Morris King, Larry Linsenbardt, Arthur Ramos, Ryan Rodriguez, James Rowe, Linda Rowe, Kimberly Smith, Susan Taylor,



Larry Thomas, and Eugene White. The explosion also caused the injuries of at least 170 other workers at the BP Products Texas City refinery.

BP Products Texas City Refinery Operations

2. At all relevant times, BP Products, a subsidiary of BP plc, owned and operated the BP Products Texas City refinery, within the Southern District of Texas.
3. Prior to December 1998, the Texas City refinery was owned by Amoco. In December 1998, Amoco merged into a subsidiary of BP plc. At the time of the merger, the Texas City refinery was owned by Amoco Oil Company, a subsidiary of Amoco. BP Products is a successor to Amoco Oil Company. As of March 23, 2005, the Texas City refinery was the largest refinery owned by BP Products in the United States. The Texas City refinery covered more than 1200 acres, employed approximately 1800 permanent BP Products staff and approximately 2000 contract workers.
4. Within the BP Products Texas City refinery, there were 29 different refining units and four chemical units that had the collective capacity to process 460,000 barrels of crude oil per day into components including gasoline, jet fuel, diesel fuel, and chemical feed stocks.
5. During operations at the BP Products Texas City refinery, if it was necessary to release hydrocarbon vapors to the open air, the refining units used three methods: a "flare system," a "blowdown stack," or direct atmospheric vents.
6. A flare system allowed hydrocarbon vapors to be released through the top of a tall pipe structure, where a flame burned off the hydrocarbon vapors in order to combust hazardous air pollutants before they were emitted into the air, and ensured that the hydrocarbons did not reach

an ignition source away from the flare. Most of the BP Products Texas City refinery process units used the flare system for controlling hydrocarbon releases during an emergency or upset.

7. A blowdown stack employed a large drum to receive hydrocarbon vapors and liquids. In a properly designed and functioning blowdown stack system, hydrocarbon liquids were received into the blowdown drum and sent to a closed sewer system, and hydrocarbon vapors were released up through a "stack," a large pipe directly above the drum, and then directly to the open air. A blowdown stack did not use a flame at the top to burn off excess hydrocarbons and instead vapors containing hazardous air pollutants were released directly to the open air. If not properly operated, designed and maintained, in some circumstances, hydrocarbon vapors and liquids released from the blowdown stack had the potential to reach a ground level ignition source and explode.

Requirements Under the Clean Air Act

8. The Clean Air Act ("CAA"), Title 42, United States Code, Section 7401 *et seq.*, is the Nation's comprehensive air pollution control statute. As part of the 1990 CAA amendments, Congress promulgated Section 112(r)(7), Title 42, United States Code, Section 7412(r)(7), to "prevent accidental releases of regulated substances" from facilities such as the BP Products Texas City refinery. Section 112(r)(7) in turn authorizes the Administrator of the Environmental Protection Agency ("EPA") to promulgate "release prevention, detection and correction requirements" to prevent the accidental releases. Title 42, United States Code, Section 7412(r)(7)(A). The regulations are known as Risk Management Plan ("RMP") regulations and are set forth at Title 40, Code of Federal Regulations ("C.F.R."), Part 68.

9. Under the RMP regulations, BP Products must implement prevention, detection and correction requirements set forth in 40 C.F.R. Part 68, in order to prevent explosions such as the explosion that occurred on March 23, 2005, at the BP Products Texas City refinery. 40 C.F.R. § 68.12(d)(3).

BP Products Texas City Refinery ISOM Unit, Blowdown Drum and Stack

10. One of the refining units at the BP Products Texas City refinery used for processing gasoline components was the Isomerization Unit ("ISOM unit"). The main function of the ISOM unit was to increase the octane in a component of gasoline. A component in the ISOM unit was known as the Raffinate Splitter. "Raffinate" is a term given to components of gasoline that are in the process of or have been refined. The Raffinate Splitter was a single distillation tower with a height of 164 feet and an approximate volume of 3700 barrels. The Raffinate Splitter received a raffinate feed. The splitter divided the total raffinate into light and heavy raffinate. Raffinate that came from the Raffinate Splitter was referred to as a "light end hydrocarbon," and could be blended into gasoline. As a light end hydrocarbon, raffinate from the Splitter was highly volatile and could ignite easily.

11. The Raffinate Splitter was equipped with relief valves and headers to release excess pressure if necessary during a startup.

12. During a normal startup, BP Products written procedures required that excess hydrocarbon vapors from the Raffinate Splitter could be relieved only through a piping system known as the "3-pound vent" to a flare, which would burn off any excess hydrocarbons.

13. Although no written procedures authorized the practice, the Raffinate Splitter relief valves could be bypassed by a manual valve known as the "8-inch chain valve," which bypassed the 3-pound vent and instead went to a blowdown stack known as the "F-20 blowdown stack."

14. The F-20 blowdown stack was designed to operate with a "quench system," where water could be injected into the blowdown drum to cool the hydrocarbon vapors and change some of the hydrocarbon from vapors to liquids, which were sent to a closed sewer system. Remaining hydrocarbon vapors were sent through the stack and released directly to the open air.

15. BP Products was permitted to release hydrocarbons from the F-20 blowdown stack to the open air only in the case of an emergency or process upset or other events known as "startups" or "shutdowns," and only if BP Products provided advance notice to the Texas Commission on Environmental Quality ("TCEQ") that it was going to use the F-20 blowdown to release hydrocarbons during a startup or shutdown.

Location of Contractor Employees at the BP Products Texas City Refinery

16. During operations at the BP Products Texas City refinery, it was a common practice for BP Products employees and contractor employees to work in temporary trailers that were placed in the vicinity of blowdown stacks where hydrocarbons could have been released into the open air and reached an ignition source.

Explosion of March 23, 2005

17. In the month prior to March 23, 2005, the ISOM unit was undergoing a non-cycle ending "turnaround," where the unit was shut down and maintenance and repairs could be performed on different components in the unit.

18. On March 23, 2005, the Raffinate Splitter was undergoing a "startup" where after having been shut down for a month, it was being re-started for its operation to increase octane in unleaded gasoline. The startup process required sending up to 22,000 gallons of product to the Raffinate Splitter, the interior of which would be subjected to pressure up to 40 pounds per square inch (psi) and temperatures as high as 300 degrees Fahrenheit.

19. The Raffinate Splitter was viewed by BP Products Texas City refinery workers as one of the more basic units at the refinery to start up and operate. The startup of the Raffinate Splitter, however, was recognized as the most difficult or dangerous phase of operation for that unit, due to the re-introduction of hydrocarbons, elevated temperature and pressure.

20. The startup procedure for the Raffinate Splitter involved the work of several operators and supervisory personnel. BP Products was required by federal regulations to ensure that written procedures were established and implemented for the ISOM startup process. 40 C.F.R. § 68.69(a). The written procedures that operators were required to follow, and supervisors were required to ensure were followed, were the Standard Operating Procedures for the Raffinate Splitter Following a Turnaround ("SOP"). BP Products was also required to ensure that alarm systems and process safety components in the ISOM unit were operating correctly to enable supervisors and operators to perform startups at the Raffinate Splitter in a safe manner. 40 C.F.R. § 68.73(b).

21. By the morning of March 23, 2005, several procedures required for ensuring the mechanical integrity and a safe startup of the Raffinate Splitter had either not been established or were not being implemented. These included the following:

a. BP Products failed to notify non-essential contractor employees and all non-essential BP Products employees located in temporary trailers in close proximity to the Raffinate Splitter that the startup was going to take place.

b. The Raffinate Splitter bottoms area was filled above the level that was permitted under written procedures for startups, though this had become a common practice for startups of the Raffinate Splitter.

c. The ISOM unit control board operator had filled the Raffinate Splitter tower with feed, but raffinate was not being emptied from the Raffinate Splitter. A level instrument on the control board indicated to the operator that the level in the tower was decreasing when in fact it was increasing. Other information reflected the rising level of raffinate feed in the Raffinate Splitter. The control board panel did not automatically calculate and display to the operator that the mass balance was changing.

d. Alarms in the Raffinate Splitter and in the blowdown stack failed to function, or were ignored.

e. Excess pressure was relieved by sending hydrocarbons through the 8-inch bypass valve to the F-20 blowdown stack instead of to the 3-pound vent system that led to a flare. Although this had not been authorized, it had also become a common practice for startups of the Raffinate Splitter for several years.

f. BP Products was releasing hydrocarbons into the open air through the F-20 blowdown stack during startups although BP Products had repeatedly failed to provide advance notice to TCEQ that it would be releasing the hydrocarbons during the startups.

g. BP Products did not believe that an overflow of the Raffinate Splitter was a credible threat and chose not to perform a "what-if" scenario for an overflow of the Raffinate Splitter or the F-20 blowdown stack.

h. BP Products had failed since at least 1999 to perform a relief valve study on the ISOM unit to determine whether the F-20 blowdown stack had the capacity to safely release excess hydrocarbons.

22. At approximately 1:15 p.m. on March 23, 2005, after excessive liquid, pressure and temperature had built up inside the Raffinate Splitter for several hours, hydrocarbon vapors and liquids were released through relief valves and headers from the Raffinate Splitter to the F-20 blowdown stack. The volume of the hydrocarbon liquid was so great that it exceeded the capacity of the F-20 blowdown stack and released directly out the top of blowdown stack into the open air.

23. Hydrocarbon liquid flowed down the outside of the F-20 blowdown stack and reached ground level. At that point, a vapor cloud formed and migrated away from the blowdown stack, reaching an ignition source, believed to be the running engine of a truck parked near the blowdown stack. Upon reaching the ignition source, the hydrocarbon vapor cloud from the blowdown stack exploded, resulting in 15 deaths and at least 170 injured persons.

Failures to Establish and Implement Procedures to Ensure the
Ongoing Mechanical Integrity of the Raffinate Splitter and F-20 Blowdown Stack Before the
Explosion of March 23, 2005

24. Pursuant to 40 C.F.R. § 68.73(a), BP Products was required to ensure the mechanical integrity of the following process equipment at the BP Products Texas City refinery:

- (1) Pressure vessels and storage tanks;

- (2) Piping systems (including piping components such as valves);
- (3) Relief and vent systems and devices;
- (4) Emergency shutdown systems;
- (5) Controls (including monitoring devices and sensors, alarms and interlocks); and
- (6) Pumps

40 C.F.R. § 68.73(a).

25. Pursuant to 40 C.F.R. § 68.73(b), BP Products was required to "establish and implement written procedures to maintain the ongoing integrity of process equipment" listed above in Paragraph 24.

26. The SOP for startup of the Raffinate Splitter following a turnaround required that operators relieve excess hydrocarbons to a 3-pound venting system that sent the hydrocarbons to a flare where they would be burned off rather than released to the open air. However, because use of the 3-pound venting system extended the duration of startup, BP Products supervisory operations personnel allowed ISOM operators instead to use an 8-inch bypass valve to release hydrocarbons to the F-20 blowdown stack and to the open air, even though this was not authorized under the SOP.

27. The SOP allowed filling the Raffinate Splitter bottoms area to only 50% of its capacity. Instead ISOM supervisors regularly allowed operators to fill the Raffinate Splitter bottoms area to over 100% of its capacity (approximately 10 feet), in an effort to expedite the startup process and prevent damage to other components of the Raffinate Splitter, even though this was not authorized by the SOP. Moreover, by filling the bottoms area to over 100% of capacity, operators could not readily measure the actual volume in the tower, because the level instruments were incapable of reading any level over 100% of the bottoms area (approximately 10 feet of the 164-foot tower).

28. From in or about January 1999 until on or about March 23, 2005, BP Products did not believe that an overflow of the Raffinate Splitter was a credible scenario and chose not to perform a "what-if" scenario for an overflow of the Raffinate Splitter or the F-20 blowdown stack.

29. From in or about January 1999 until on or about March 23, 2005, BP Products chose not to perform a relief valve study on the ISOM unit to determine whether the F-20 blowdown stack had the capacity to release excess hydrocarbons safely.

30. In March 2002, BP Products environmental personnel informed BP Products engineering and operations management that it was possible to switch the ISOM unit relief valves and header system to a flare, but it would be necessary to conduct a relief valve study. BP Products engineering and operations management concluded that switching to the flare was not required for environmental compliance. At this time, neither engineering, operations nor safety management investigated whether the blowdown should be switched to a flare for safety purposes. As a result, the components in the ISOM unit, including the Raffinate Splitter, continued to vent hydrocarbons to the F-20 blowdown drum and stack.

31. In or about April 2003, the F-20 blowdown drum and stack were inspected. The inspections showed the following deficiencies:

a. The F-20 blowdown drum was designed and installed with a quench system that was used to reduce hydrocarbon vapors to a liquid that would be sent to the sewer system. The quench system was found no longer to operate; and

b. Baffles in the F-20 blowdown drum were used to reduce the amount of hydrocarbon vapor that was released out of the stack. Several baffles were corroded, had fallen to the bottom of the F-20 blowdown drum, and did not operate as designed.

32. From in or about January 1999 until on or about March 23, 2005, despite being aware of deficiencies in the blowdown stack, BP Products did not prevent operators from using the F-20 blowdown stack during startups until the explosion on March 23, 2005, even though BP Products did not know the amount of hydrocarbons that were being sent to the F-20 blowdown stack.

33. In 1994, Amoco, which then owned the BP Products Texas City refinery, implemented Process Safety Standard 6 ("PSS 6"). PSS 6 required the following for blowdown systems such the F-20 blowdown:

1. New blowdown stacks which discharge directly to the atmosphere are not permitted.
2. If still required, existing blowdown systems will be replaced with connections to depressure via another processing unit, a hydrocarbon recovery system, or flare when the size of the existing facility is outgrown.

34. In 1997, despite the requirements stated in PSS 6, the F-20 blowdown stack was replaced in kind by Amoco with another blowdown stack.

35. From in or about January 1999 until on or about March 23, 2005, despite adopting PSS 6, and despite being informed in or about April 2003 that the F-20 blowdown drum's quench system and baffles were not operating as designed, BP Products failed to replace the F-20 blowdown stack with a flare.

36. On or about March 21, 2005, BP Products maintenance personnel informed ISOM operations supervisory personnel that critical alarms had not been properly inspected in accordance with BP Products maintenance inspection requirements and part of the written SOP

for startup following a turnaround. Despite being informed of this, ISOM supervisory operations personnel allowed the startup to proceed on March 23, 2005.

37. The written SOP required instruments in the Raffinate Splitter tower to be functioning properly before startup. The required instrument checks were not completed prior to the March 23, 2005, startup. BP Products was aware for several years that questions had been raised as to whether a sight glass on the Raffinate Splitter tower used to visually check the level of product in the tower was functioning properly. Despite this, BP Products allowed the startup of the Raffinate Splitter to proceed on March 23, 2005.

Failures to Provide Information of Known Hazards to Contractors
at the BP Products Texas City Refinery before the Explosion of March 23, 2005

38. BP Products was required under federal regulations to ensure the safety of all contractors performing maintenance or repair, turnaround, major renovation or specialty work on processes at the BP Products Texas City refinery. 40 C.F.R. § 68.87(b)(2). BP Products was also required to inform all contractors of the known potential fire, explosion or toxic release hazards related to the contractors' work at the BP Products Texas City refinery. 40 C.F.R. § 68.87(b)(2).

39. At the BP Products Texas City refinery, written procedures required that a Management of Change ("MOC") be implemented whenever temporary trailers were placed within the refinery. Written procedures also prohibited placing temporary trailers in the vicinity of process units unless and until an MOC had been performed to ensure that process safety risks had been taken into account, including the risk of fire or explosion to a temporary trailer.

40. On or about March 23, 2005, at least 50 trailers at the BP Products Texas City refinery were in close proximity to blowdown stacks or flares. Of those 50 trailers, only four were

confirmed as having been properly assessed for occupancy under required written procedures for an MOC.

41. From in or about September 2004 until on or about March 23, 2005, BP Products failed to implement written MOC procedures that were required for safe placement of the trailers to be occupied by the JE Merit and Fluor contract employees in the vicinity of the ISOM blowdown stack during the startup for the Raffinate Splitter. The specific failures to perform and implement the MOC for the trailers included:

a. BP Products personnel failed to seek final approval for occupancy of the JE Merit trailer from the ISOM unit Superintendent;

b. BP Products failed to consider the risk of fire and explosion to contract employees that could be located within 350 feet of the blowdown stack, as required by American Petroleum Institute Standard 521, even though BP Products was aware of specific prior hydrocarbon releases from the blowdown stack; and

c. BP Products failed to prevent vehicular traffic in the vicinity of the blowdown stack during startup which would have reduced the risk of ignition near the blowdown stack in the event of a hydrocarbon release as occurred on March 23, 2005.

42. BP Products was aware that from in or about 1991 until March 23, 2005, there had been at least 19 prior releases of hydrocarbons directly into the open air from the blowdown stack.

43. From in or about January 1999 until on or about March 23, 2005, BP Products was aware that there had been instances of releases of hydrocarbon liquids, referred to as "puking" from blowdown stacks. During this same time period, BP Products personnel witnessed hydrocarbon vapors released from the F-20 blowdown stack during startups and normal

operating processes. During this same time period, BP Products operations management failed to ensure that these incidents were adequately investigated.

44. During this same time period, BP Products personnel were aware that fires would occur at the F-20 blowdown stack during lightning storms, caused by hydrocarbons that had ignited due to the F-20 blowdown stack being struck by lightning. BP Products operations management failed to ensure that these fires were adequately investigated.

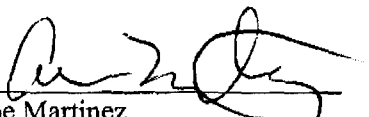
45. From in or about January 2002 until March 23, 2005, BP Products employees informed BP Products safety management of their concerns that trailers occupied by employees should not be placed in the vicinity of flares. As a result of this, BP Products safety management personnel informally implemented a prohibition against placing trailers near flares as a result of these warnings. However, BP Products safety management personnel did not apply the same prohibition against placing trailers near blowdown stacks.

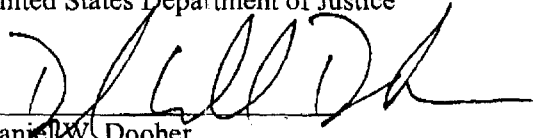
46. In or about August 2004, BP Products operations management personnel were informed that a hydrocarbon release occurred at a blowdown stack in the Ultracracker unit, a refining process unit located near the ISOM unit. An investigation showed that during the incident, a pressure vessel was overfilled, a critical alarm failed to function properly, diesel fuel was released from that unit's blowdown stack, and trailers occupied by contractor employees were in the vicinity of the Ultracracker unit. BP Products operations management personnel failed to alert any contractors that a similar incident (overfilled pressure vessel, non-functioning critical alarm, hydrocarbon release out of a blowdown stack) occurring in the ISOM unit could result in a catastrophic explosion, because unleaded gasoline from the ISOM unit was much more volatile than diesel fuel.

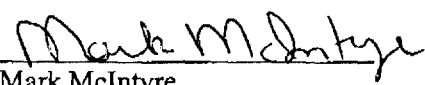
47. On or about March 23, 2005, BP Products did not have procedures requiring that it inform contractors in and around the ISOM unit that there was going to be a startup for the Raffinate Splitter, and of the potential for fire and explosion that could result from hydrocarbons releases during startups of the Raffinate Splitter. As a result, BP Products failed to inform the contractors in and around the ISOM unit of the startup of the Raffinate Splitter.


DONALD J. DeGABRIELLE, Jr.
United States Attorney
Southern District of Texas

RONALD J. TENPAS
Acting Assistant Attorney General
Environment and Natural Resources
Division
United States Department of Justice

By: 
Abe Martinez
Assistant United States Attorney
Southern District of Texas

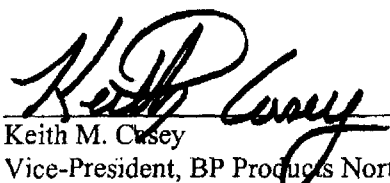
By: 
Daniel W. Doohar
Senior Trial Attorney
Environmental Crimes Section

By: 
Mark McIntyre
Assistant United States Attorney
Southern District of Texas

By: 
David B. Joyce
Trial Attorney
Environmental Crimes Section

After consulting with counsel and pursuant to the plea agreement entered into this day between the BP Products North America Inc., and the United States, BP Products North America Inc., does hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

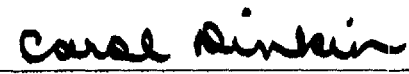
Date: 10/24/07



Keith M. Casey
Vice-President, BP Products North America Inc.
Business Unit Leader, Texas City Refinery
Corporate Representative for
Defendant BP Products North America Inc.

I am BP Products North America Inc.'s attorney. I have carefully reviewed the above Statement of Facts with the Corporate Representative. To my knowledge, the corporation's decision to stipulate to these facts is an informed and voluntary one.

Date: 10/24/07



Carol Dinkins, Esq.
Counsel for BP Products North America Inc.