

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

OHIO E.P.A.

JUN 30 2006

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

BP Products North America Inc. : Director's Final Findings  
4101 Winfield Road : and Orders  
Warrenville, IL 60555 :

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to BP Products North America Inc. ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3704.03 and 3745.01.

**II. PARTIES**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meanings as defined in ORC Chapter 3704 and the regulations promulgated thereunder.

**IV. FINDINGS**

The Director of the Ohio EPA has determined the following findings:

1. The City of Toledo, Division of Environmental Services ("TDOES") acts as an agent of Ohio EPA, Division of Air Pollution Control in Lucas County.
2. Respondent operates commercial gasoline dispensing facilities ("GDFs") in Lucas County. Each of these GDFs is an air contaminant source and is subject to the permit requirements of the Ohio Administrative Code ("OAC") Chapters 3745-31 and 3745-35.

Director's Final Findings and Orders  
 BP Products North America Inc.

3. In a letter dated December 8, 2004 TDOES informed Vedeer-Root CMS, Respondent's agent, of ten GDF locations TDOES had found Respondent to be operating under expired Permits to Operate ("PTOs").

4. On January 4, 2005, TDOES discovered three additional GDFs that had been installed and were operating without Respondent obtaining a Permit to Install ("PTI").

5. In a Notice of Violation ("NOV") dated February 16, 2005, Respondent was notified of its failure to comply with the requirements OAC Rule 3745-35-02 at ten GDFs and OAC Rule 3745-31-02 at three GDFs as identified in the following table.

BP #	Ohio EPA Premise #	Address	Installed	Failure to Obtain PTI	PTO expired	Failure to Obtain PTO
	0448002024	305 Farnsworth Road, Toledo	1/85		10/22/03	Y
	0448002025	6986 Airport Highway, Holland	1/78		10/22/03	Y
	0448011260	1702 Laskey Road, Toledo	1/81		10/22/03	Y
	0448011255	1565 E. Alexis Road, Toledo	1/76		10/22/03	Y
	0448011256	1502 S. Detroit Road, Toledo	1/80		10/22/03	Y
	0448011258	3306 Door Street, Toledo	1/76		10/22/03	Y
	0448011275	2441 S. Reynolds Road, Toledo	1/74		10/22/03	Y
	0448011278	1350 Broadway, Toledo	1/77		10/22/03	Y
	0448011282	3104 Cherry Street, Toledo	1/90		10/22/03	Y
22579	0448020051	2255 Navarre Ave, Toledo	1/78		10/22/03	Y

BP #	Ohio EPA Premise #	Address	Installed	Failure to Obtain PTI	PTO expired	Failure to Obtain PTO
22296	0448031055	501 W. Drussel Drive, Maumee	NA	Y	NA	
22231	0448031055	3211 Briarfield, Maumee	NA	Y	NA	
22577	0448031056	1456 Holland, Maumee	NA	Y	NA	

6. Respondent submitted PTO applications to TDOES for the first nine GDFs on February 14, 2005. The PTO for premise #0448020051 was submitted on March 3, 2005. As of April 5, 2005, each of the above PTOs has been approved and issued.

7. Respondent submitted PTI applications to TDOES for the three GDFs on March 3, 2005. PTIs were approved and issued on March 22, 2005.

8. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and the benefits to the people of the State to be derived from such compliance, as well as Respondent's cooperation, prompt response and good faith in addressing the NOV.

## **V. ORDERS**

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of twenty-one thousand nine hundred ten dollars (\$21,910) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for seventeen thousand five hundred and twenty eight (\$17,528) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent to:

Ohio EPA  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining four thousand three hundred and eighty two dollars (\$4,382) of civil penalty, Respondent shall within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$4,382. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

3. A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, OH 43216 - 1049

4. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$4,382 of the civil penalty in accordance with the procedures in Order 1.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V of these Orders.

## **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation not a party to these Orders, for any liability arising from, or related to, the Respondent's activities at the Facility, with the exception of TDOES to the extent it was serving as an agent of Ohio EPA in issuing the NOV addressed in these Director's Final Findings and Orders.

## **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

## **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

## **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

City of Toledo  
Department of Environmental Services  
348 South Erie Street  
Toledo, Ohio 43602  
Attn: Karen Granata

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: John Paulian

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

## **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

## **XII. WAIVER**

Respondent neither admits nor denies the allegations contained in these Director's Final Findings and Orders. In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA or TDOES for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders.

Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

### **XIII. EFFECTIVE DATE**

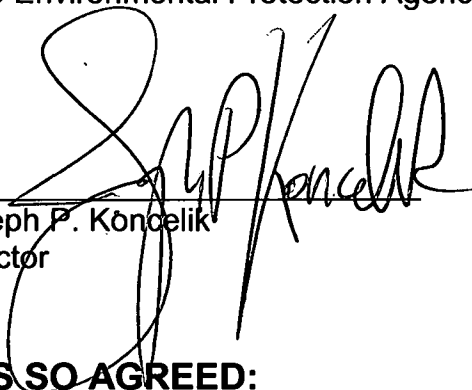
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

### **XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**

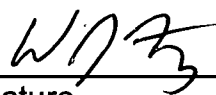
Ohio Environmental Protection Agency

  
\_\_\_\_\_  
Joseph P. Koncelik  
Director

\_\_\_\_\_  
Date 6/28/06

**IT IS SO AGREED:**

BP Products North America Inc.

  
\_\_\_\_\_  
Signature

Date 20 June 2006

WILLIAM J. FRY  
Printed or Typed Name

VP operations  
Title