



Mike DeWine, Governor
Jon Husted, Lt. Governor
Anne M. Vogel, Director

February 2, 2023

BP Husky Refining LLC –
Toledo Refinery
4001 Cedar Point Rd.
Oregon, OH 43616

**Re: BP Husky Refining LLC – Toledo Refinery
Director's Final Findings and Orders (DFFO)
RCRA C - Hazardous Waste
Lucas County
OHD005057542**

Subject: Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for BP Husky Refining LLC – Toledo Refinery.

Enclosed is the invoice for the total penalty amount of \$420,470.00 required by the orders. The penalty payment(s) shall be made by official check(s) made payable to "Treasurer, State of Ohio."

If you have any questions, please contact Sarah Miles at (614) 644-3037.

Sincerely,

Diana Bammerlin

Diana Bammerlin, Administrative Professional 2
Division of Environmental Response and Revitalization

Enclosure

cc: Bill Narotski, DERR, CO
Mitch Mathews, DERR, CO
Tammy Heffelfinger, DERR, CO
Gary Deutschman, DERR, NWDO
Jessica Susser, DERR, NWDO
Sarah Miles, Legal
Jennifer Roberts, BP-Husky Toledo Refinery
Joshua Seedorf, BP-Husky Toledo Refinery
Des Gillen, BP-Husky Toledo Refinery

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

BP-Husky Refining LLC
4001 Cedar Point Rd.
Oregon, OH 43616

BP Products North America Inc.
4001 Cedar Point Rd.
Oregon, OH 43616

**Director's Final
Findings and Orders**

Respondents

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to BP-Husky Refining LLC and BP Products North America Inc. (Respondents) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13 and 3745.01

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents BP-Husky Refining LLC and BP Products North America Inc. and successors in interest liable under Ohio law. No change in ownership of Respondents or of the Facility shall in any way alter Respondents' obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings.

1. Respondents BP-Husky Refining LLC and BP Products North America Inc. are

Director's Final Findings and Orders

BP-Husky Refining LLC and BP Products North America Inc.

Page 2

each a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(P).

2. Respondent BP-Husky Refining LLC owns a petroleum crude oil refinery located at 4001 Cedar Point Road, Oregon, Ohio 43616 (Facility). Respondent BP Products North America Inc. is the operator of the Facility. The Facility has been assigned U.S. EPA identification number OHD005057542 and Ohio Hazardous Waste Facility Installation and Operation Permit No. 03-48-0411 (Permit). Respondents' Permit issued by Ohio EPA on January 29, 2013 specifies that Respondents may conduct post-closure activities for a surface impoundment unit and land treatment unit and corrective action activities.
3. Respondent BP Products North America Inc. generates "hazardous waste" as that term is defined by ORC §3734.01(J) and OAC rules 3745-50-10(H) and 3745-51-03. Respondent BP Products North America Inc. generates non-acute hazardous waste in amounts greater than 1,000 kilograms per calendar month and therefore is operating as a "Large Quantity Generator" (LQG) of hazardous waste, as defined in OAC rule 3745-50-10(L)(5).
4. At the Facility, Respondent BP Products North America Inc. generates numerous characteristic and listed hazardous wastes, including clarified slurry oil tank sediment or in-line filter or separation solids from petroleum refining operations, which is a listed hazardous waste (K170) as defined in OAC rule 3745-51-32.
5. In February and March 2020, Respondent BP Products North America Inc. emptied and cleaned Tank 109 at the Facility in preparation to remove the tank from service, generating twenty-four (24) roll-off containers holding approximately 418,680 pounds of listed hazardous waste clarified slurry oil tank sediment (K170 listed hazardous waste).
6. Between February 22, 2020 and March 6, 2020, Respondent BP Products North America Inc. transported the twenty-four (24) roll-off containers of K170 listed hazardous waste clarified slurry oil tank sediment referenced in Finding No. 6. of these Orders to the Republic Services Vienna Junction Landfill (VJL), Erie, Michigan, where the hazardous waste was disposed. The VJL is a RCRA Subtitle D solid waste landfill and is not authorized to receive hazardous waste.
7. On January 27, 2021, Respondent BP Products North America Inc. cleaned Tank 704 at the Facility for routine maintenance and repairs, generating twenty-two (22) roll-off containers holding 431,904 pounds of K170 listed hazardous waste clarified slurry oil tank sediment.
8. Between February 12, 2021, and March 16, 2021, Respondent BP Products North

Director's Final Findings and Orders

BP-Husky Refining LLC and BP Products North America Inc.

Page 3

America Inc. transported these twenty-two (22) roll-off containers of K170 listed hazardous waste clarified slurry oil tank sediment, referenced in Finding No. 7. of these Orders to the VJL solid waste landfill where the hazardous waste was disposed.

9. On October 28, 2021, by letter submitted electronically, Respondent BP Products North America Inc. notified VJL that Respondent BP Products North America Inc. had misclassified K170 listed hazardous waste clarified slurry oil tank sediment as "waste asphalt" and transported an approximate total of 425 tons of K170 listed hazardous waste clarified slurry oil tank sediment in "two separate shipments" to VJL for disposal as solid waste in February and March of 2020, and February and March of 2021.
10. By letter submitted electronically on October 28, 2021, Respondent BP Products North America Inc. notified Ohio EPA of instances of noncompliance as required by paragraph A.22. of Respondents' Permit. Specifically, Respondent BP Products North America Inc. explained that in 2020 and 2021, Respondent BP Products North America Inc. transported an approximate total of 425 tons of K170 listed hazardous waste clarified slurry oil tank sediment to VJL, as referenced in Findings Nos. 7. and 9. of these Orders.
11. On November 10, 2021, by electronic mail, Ohio EPA requested additional information from Respondent BP Products North America Inc. about the hazardous wastes generated and the management activities from events referenced in Findings Nos. 6., 7., 8., and 9. of these Orders.
12. On November 18, 2021 and November 22, 2021, by electronic mail, Respondent BP Products North America Inc. provided information on dates of generation, labelling, container management, and transportation of the containers of K170 listed hazardous waste clarified slurry oil tank sediment to VJL in response to the request made in Finding No. 11. of these Orders.
13. Based upon the information provided by Respondent BP Products North America Inc. and referenced in Findings Nos. 10. and 12. of these Orders, Ohio EPA determined Respondent BP Products North America Inc., *inter alia*:
 - a. Caused hazardous waste to be transported to a facility that was not authorized to accept hazardous waste, in violation of ORC § 3734.02(F). Between February 22, 2020, and March 6, 2020, and between February 12, 2021 and March 16, 2021, Respondent BP Products North America Inc. transported an approximate total of 425 tons of K170 listed hazardous waste clarified slurry oil tank sediment, to a facility not authorized to accept hazardous waste;

Director's Final Findings and Orders

BP-Husky Refining LLC and BP Products North America Inc.

Page 4

- b. Failed to evaluate the clarified slurry oil tank sediments generated during the February and March 2020 on-site cleaning of Tank 109 and during the January 27, 2021 on-site cleaning of Tank 704 to determine if the waste generated by these activities were hazardous waste, in violation of OAC rule 3745-52-11;
 - c. Failed to prepare hazardous waste manifests for the transportation of twenty-four (24) loads of K170 listed hazardous waste clarified slurry oil tank sediment between February 22, 2020 and March 6, 2020 and twenty-two (22) loads of K170 listed hazardous waste clarified slurry oil tank sediment between February 12, 2021 and March 16, 2021, in violation of OAC rule 3745-52-20(A);
 - d. Failed to determine if the K170 listed hazardous waste clarified slurry oil tank sediment had to be treated prior to the land disposal of the waste, in violation of OAC rule 3745-270-07(A)(1); and
 - e. Failed to send a one-time written notification to VJL stating whether the K170 listed hazardous waste clarified slurry oil tank sediment does or does not meet treatment standards in violation of OAC rule 3745-270-07(A)(2).
14. By letter dated December 6, 2021, transmitted electronically, Ohio EPA notified Respondent BP Products North America Inc. of the violations referenced in Finding No. 13. of these Orders. This letter also notified Respondent BP Products North America Inc. that based upon information submitted by Respondent BP Products North America Inc. referenced in Finding No. 10. of these Orders, the violation referenced in Finding No. 13.e. of these Orders has been resolved.
15. On December 20, 2021, by letter transmitted electronically and electronic mail, Respondent BP Products North America Inc. notified Ohio EPA that Respondent BP Products North America Inc. has reviewed and updated its internal communications, tank removal procedures, tracking documents, and notification processes to alert environmental management staff when a tank will be taken out of service and when waste is generated and needs to be classified.
16. By letter dated January 7, 2022, transmitted electronically, Ohio EPA notified Respondent BP Products North America Inc. that based upon the information submitted by Respondent BP Products North America Inc. referenced in Finding No. 15. of these Orders, the violations referenced in Findings Nos. 13.b., 13.c., and 13.d. of these Orders have been resolved.
17. On January 13, 2022, by electronic mail, Respondent BP Products North America

Director's Final Findings and Orders

BP-Husky Refining LLC and BP Products North America Inc.

Page 5

Inc. provided copies of the shipping papers used when the K170 listed hazardous waste clarified slurry oil tank sediment was transported to VJL as part of the cleanouts of Tanks 109 and 704 at the Facility. This information identified 3 additional 20-yard roll-off containers of K170 hazardous waste that were not included in the initial calculation of waste weight and would add an approximate calculated thirty tons to the total weight.

18. By letter submitted electronically on February 9, 2022, Respondent BP Products North America Inc. notified Ohio EPA of instances of noncompliance as required by paragraph A.22. of Respondents' BP-Husky Refining LLC and BP Products North America Inc. Permit. Specifically, that Respondent BP Products North America Inc. had stored 672,000 gallons (a calculated 4032 tons) of listed waste K170 in Tank 111 from an unknown date in 2012 until February 2022 (approximately 10 years).
19. Based upon the information provided by Respondent BP Products North America Inc. and referenced in Finding No. 18. of these Orders, Ohio EPA determined Respondent BP Products North America Inc., *inter alia*, established and operated a hazardous waste storage facility without a hazardous waste installation and operation permit, in violation of ORC § 3734.02 (E) and (F) and OAC Rules 3745-50-41(A) and 3745-50-45(A). At a minimum, Respondent BP Products North America Inc. stored an approximate 4032 tons of K170 listed hazardous waste clarified slurry oil tank sediment in Tank 111 for at least 3,333 days, as described in Finding No. 18. of these Orders.
20. By letter dated February 23, 2022, transmitted electronically, Ohio EPA notified Respondent BP Products North America Inc. of the violations referenced in Finding No. 19. of these Orders.
21. Because Respondent BP Products North America Inc. updated its internal communications, tank removal procedures, tracking documents, and notification processes to alert environmental management staff when a tank will be taken out of service and when waste is generated and needs to be classified as described in Finding No. 15. of these Orders, the Director has determined that there is no further action required of Respondent BP Products North America Inc. at this time regarding the violations referenced in Findings No. 13.a. of these Orders.
22. Based upon information provided by Respondent BP Products North America Inc., Ohio EPA determined Respondent BP Products North America Inc., *inter alia*:
 - a. Initiated a removal of all contents of Tank 111 and decontamination of the tank. The removal was completed on August 16, 2022. Decontamination of the tank was completed on September 14, 2022.

Director's Final Findings and Orders

BP-Husky Refining LLC and BP Products North America Inc.

Page 6

- b. Conducted an inspection of the tank by an API/653 inspector on September 15, 2022. The inspection determined that the tank and its components were found to be intact with no signs of corrosion (other than surficial corrosion) or pitting. The inspection further concluded there were no adverse conditions or physical evidence of tank bottom leakage observed.
 - c. Provided notification of the cleaning of Tank 111 to Ohio EPA on September 28, 2022, and the inspection report was submitted to Ohio EPA on October 13, 2022.
 - d. Addressed incidental spillage and contamination impacting surface soils in the immediate vicinity of Tank 111 resulting from the removal of materials from and decontamination of Tank 111 was cleaned up, collected and managed offsite at licensed hazardous waste management facilities. Those activities were completed on October 24, 2022.
23. On November 3, 2022, Ohio EPA conducted an inspection of Tank 111. Ohio EPA found Tank 111 and the area surrounding Tank 111 had been decontaminated and found Tank 111 to be generally competent.
24. Due to the activities identified in Paragraph 23, Ohio EPA determined Respondents BP-Husky Refining LLC and BP Products North America Inc. have completed closure of Tank 111 in accordance with the requirements of OAC rule 3745-55-97(A).

V. ORDERS

Respondents BP-Husky Refining LLC and BP Products North America Inc. shall achieve compliance with Chapter 3734 of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Within 10 days after the effective date of these Orders, Respondents shall submit to Ohio EPA notification in compliance with paragraph E.10 of the Permit of the identification of a new waste management unit: Tank 111. Within 30 days after the effective date of these Orders, Respondents shall submit to Ohio EPA a schedule to complete a RFI workplan for Tank 111. Within 60 days after completion of the work specified in the RFI workplan, Respondents shall submit a Corrective Measures Completion of Work (CMCW) Report. This modification shall be submitted in accordance with Respondents' Permit. The Director has determined

this modification is classified as a Class 1 modification requiring the Director's prior approval.

2. Within 30 days after the effective date of these Orders, Respondents shall pay Ohio EPA the amount of \$420,470.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734, and which will be deposited into the environmental protection remediation fund established pursuant to ORC § 3734.281. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$420,470.00. The official check shall be submitted to Ohio EPA, PO Box 77005, Cleveland, Ohio 44194-7005, together with a letter identifying the Respondent BP Products North America Inc. Notification of penalty payment shall be sent to the Hazardous Waste Program Compliance Assurance Manager, Ohio EPA, Division of Environmental Response and Revitalization, P.O. Box 1049, Columbus, Ohio 43216-1049.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have performed all obligations under these Orders and the Chief of Ohio EPA's Division of Environmental Response and Revitalization acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondents of the obligations that have not been performed, in which case Respondents shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondents to Ohio EPA and shall be signed by a responsible official of the Respondents. For purposes of these Orders, a responsible official is one who is in charge of a principal business function of Respondents.

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 operation of Respondents' Facility.

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 Respondents.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. 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 (except penalty payment checks) required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Environmental Response and Revitalization
347 N. Dunbridge Road
Bowling Green, Ohio 43402
Attn: Hazardous Waste Program Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Manager, Hazardous Waste Compliance Assurance Section
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Environmental Response and Revitalization
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Manager, Hazardous Waste Compliance Assurance Section
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Environmental Response and Revitalization
50 West Town Street

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

For electronic mail delivery, submit documents to the following email addresses:

Mitchell.Mathews@epa.ohio.gov
Michael.Terpinski@epa.ohio.gov

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to exercise its lawful authority to require Respondents to perform corrective action at the Facility, at some time in the future, pursuant to ORC Chapter 3734 or any other applicable law. Respondents reserve their rights to raise any administrative, legal or equitable claim or defense with respect to performing such corrective action. Ohio EPA and Respondents each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation, or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Except for the right to seek corrective action at the Facility by Respondent, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

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

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

XIII. EFFECTIVE DATE

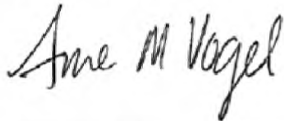
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Anne M. Vogel
Director

IT IS SO AGREED:

BP-Husky Refining LLC



Signature

1/17/2023

Date

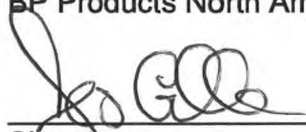
DESMOND THOMAS GILLEN

Printed or Typed Name

PRESIDENT

Title

BP Products North America Inc.



Signature

1 / 17 / 2023

Date

DESMOND THOMAS GILLEN

Printed or Typed Name

VICE PRESIDENT REFINING, TOLEDO

Title



Mike DeWine, Governor
Jon Husted, Lt. Governor
Anne M. Vogel, Director

Ohio EPA Invoice

Date Printed: February 2, 2023

BP-Husky Refining
4001 Cedar Point Rd
Oregon, OH 43616

Receivable ID: 1550393
Please include this Receivable ID with all correspondence

Due Date:
Amount Due:
Effective Date: February 1, 2023

Revenue Description: DERR - Findings and Orders - Hazardous Waste Cleanup (FFOHW)

Program Name: RCRA C - Hazardous Waste

Reason: On February 1, 2023, Ohio EPA reached agreement with the BP-Husky Refining LLC and BP Products North America, Inc. for violations discovered at the facility located at 4001 Cedar Point Road, Oregon, Ohio. The orders require payment of a civil penalty in the amount of \$420,470.00 which will be deposited in the Environmental Protection Remediation Fund.

How to Pay Fee Online:

1. Go to Ohio EPA's homepage: <https://epa.ohio.gov/>
2. In the "Featured Content" section locate the tile for the eBusiness Center and click.
3. On the right side of the screen click the blue "Launch" tile to enter the eBusiness Center.
4. To use the eBusiness center you will need an account. If you have an account, click the OH|ID icon in the light blue section on the left of the screen to log in.
5. If you do not have an account, the light blue section on the right of the screen has eBiz Help Wizard to assist with creating an account.
6. If you are paying your receivable with a credit card no PIN is required. If you plan to pay using a bank account and routing information you will need to request a PIN.

CUT OFF THIS STUB AND MAIL IT WITH YOUR CHECK. DO NOT MAIL TOP PORTION.

Pay to: Treasurer, State of Ohio. Please write the Revenue ID on your check. Please send this stub with your check. DO NOT SEND LETTERS OR OTHER FORMS.

Ohio EPA
PO Box 77005
Cleveland, OH 44194-7005

Due Date:	3/3/2023
Revenue ID:	1550393
Amount Due	\$420,470.00
Type Code:	FFOHW
Transaction ID:	