

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

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

**STIPULATED MODIFICATION
TO THE NINTH AMENDMENT TO THE CONSENT DECREE**

WHEREAS, in the Ninth Amendment to the Consent Decree, Blanchard Refining Company LLC (“Blanchard”), assumed the obligations, terms, and conditions of the Consent Decree, as amended, that apply to the Texas City Refinery (now referred to as the “Galveston Bay Refinery”); and

WHEREAS, Blanchard also agreed to undertake corrective measures to address noncompliance with Subparts A and QQQ of the Clean Air Act’s New Source Performance Standards (40 C.F.R. Part 60, Subparts A & QQQ) that was identified pursuant to an audit conducted at the Galveston Bay Refinery by BP Products North America Inc., the refinery’s former owner and operator; and

WHEREAS, Blanchard also agreed to undertake additional corrective measures to resolve alleged noncompliance with the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6901 *et seq.*, stemming from wastewater discharges to the Galveston Bay Refinery’s wastewater flumes and stormwater surge basins; and

WHEREAS, on September 18, 2015, Blanchard notified the United States of a potential *force majeure* pursuant to Paragraph 56 of the Consent Decree arising from, *inter alia*, several circumstances that Blanchard asserts were beyond its control. First, an industry-wide strike occurred in 2015, and this strike resulted in approximately 1,100 Galveston Bay Refinery employees being unavailable to perform their regular duties, including responsibilities relating to the Ninth Amendment’s compliance requirements. Second, previously unknown contamination was discovered at the planned construction site for a large stormwater storage tank that is a necessary component of the corrective measures required by the Ninth Amendment. This contamination required several months of remediation work before construction on the tank could restart. Blanchard also cited other conditions that, cumulatively, will cause delays in completing the Ninth Amendment’s compliance requirements; and

WHEREAS, without accepting or denying Blanchard’s claim of *force majeure*, this Stipulated Modification to the Ninth Amendment (“Stipulated Modification”) provides Blanchard with additional time to complete certain of the Ninth Amendment’s compliance requirements; and

WHEREAS, Blanchard has undertaken additional work to upgrade the Galveston Bay Refinery’s wastewater treatment system that is not required by the Consent Decree, as amended. These measures will further reduce the sources of volatile organic compounds (VOCs) into the

wastewater treatment system and will result in additional emission reductions of VOCs beyond what the Ninth Amendment was expected to yield. Specifically, Blanchard is:

- a. installing two new above ground API Separators for refinery process water oil and solids removal, resulting in reductions of approximately 7.7 tons per year of VOCs;
- b. installing enhanced controls on the refinery wastewater collection systems beyond those required by 40 C.F.R. Part 60, Subpart QQQ , resulting in reductions of 0.055 tons per year of VOCs; and
- c. modifying the Crude Unit flash drum to increase the amount of VOC flashed out of the wastewater before it is routed for treatment. This will prevent approximately 470 tons per year of VOCs from entering the wastewater collection and treatment system and is estimated to reduce VOC emissions by at least 10 tons per year from the aeration tanks; and

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

WHEREAS, the Parties recognize, and the Court by entering this Stipulated Modification finds, that this Stipulated Modification has been negotiated at arms-length and in good faith and that it is fair, reasonable, and in the public interest.

NOW THEREFORE, before the taking of any testimony, without adjudication of any issue of fact or law, and upon the consent and agreement of the Parties, it is hereby ORDERED, ADJUDGED and DECREED that the Ninth Amendment to the Consent Decree is modified as follows:

1. The first sentence of Paragraph 2.a.iii of the Ninth Amendment is modified to read as follows:

“iii. Sewer and Flume Controls: By no later than December 31, 2019, control overflows of Aqueous Benzene Wastes from the battery unit separators in the eastern and central sectors of the Galveston Bay Refinery (the “East Plant” and “Central Plant”) by sealing or enclosing the overflows up to the secondary oil water separator. ”

2. Paragraph 2.d of the Ninth Amendment is modified to read as follows:

“d. Schedule for Implementing Corrective Actions. By no later than December 31, 2019, Blanchard shall implement the corrective actions identified in the 180-Day Report, the 15-Month Report, and any Quarterly Report(s).”

3. Paragraph 3.a of the Ninth Amendment is modified to read as follows:

“a. Cessation of Discharges. By no later than December 31, 2019, Blanchard shall eliminate the disposal, storage, and/or treatment of listed and/or characteristic hazardous wastes in the Galveston Bay Refinery’s wastewater flumes and/or stormwater surge basins (including the shock basin).”

4. The second sentence of Paragraph 3.c.iii of the Ninth Amendment is modified to read as follows:

“iii. Once Tank 1056 has been returned to operating service, Blanchard shall implement cleaning and maintenance of Tank 1054 and shall return Tank 1054 to operating service by no later than August 1, 2016.”

5. All provisions of the Ninth Amendment that are unaffected by this Stipulated Modification shall operate in conjunction with the modified provisions contained herein in the same manner and to the same extent as did the language in the original Ninth Amendment.

6. Except as specifically provided in this Stipulated Modification, the parties intend that all other terms and conditions of the Ninth Amendment will remain unchanged and in full effect.

7. Each undersigned representative of Blanchard, EPA, and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Stipulated Modification and to execute and legally bind the Party he or she represents to this document.

8. This Stipulated Modification may be signed in counterparts, and its validity shall not be challenged on that basis.

SO ORDERED.

Dated and entered this 1st day of April, 2016.

/s/ Rudy Lozano

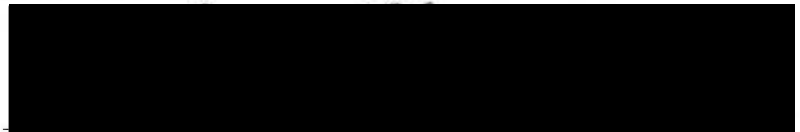
Rudy Lozano
United States Senior District Judge

THE UNDERSIGNED PARTIES enter into this Stipulated Modification to the Ninth Amendment to the Consent Decree entered in the matter of United States, et al., v. BP Exploration and Oil Co., et al., Civil No. 2:96 CV 095 RL (N.D. Ind.).

FOR PLAINTIFF THE UNITED STATES OF AMERICA:



~~JOHN C. CRUDEN~~
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice



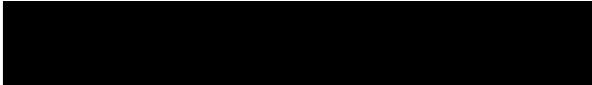
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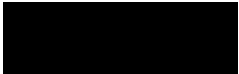
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**FOR THE UNITED STATES
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**FOR THE UNITED STATES
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**FOR THE DEFENDANT BLANCHARD
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