



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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Ref: 8P-AR

April 12, 2002

Mr. Tom Bachman
Division of Air Quality
North Dakota Health Department
1200 Missouri Avenue, Box #5520
Bismark, ND 58506-5520

RE: Tesoro (BP Amoco) Consent Decree

Dear Mr. Bachman,

This is in response to your letter dated October 25, 2001, copy attached, in which you request clarification from EPA Region VIII regarding how to incorporate the conditions of the BP Amoco Consent Decree into the draft title V permit for the Mandan refinery located in Mandan, North Dakota.

As you know, this Consent Decree, entered by the U.S. District Court of Northern Indiana, Hammond Division on August 29, 2001 ("CD"), addresses how this title V facility [as well as several other facilities in other locations] will meet and ensure continuing compliance with applicable requirements: Prevention of Significant Deterioration (PSD) requirements at Part C of Subchapter I of the Clean Air Act ("CAA"), and regulations promulgated under 40 CFR § 51.165, 52.21, and 52.24; the New Source Performance Standards (NSPS) found at 40 CFR 60 Subparts A and J, under Section 111 of the CAA; the Leak Detection and Repair (LDAR) regulations found at 40 CFR 60 Subparts VV and GGG, under Section 111 of the CAA, and 40 CFR 63 Subparts F, H, and CC, under Section 112(d) of the CAA; and National Emission Standards for Hazardous Air Pollutants (NESHAP) for Benzene Waste found at 40 CFR Part 61 Subpart FF, under Section 112(q) of the CAA.

Title V of the CAA provides that Part 70 shall require that "...the [title V] permit applicant submit with the permit application a compliance plan describing how the source will comply with all applicable requirements. The compliance plan shall include a schedule of compliance, and a schedule under which the permittee will submit progress reports to the permitting authority no less frequently than every six months." CAA Section 503(b)(1). See also CAA Section 502(b)(8) and 504(a). Pursuant to these statutory requirements, Part 70 and the corresponding North Dakota Air Pollution Control Regulations, NDAC 33-15-15-06.5.c(3) and NDAC 33-15-15-06.4.c(8)(c)[3] require applicants not in compliance at the time of permit issuance to include in the title V application, "...a narrative description of how the source will achieve compliance ...", 70.5(c)(8)(ii)(C), a schedule of compliance, including remedial measures and enforceable milestones...at least as stringent as that contained in any judicial



consent decree...”, 70.5(c)(8)(iii)(C), and a “schedule for submission of certified progress reports no less frequently than every 6 months”, 70.5(c)(8)(iv). The permit must contain a schedule of compliance and semiannual progress reports consistent with 70.5(c)(8). See 70.6(c)(3) and (4).

To meet these title V compliance plan requirements, the compliance plan section of the permit application, and the draft permit, must include 1) a copy of the signed CD for attachment to the permit, 2) a cross reference to the signed CD (including caption, date signed and/or entered and court), and 3) a statement that the CD will be complied with, including submission of semiannual progress reports, as provided for in the CD.

If you have any further questions regarding the requirements of title V and the compliance plan, please feel free to contact Kathleen Paser at 303-312-6526.

Sincerely,

Richard R. Long, Director
Air and Radiation Program

cc: Ron Day, Manager, Health, Safety and Environment, Tesoro Refinery