



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
BP Products North America, Inc.,) Docket No. CWA-05-2016-0014
Whiting, Indiana)
)
Respondent.)

**ORDER DESIGNATING PETITION OFFICER AND
DIRECTING COMPLAINANT TO FILE A RESPONSE TO THE PETITION**

This administrative proceeding commenced June 1, 2016, when Complainant, Director of the Water Division, U.S. Environmental Protection Agency, Region 5 (“Agency”), filed a Consent Agreement and Final Order (“CAFO”) between the Agency and BP Products North America, Inc. (“Respondent”). The CAFO purports to settle causes of action under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), and was filed pursuant to 40 C.F.R. §§ 22.1(a)(2)[sic], 22.13(b), 22.18(b)(2), (b)(3).¹ The Agency published a public notice of the CAFO the same day it was filed.

On July 12, 2016, several groups and individuals submitted comments critical of the CAFO. The Agency responded to the comments on January 13, 2017. On February 27, 2017, the commenters jointly submitted a Petition to Set Aside the CAFO. Petitioners are Carlotta Blake-King, former organizer for The Calumet Project, Inc.; Carolyn A. Marsh, former member of the BP Citizens Advisory Committee; Debra Michaud, on behalf of Tar Sands Free Midwest; and Patricia Walter, on behalf of Citizens Act to Protect Our Water.² After considering the issues raised in the Petition, the Acting Regional Administrator for Region 5 declined to set aside the CAFO. On June 12, 2017, he filed with the Office of Administrative Law Judges a Request to Assign Petition Officer in accordance with 40 C.F.R. § 22.45(c)(4)(iii).

Consequently, Chief Administrative Law Judge Susan L. Biro, U.S. Environmental Protection Agency, Washington, D.C., is designated to serve as the Petition Officer in this proceeding, which arises under 33 U.S.C. § 1319(g) and is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22 (“Rules of Practice”).

¹ These rules permit the parties to settle one or more causes of action before the filing of a complaint. Thus, a proceeding may be simultaneously commenced and concluded by the issuance of a CAFO in accordance with 40 C.F.R. § 22.18(b)(2) and (3). Consequently, no complaint was filed in this proceeding.

² The Rules of Practice identifies these participants as “commenters,” but for the sake of clarity, they will be referred to as “Petitioners” from this point forward. See 40 C.F.R. § 22.45(c)(4).

Complainant is **ORDERED** to present to this Tribunal a written response to the Petition and to serve copies of its response on Respondent and Petitioners no later than **July 17, 2017**. *These documents shall not be filed with the Regional Hearing Clerk or Presiding Officer.* 40 C.F.R. § 22.45(c)(4)(iv).³ Further, each party and Petitioner is **ORDERED** to, no later than **July 7, 2017**, file a statement disclosing the email address at which the party or Petitioner agrees to accept electronic service of documents issued by this Tribunal or filed by other parties or Petitioners.⁴

All documents and correspondence filed in this matter shall be filed with the Headquarters Hearing Clerk. Documents may be filed electronically by submitting them online using the [OALJ E-Filing System](https://yosemite.epa.gov/OA/EAB/EAB-ALJ Upload.nsf), which can be accessed online at <https://yosemite.epa.gov/OA/EAB/EAB-ALJ Upload.nsf>. The Regional Hearing Clerk may properly reject any documents that a party attempts to file in the Regional Office while this matter is before the Chief Administrative Law Judge.

If filings are submitted by U.S. mail, they should be sent to the following mailing address:

U.S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Avenue, N.W.
Mail Code 1900R
Washington, DC 20460

If filings are submitted by commercial carriers, such as UPS and Fedex, or hand-delivered, they should be sent to the following physical address:

U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Avenue N.W.
Washington, DC 20004

³ The Rules of Practice also demand that the Agency present a copy of the complaint along with its written response. 40 C.F.R. § 22.45(c)(4)(iv). However, this requirement does not apply because this action was commenced by a CAFO that has already been submitted to the record.

⁴ The Rules of Practice authorize service of certain filed documents by electronic means. *See* 40 C.F.R. § 22.5(b)(2) (authorizing service of documents filed by a party, other than the complaint, by “electronic means, including but not necessarily limited to email, if service by such electronic means is consented to” in a written statement filed with the appropriate Clerk); 40 C.F.R. § 22.6 (authorizing service of rulings, orders, decisions, and other documents issued by this Tribunal by “electronic means (including but not necessarily limited to facsimile and email)”). If a party or Petitioner is unable to receive service by email, it shall file a statement declaring its inability to receive electronic service and shall provide an address where it will accept service by U.S. Mail.

Privacy Act Statement; Notice of Disclosure of Confidential and Personal Information; Waiver of Confidentiality and Consent to Public Disclosure: The parties and Petitioners are cautioned that, unless redacted, all information filed with this Tribunal will be made publicly available. Thus, the parties are hereby advised not to file, or to redact (i.e., remove or obscure) where filing is necessary, any Confidential Business Information (“CBI”) or Personally Identifiable Information (“PII”) pertaining to any person. This may include information that, if disclosed to the public, would constitute an unwarranted invasion of personal privacy, such as Social Security numbers, medical records, and personal financial information.

To the extent that any person files or submits any un-redacted Confidential Business Information (“CBI”) or Personally Identifiable Information (“PII”) pertaining to themselves or their client, that person thereby waives any claims to confidentiality and thereby consents to public disclosure by EPA, including posting on the Internet, of all such information they submit. To protect such information against public disclosure, parties must follow the procedures specified on OALJ’s website at www.epa.gov/oalj.

SO ORDERED.



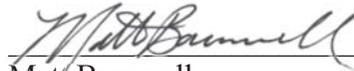
Susan L. Biro
Chief Administrative Law Judge

Dated: June 16, 2017
Washington, D.C.

**In the Matter of *BP Products North America, Inc.*, Respondent.
Docket No. CWA-05-2016-0014**

CERTIFICATE OF SERVICE

I hereby certify that true copies of this Order Designating Petition Officer and Directing Complainant to File a Response to the Petition, dated June 16, 2017, and, issued by Susan L. Biro, Chief Administrative Law Judge, were served in the manner indicated below.


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Attorney-Advisor

Original and One Copy by Hand Delivery to:

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Dated: June 16, 2017
Washington, DC