

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BP PRODUCTS NORTH AMERICA INC.,)	
Petitioner,)	
)	
v.)	PCB 20-
)	(Permit Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION)	Extension)
AGENCY,)	
Respondent.)	

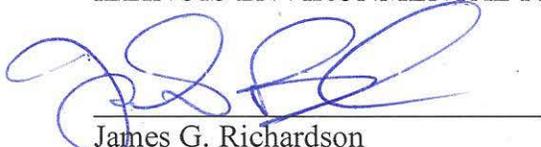
NOTICE

Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

Lori Littrell
Remediation Management Services
 Company
150 West Warrenville Road
Naperville, Illinois 60563

PLEASE TAKE NOTICE that I have today caused to be filed a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Deputy General Counsel
Dated: March 19, 2020
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BP PRODUCTS NORTH AMERICA INC.,)	
Petitioner,)	
)	
v.)	PCB No. 20-
)	(Permit Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL)	Extension)
PROTECTION AGENCY,)	
Respondent.)	

REQUEST FOR NINETY DAY EXTENSION
OF APPEAL PERIOD

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, James G. Richardson, Deputy General Counsel, and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board (“Board”) grant an extension of the thirty-five (35) day period for petitioning for a hearing to June 17, 2020, or any other date not more than a total of one hundred twenty-five (125) days from the date of receipt of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

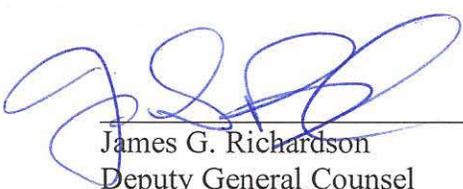
1. On or about February 11, 2020, the Illinois EPA issued a final decision to the Petitioner.
2. On March 17, 2020, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief, Petitioner received the final decision on or about February 13, 2020.

3. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five day period for petitioning for a hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Deputy General Counsel

Dated: March 19, 2020

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P.O. Box 19276
Springfield, Illinois 62794-9276
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866/273-5488 (TDD)

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

7018 1830 0000 5290 1896

217/524-3300

FEB 11 2020

BP Products North America Inc.
Attn: Ms. Lori Littrell
301 Evans Avenue
P.O. Box 167
Wood River, Illinois 62095

Re: 1191150001--Madison County
BP Products North America Inc. – Main Plant
ILD980700967
Log No. B-147R-CA-86; CA-91; and CA-92
Received: April 2, 2018; November 2, 2018; November 9, 2018; December 7, 2018; April 8, 2019; October 29, 2019; and January 27, 2020
RCRA Permit
Permit CA

Dear Ms. Littrell:

This is in response to the following nine (9) subject submittals, which were submitted on behalf of BP Products North America Inc (BP) by Ms. Lori Littrell of BP's Remediation Management Services Company. The subject documents are submitted to address certain aspects of the RCRA corrective action program required by a RCRA Corrective Action Permit (Log No. B-147R and associated modifications) for the above-referenced facility.

Submittal No. 1 – (Log No. B-147R-CA-86): A document entitled, “Interim Report – Bioremediation Pilot System Operations”, dated March 30, 2018, and received by the Illinois EPA on April 2, 2018. BP describes and presents the results of baseline monitoring and the initial period of systems operation, over approximately nine (9) months, through December 2017.

Submittal No.2 – (Log No. B-147R-CA-91): A document entitled, “Remedial Action Selection Report & Main Plant Remedy Road Map”, dated October 30, 2018, and received by the Illinois EPA on November 2, 2018. BP presents a workplan to outline the next step in defining the full-scale hydrocarbon remediation systems for the site. The report is submitted to meet requirements of Conditions IV.C.5 and IV.C.6 of the Permit.

4302 N. Main Street, Rockford, IL 61103 (815) 987-7760
595 S. State Street, Elgin, IL 60123 (847) 608-3131
2125 S. First Street, Champaign, IL 61820 (217) 278-5800
2009 Mall Street Collinsville, IL 62234 (618) 346-5120

9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
2309 W. Main Street, Suite 116, Marlon, IL 62959 (618) 993-7200
100 W. Randolph Street, Suite 4-500, Chicago, IL 60601

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Submittal No. 3 – (Log No. B-147R-CA-92): A document entitled, “Performance Report – Pilot-Scale Bioremediation Systems”, dated October 30, 2018, and received by the Illinois EPA on November 9, 2018. BP presents observations and findings from the Interim Report (Submittal No. 1 above) baseline monitoring, plus another seven (7) months, through July 2018. The report is submitted to meet requirements of Conditions IV.C.4. and IV.C.5 of the Permit.

Submittal Nos. 4 and 5 – A revised Illinois EPA RCRA Corrective Action Certification Form (LPC 632) was submitted as additional information to Submittal No. 2 (Log No. B-147R-CA-91) and Submittal No. 3 (Log No. B-147R-CA-92). Both submittals were dated December 6, 2018 and were received by the Illinois EPA on December 7, 2018. The revised forms were requested by the Illinois EPA to include professional certification for the subject documents.

Submittal Nos. 6 and 7 – Additional information to Submittal No. 1 (Log No. B-147R-CA-86) and Submittal No. 3 (Log No. B-147R-CA-92) provided printed copies of laboratory data. Both submittals were dated April 5, 2019 and were received by the Illinois EPA on April 8, 2019.

Submittal No. 8 – Additional Information to Submittal No. 3 (Log No. B-147R-CA-92) was received by Illinois EPA via email correspondence on October 29, 2019 to provide responses to questions emailed by Illinois EPA to BP on October 15, 2019. Topics included both LNAPL and soil related questions.

Submittal No. 9 – Additional Information (Log No. B-147-CA-91) dated January 24, 2020 was received January 27, 2020 to provide a copy of a BP email response dated December 17, 2019, which was sent in response to an Illinois EPA December 6, 2019 email request for the most recent LNAPL transmissivity calculation sheets for all the wells at the Main Plant where transmissivity testing occurred, including input measurements and resulting calculations, and how those compare to the proposed 2.0 ft²/day LNAPL transmissivity value.

The Permit was most recently revised May 29, 2018. The modifications approved included: (1) consolidation of reporting; (2) new corrective measures for remediation of hydrocarbon and refinery products incorporated as new Conditions IV.C.1 through IV.C.9 and Attachment C to the Permit to incorporate the new pilot programs; and (3) revisions to Section V to modify the process for demonstrating contaminant control of the groundwater plume in the southeast corner of the property. The new pilot programs approved in the Permit Issued May 29, 2018 (Log Nos. B-147R-M-17 and M-18) included:

Bioventing System (located mid-section of Area 3): BP injects air into the vadose zone to provide oxygen and enhance in-situ aerobic bioremediation of hydrocarbons and refinery product at and above the water table.

Biosparge System (mainly eastern portion of Area 5 and extends into Area 6 and 10): BP injects air below the water table to provide oxygen for enhancing aerobic bioremediation

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of hydrocarbons and product in groundwater and the smear zone, and allow for biodegradation of residual product in the vadose zone.

Air Sparge/Soil Vapor Extraction (SVE) System (Northeast Corner of Area 8): The air sparge portion of the system injects air below the water table to volatilize hydrocarbons from groundwater and the smear zone and enhance biodegradation. The SVE system recovers volatilized hydrocarbons and promotes air flow in the vadose zone.

The subject submittals summarize the findings of those pilot programs referenced above and proposed next steps. Based on a technical review, the Illinois EPA can approve the subject submittals with the conditions and modifications listed below, unless noted otherwise:

1. With regards to Submittals No. 1 and 3, the facility has provided a comprehensive summary of the biovent, biosparge, and AS/SVE pilot testing conducted to date of submittal, and the conclusions indicate those remedies are viable options to be incorporated into the full-scale plan.
2. With the exception of data collected and reported to date, Submittal No. 2 (Log No. B-147R-CA-91) (Road Map document) cannot be approved, and the document must be revised and resubmitted to Illinois EPA to meet the requirements listed in Conditions 3 through 6 below. In addition, these conditions must be considered in development of the *Main Plant Remediation Implementation Plan*, which will present the detailed proposal for full-scale design of the remedial patchwork to address contaminated groundwater and LNAPL present at the Main Plant property.
3. The facility is subject to the requirements of 35 Ill. Adm. Code Parts 742, 724, and 620. The following comments apply with regards to required application of these regulations for the facility:
 - a. Part 742 does not allow application of Part 742 as an interim measure or remedial tool to demonstrate protection of potential receptors when corrective action is still required. Illinois EPA requires actual data to ensure protection of human health and the environment during the corrective action process. For example, Illinois EPA cannot approve modeling of an existing plume where LNAPL exists and on-going corrective action is required, as a facility demonstration that a public water supply will not be impacted. Instead, data from monitoring points must be used to verify contaminants are not impacting receptors and contaminants are prevented from migrating off-site of the facility property.
 - b. The nearest exposure point for groundwater is the property boundary, or the current GMZ Boundary in cases where it extends beyond the property boundary. An immediate goal of the facility should be to reduce the footprint of the GMZ to no longer extend off-site.

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- c. While the Illinois EPA believes BP understands the Agency's position that remediation of LNAPL is still required even when the completion of hydraulic recovery methods have been agreed upon, the following clarification is provided since the term "the maximum extent practicable" was used many times throughout the document. The Illinois EPA agrees LNAPL transmissivity can be used to help determine when conditions for hydraulic recovery of refinery product are feasible; however, Illinois EPA does not concur with the facility use of the term for the site if the statement is intended to mean LNAPL has been addressed to the maximum extent practicable as described in 35 Ill. Adm. Code 742.320(b), which states "corrective action measures have been completed to remove any free product to the maximum extent practicable" because corrective action is not considered complete even if hydraulic recovery of LNAPL may be complete. Furthermore,
 - i. LNAPL must continue to be addressed at individual wells until no measurable or visually observed product, including a sheen, has been detected for four (4) consecutive quarterly or semiannual monitoring events, unless otherwise approved by Illinois EPA. Conditions must be adequate for potential product to enter the well (i.e., water table conditions intercept well screen) or the length of observations will be extended.
 - ii. The Illinois EPA can continue to approve an LNAPL transmissivity of 2.0 ft²/day as the lower limit for determining whether hydraulic recovery of product must be conducted, as outlined in Condition IV.C.9 of the Permit, with the following conditions:
 1. The more commonly accepted 0.3 to 0.8 ft²/day may be required in the future if deemed necessary. Annual reports and reevaluations of the GMZ must discuss the LNAPL conditions and why continued use of 2.0 ft²/day remains appropriate and propose changes if needed. Summarize results in a table, include calculations sheets, and discuss results and corresponding decisions.
 2. The approach is only applicable when another approved corrective action is being implemented to address existing product. BP will be proposing the other corrective actions in the Main Plant Remediation Implementation Plan.
 - iii. The Illinois EPA cannot agree with the statement on Page 27 of Submittal No. 2 (Log No. B-147R-CA-91), which states, "Once groundwater is demonstrated to meet its cleanup criteria and exhibits stable and or decreasing COC concentration trends, then potential LNAPL impact to groundwater conditions will be considered resolved." 35 Ill. Adm. Code Part 742 requires that free product be removed to the maximum extent practicable, which must be completed before groundwater closure can be achieved.
- d. Both the mobile and residual phase LNAPL are considered sources that contribute to groundwater contamination. Free product, as defined in 35 Ill. Adm. Code 742.200,

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“means a contaminant that is present as a non-aqueous phase liquid for chemicals whose melting point is less than 30°C (e.g., liquid not dissolved in water).” Free product does not include quantities of non-aqueous phase liquid contaminants residually held in the soil pores, which BP has committed to address via some combination of biosparging, bioventing, AS/SVE, or another active remediation, which will be presented in the Main Plant Remediation Implementation Plan for review and approval by the Illinois EPA.

- e. Individual areas (i.e., districts) cannot be used for evaluation of groundwater as the plume itself would have to be divided into areas based on monitoring well data. At this time, the Illinois EPA continues to consider the groundwater contamination a contiguous plume related to historical refinery activities. Therefore, when the time comes that free product has been addressed at the site and modeling with R26 is considered applicable, individual areas referred to in Submittal No. 2 can only be used for evaluation of groundwater if BP can adequately demonstrate to Illinois EPA that there are separate plumes from distinct and separate sources, and the wells defining the individual plume does not extend beyond the specified area boundaries. Until demonstrated otherwise, the horizontal and vertical extent of the plume will be based on monitoring well data from across the network, not just within an area boundary.
- f. Regardless of the district, all applicable exposure routes must be properly addressed while conducting corrective action in accordance with TACO. For example, the migration to groundwater from vadose zone must be addressed as well as the vapor intrusion from the uppermost aquifer (UMA).
- g. When the groundwater remediation is completed, no soils with any contaminants exceeding the soil saturation levels should remain in the smear zone. This is necessary to prevent any future re-contamination with fluctuations of groundwater levels in the area.
- h. The contaminants of concern mobility evaluation presented in Section 3.1.1.4 of Submittal No. 2 (Log No. B-147R-CA-91) cannot be approved at this time. At this time, the reference included in Appendix C, which is an article titled, “Parameters of Pesticides that influence process in the soil” by Food and Agriculture Organization of the United Nations for this discussion is not considered an acceptable reference material in determining the mobility of the petroleum hydrocarbon related COCs at the BP Wood River facility. In addition, the mobility of ionizing contaminants widely vary depending on pH. Page 17 of Submittal No. 2 (Log No. B-147R-CA-91) included a Kd tables for the COCs. However, no explanation of how the Koc was determined was included.

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- i. The list of remedial technologies shall be expanded if the implementation of the technologies listed in the subject submittals are found inappropriate or cannot achieve the final remediation objectives.
 - j. The Illinois EPA does not allow rearrangement of Equation R26 for back-calculations to determine the maximum amount of contamination that may be left in the environment.
 - k. The nearest surface water receptor is not limited to a recognized body of water such as the Mississippi River. For example, a drainage ditch or the former channel of the Wood River must be considered in the evaluation if appropriate.
4. LNAPL removal and treatment is a critical part of the remedial strategy being developed for the Site. In addition to the pilot studies technologies, the *Main Plant Remediation Implementation Plan* must propose transition from the IRM to a final LNAPL removal plan which includes hydraulic recovery of LNAPL via a mobile unit. Previous groundwater reporting indicated approximately 59,071 gallons of LNAPL were recovered during the Second Quarter 2015, while recovery amounts reduced significantly after that quarter due to higher groundwater elevations. As previously stated by the facility, rates are highest during occasional lower than normal water table conditions when a greater smear zone thickness is exposed. See Condition 3 above and Condition IV.C.9 of the Permit for additional guidance.
5. Overall, any reported quantities based on a modeling, mathematical calculations, any assumptions, or estimated values included in any future submittals to Illinois EPA must be clearly identified. All calculations and input parameters must be included and explained, if necessary. If all calculations cannot be provided, then an example should be provided.
6. An active remediation (i.e. COD wells, bioventing, AS/SVE) must accompany any passive remedy, such as MNSZD or MNA, and transition to passive MNA or NSZD will require prior Illinois EPA approval.
7. In the referenced June 23, 2016 meeting with Illinois EPA associated with the White Paper, the Agency clearly stated to all parties present that the Agency would not formally respond to the White Paper or establish it as a formal guidance. Please refer to the approved regulations, 35 Ill. Adm. Code Part 742.
8. If BP decides to begin construction and implementation of the full-scale system(s) to be proposed as a final footprint prior to Illinois EPA's review and approval, BP may be required to modify those systems:
9. Illinois EPA acknowledges BP is preparing a separate plan for the Korea Tank Farm.
10. The facility remains subject to the monitoring and reporting requirements as defined in previous Illinois EPA letters. RCRA corrective action activities carried out at the facility

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including off-site activities as necessary, must meet the requirements of: (1) 35 Ill. Admin. Code 724.201; (2) the facility's Permit; and (3) Illinois EPA letters regarding such activities.

11. A completed RCRA Corrective Action Certification form must accompany all submittals made to the Illinois EPA regarding RCRA corrective action activities.

This action shall constitute Illinois EPA's final action on the subject submittals. The applicant may appeal this final decision to the Illinois Pollution Control Board pursuant to Section 40 of the Act by filing a petition for a hearing within 35 days after the date of issuance of the final decision. However, the 35-day period may be extended for a period of time not to exceed 90 days by written notice from the applicant and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

For information regarding the request for an extension, please contact:

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276
217/782-5544

For information regarding the filing of an appeal, please contact:

Illinois Pollution Control Board, Clerk
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, IL 60601
312/814-3620

Work required by this letter, your modification requests or the regulations may also be subject to other laws governing professional services, such as the Illinois Professional Land Surveyor Act of 1989, the Professional Engineering Practice Act of 1989, the Professional Geologist Licensing Act, and the Structural Engineering Licensing Act of 1989. This letter does not relieve anyone from compliance with these laws and the regulations adopted pursuant to these laws. All work that falls within the scope and definitions of these laws must be performed in compliance with them. The Illinois EPA may refer any discovered violation of these laws to the appropriate regulating authority.

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Should you have any questions regarding groundwater-related matters associated with this project, please contact Amy Butler at 217/524-4716; questions regarding other aspects of this project should be directed to Takako Halteman at 217/524-3274.

Sincerely,



Kenneth E. Smith, P.E., Manager
Permit Section
Division of Land Pollution Control
Bureau of Land

KES:AMB:1191150001-RCRA-B147RCA86-B147RCA91-B147RCA92-Approval.docx

AMB *Wped TNH WSS*

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on March 19, 2020 I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD by the methods and to the persons identified below:

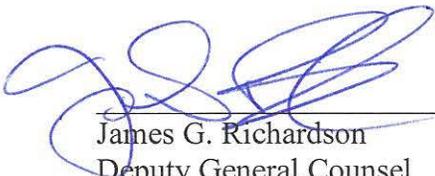
Electronic Service

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Chicago, Illinois 60601-3218

USPS First Class Mail

Lori Littrell
Remediation Management Services Company
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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