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POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

BP WEST COAST PRODUCTS LLC  
Appellants,  
v.  
NORTHWEST CLEAN AIR AGENCY,  
Respondent.

No.  
**NOTICE OF APPEAL**

BP West Coast Products LLC ("BP"), seeks review by the Pollution Control Hearings Board ("Board") of Air Operating Permit No. 015R1 ("Permit") issued by Northwest Clean Air Agency ("NWCAA") for its Cherry Point Refinery located in Blaine, Washington. The Permit was issued on January 15, 2013, became effective on the same date, and expires on January 15, 2018.

**1. Name and Address of Appellants and Representatives**

Appellants in this matter are:

BP West Coast Products LLC  
4519 Grandview Road  
Blaine, Washington 98230  
(360) 371-1500

Appellants are represented by:

Matthew Cohen  
Rachel Cox  
Stoel Rives, LLP  
600 University Street, Suite 3600  
Seattle, WA 98101

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NORTHWEST  
CLEAN AIR AGENCY

Call \_\_\_\_\_ Axel \_\_\_\_\_  
Charles \_\_\_\_\_ Dan \_\_\_\_\_  
Eileen \_\_\_\_\_ Lisa \_\_\_\_\_  
Mark A. \_\_\_\_\_ Lynn B. \_\_\_\_\_  
Mark B. \_\_\_\_\_ Other: \_\_\_\_\_  
Rtn to: \_\_\_\_\_

1 (206) 386-7569  
2 (206) 386-7654

3 **2. Name of the Other Party**

4 Respondent is the Northwest Clean Air Agency, a local air pollution control authority  
5 that issued Air Operating Permit No. 015R1.

6 **3. Action Appealed**

7 The action appealed from is the issuance of the Permit, and the inclusion in the Permit of  
8 best available retrofit technology (“BART”) emission limits for Boilers #6 and #7. True and  
9 correct copies of the Permit and the accompanying application are attached to this Notice of  
10 Appeal as Exhibits A and B.

11 **4. Statement of Facts**

12 The relevant facts for this appeal are summarized in detail in section 5, below.

13 **5. Statement of Grounds for Appeal**

14 This Notice of Appeal is timely, as it is filed within thirty (30) days of receipt of the  
15 permit.  
16

17 BP challenges the inclusion of the emission limits for Boilers #6 and #7 in Conditions  
18 5.12.26 and 5.12.30 of the Permit. These conditions impose emission limits contained in the  
19 BART Order No. 7836 issued by Washington’s Department of Ecology (“Ecology”) on July 7,  
20 2010. The two conditions impose BART controls for Boilers #6 and #7 despite the fact that  
21 these two units are not subject to BART. Pursuant to WAC 173-400-151, BART controls are  
22 authorized only for units that were in existence on August 7, 1977. Boilers #6 and #7 were  
23 installed in 2007, and as such are not subject to BART controls. Accordingly, the limits for  
24 Boilers #6 and #7 found in Conditions 5.12.26 and 5.12.30 are unlawful.  
25  
26

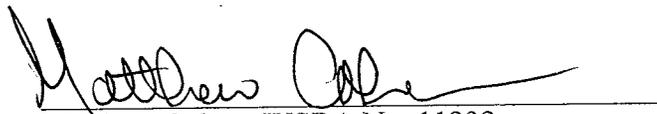
1 BP further challenges the designation of Conditions 5.12.26 and 5.12.30 as federally  
2 enforceable conditions. Section 2 of the Permit states that all conditions of the Permit are  
3 federally enforceable, except for conditions specifically designated as "State Only." As of the  
4 date of issuance of the Permit, the Cherry Point BART Order had not been approved as a part of  
5 Washington's Regional Haze State Implementation Plan. Accordingly, the Permit should  
6 designate Conditions 5.12.26 and 5.12.30 as "State Only" conditions.  
7

8 **6. Relief Sought**

9 BP respectfully requests that the Board revoke the Conditions set forth above and remand  
10 the permit to NWCAA with instructions to revise the permit consistent with the Board's  
11 mandate. In the alternative, BP requests that the Board designate the Conditions set forth above  
12 as "State Only" conditions. Finally, BP requests the Board to enter an order granting such other  
13 relief as the Board deems appropriate.  
14  
15

16 DATED: February 14, 2013.

17 STOEL RIVES LLP

18 

19 Matthew Cohen, WSBA No. 11232  
20 Rachel Cox, WSBA No. 45020  
21 Attorneys for Appellants  
22 BP West Coast Products  
23  
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1 CERTIFICATE OF SERVICE

2 I, Judy Shore, certify and declare:

3 I am over the age of 18 years, make this Declaration based upon personal knowledge, and  
4 am competent to testify regarding the facts contained herein.

5 On February 14, 2013, I served true and correct copies of the document to which this  
6 certificate is attached on the following persons in the manner listed below:

7 Northwest Clean Air Agency  
8 Executive Director  
9 Mark Asmundson  
10 1600 South Second Street  
11 Mount Vernon, WA 98273

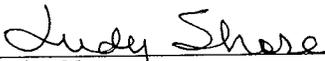
- 12  Via Facsimile
- 13  Via U.S. Mail
- 14  Via Legal Messenger
- 15  Via Federal Express

16 The Pollution Control Hearings Board  
17 1111 Israel Rd. SW, Suite 301  
18 Tumwater, WA 98501

- 19  Via Facsimile
- 20  Via U.S. Mail
- 21  Via Legal Messenger
- 22  Via Federal Express

23 I certify under penalty of perjury pursuant to the laws of the State of Washington that the  
24 foregoing is true and correct.

25 SIGNED on February 14, 2013 at Seattle, Washington.

26   
\_\_\_\_\_  
Judy Shore