



Mitchell E. Daniels, Jr.  
Governor

Thomas W. Easterly  
Commissioner

100 North Senate Avenue  
Indianapolis, Indiana 46204  
(317) 232-8603  
(800) 451-6027  
www.IN.gov/idem

TO: Interested Parties / Applicant

DATE: February 22, 2008

RE: BP Alternative Energy North America, Inc./ 089-26104-00449

FROM: Matthew Stuckey, Deputy Branch Chief  
Permits Branch  
Office of Air Quality

### Determination

Please be advised that on behalf of the Commissioner of the Department of Environmental Management, I have made a determination regarding the enclosed matter. Pursuant to IC 4-21.5-3-5(f) this order is effective fifteen (15) days after it is served. When served by U.S. mail, the order is effective eighteen (18) calendar days from the mailing of this notice pursuant to IC 4-21.5-3-2(e).

If you wish to challenge this decision, IC 4-21.5-3-7 requires that you file a petition for administrative review. This petition may include a request for a stay of effectiveness and must be submitted to the Office of Environmental Adjudication, 100 North Senate Avenue, Suite N 501E, Indianapolis, IN 46204, **within eighteen (18) calendar days of the mailing of this notice**. The filing of a petition for administrative review is complete on the earliest of the following dates that apply to the filing:

- (1) the date the document is delivered to the Office of Environmental Adjudication (OEA);
- (2) the date of the postmark on the envelope containing the document, if the document is mailed to OEA by U.S. mail; or
- (3) the date on which the document is deposited with a private carrier, as shown by receipt issued by the carrier, if the document is sent to the OEA by private carrier.

The petition must include facts demonstrating that you are either the applicant, a person aggrieved or adversely affected by the decision or otherwise entitled to review by law. Please identify the permit, decision, or other order for which you seek review by permit number, name of the applicant, location, date of this notice and all of the following:

- (1) the name and address of the person making the request;
- (2) the interest of the person making the request;
- (3) identification of any persons represented by the person making the request;
- (4) the reasons with particularity, for the request;
- (5) the issues, with particularity, proposed for consideration at any hearing; and
- (6) identification of the terms and conditions which, in the judgment of the person making the request, would be appropriate in the case in question to satisfy the requirements of the law governing documents of the type issued by the Commissioner.

If you have technical questions regarding the enclosed documents, please contact the Office of Air Quality, Permits Branch at (317) 233-0178. Callers from within Indiana may call toll-free at 1-800-451-6027, ext. 3-0178.

Enclosure  
FN-determination. dot 12/03/07



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We make Indiana a cleaner, healthier place to live.*

Mitchell E. Daniels, Jr.  
Governor

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Commissioner

100 North Senate Avenue  
MC 61-53 IGCN 1003  
Indianapolis, Indiana 46204-2251  
(317) 232-8603  
(800) 451-6027  
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Mr. Robert Lukefahr  
BP Alternative Energy North America, Inc.  
700 Louisiana Street, 33<sup>rd</sup> Floor  
Houston, TX 77002

February 22, 2008

Re: Response to Review Request No. 089-26104-00449  
Collocation Source Determination  
Plant ID: 089-00449

Dear Mr. Lukefahr:

The Whiting Clean Energy plant sells steam to the BP Whiting Refinery plant through a dedicated pipeline. On February 8, 2008, BP Alternative Energy North America, Inc. requested a source determination regarding the two plants. IDEM, OAQ examined whether these two plants would be considered one "major source" as defined at 326 IAC 2-7-1(22), under the terms proposed in the request. In order for two plants to be considered one major source, they must meet all three of the following elements:

- (1) the plants must be under common ownership or common control;
- (2) the plants must have the same two-digit Standard Industrial Classification (SIC) Code or one must serve as a support facility for the other; and,
- (3) the plants must be located on contiguous or adjacent properties.

The request from BP Alternative Energy North America, Inc. (BPAE) sets out information regarding a potential stock purchase agreement. Under the terms of the potential agreement, BPAE would purchase all of the shares of Whiting Clean Energy. The BP Whiting Refinery is owned by BP Products North America, Inc. (BPNA). BPNA and BPAE are wholly owned subsidiaries of BP Plc. Under these terms the two plants would be under the common ownership of BP Plc. The two plants would meet the first element of the definition of a major source.

The Standard Industrial Classification (SIC) Codes can be found at <http://www.osha.gov/pls/imis/sicsearch.html> on the United States Department of Labor, Occupational Safety and Health Administration website. The proper two-digit code for Whiting Clean Energy is Major Group 49: Electric, Gas, And Sanitary Services. The proper two-digit code for the BP Whiting Refinery is Major Group 29: Petroleum Refining and Related Industries. The two plants do not have the same two-digit SIC Code.

A plant is considered a support facility if at least 50% of its output is dedicated to another plant. The refinery does not send any of its product output to Whiting Clean Energy. Whiting Clean Energy does receive pretreated water from the refinery. Whiting Clean Energy produces two products; electricity, which is sold on the open market through the electrical grid, and steam, which is sold only to the refinery. Whiting Clean Energy does not sell any electricity directly to the refinery. In the years 2004, 2005, 2006 and 2007 Whiting Clean Energy's steam sales to the refinery were, respectively, 20%, 14%, 29% and 34% of its total energy sales revenue. Since less than 50% of Whiting Clean Energy's product output goes to the refinery, and this is not expected to change under the terms of the potential agreement, there is no support facility relationship. Since the two plants do not have the same two-digit SIC Code and neither plant is a support facility for the other, they do not meet the second element of the definition of a major source.

The two plants are located on contiguous properties and connected by a dedicated pipeline. The two plants meet the third element of the definition of major source, since they are located on contiguous properties. In order for these two plants to be considered one major source, they must meet all three elements of the definition. Since the two plants do not meet the second element, IDEM, OAQ has determined that the two plants, under the terms of the potential agreement, would not be part of the same major source.

Pursuant to the provisions of 326 IAC 2-7-11(a)(7), no revision to the permit was necessary to accommodate this source determination. All conditions of the permit shall remain unchanged and in effect. Please attach a copy of this letter to the front of the original permit.

This decision is subject to the Indiana Administrative Orders and Procedures Act - IC 4-21.5-3-5. If you have any questions on this matter, please contact Doug Wagner, 100 North Senate Avenue, MC 61-53 IGCN 1003, Indianapolis, Indiana, 46204-2251, at 317-233-2629 or at 1-800-451-6027 (ext 3-2629).

Sincerely/Original Signed By:

Matthew Stuckey, Deputy Branch Chief  
Permits Branch  
Office of Air Quality

cc: File – Lake County  
U.S. EPA, Region V  
IDEM Northwest Regional Office  
Air Compliance Section Inspector  
Compliance Data Section  
Administrative and Development