

Summary of Administrative Appeal of BP Products North America Whiting Refinery Significant Source Modification Permit

The principal grounds for appeal are:

1. IDEM did not fully account for all air emissions from the refinery expansion project. Had this been done properly, a permit for a major modification would have been required, resulting in more stringent air pollution controls. IDEM did not fully account for emissions from:
 - a. 3 new refinery flares, or 8 existing refinery flares, which combust gases that are not recovered or otherwise controlled in the refining process. These emissions include sulfur dioxide, VOCs and particulates. Flares can produce thousands of pounds of pollutants in a single day.
 - b. Coke drum depressurization emissions, which include particulates and VOCs.
 - c. Coke drum decoking emissions --particulates and VOCs.
 - d. Fugitive sulfur emissions: Canadian tar sands contain high amounts of sulfur.

The more stringent pollution controls required for a major project modification in a non-attainment area (Lake County is non-attainment for ozone and PM2.5) would have to attain the Lowest Achievable Emission Rate (LAER), and include external and internal offsets.

IDEM's permit does not contain federally enforceable limits that would prevent a significant increase in these pollutants as required by law, and thus avoid the threshold for triggering prevention of significant deterioration (PSD) or non-attainment new-source review (NNSR) permit requirements that apply to major source modifications.

2. IDEM allowed BP to use industry-wide "emissions factors" to calculate baseline emissions at the refinery, instead of calculating actual emissions. This is improper and unlawful. Baseline emissions are used to calculate any net emissions increases from the project that may require pollution controls.
3. IDEM failed to account for increased levels of contaminants in the tar sands crude oil, by underestimating the amount of sulfur in the heavy crude. The crude also contains higher levels of metals such as mercury, nickel, vanadium and selenium.
4. IDEM improperly applied the regulatory requirements for fine particles, using standards for PM10, instead of those for PM2.5, which are the smaller particles that are more harmful to human health.
5. IDEM failed to account for increased greenhouse gases from the project or require any pollution controls for these greenhouse gases. The refinery expansion will result in at least a 50% increase in carbon dioxide and other greenhouse gases. Canadian tar sands crude oil requires more energy to refine than conventional crude oil.

HEC's appeal seeks to have the permit vacated, and to stay construction on the refinery expansion project until a new permit is issued that reduces air pollution from the project as fully as possible in order to protect public health. Pollution from the refinery will raise the risk of respiratory and cardiovascular diseases for the people living in its vicinity.