

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA**

Natural Resources Defense Council, Inc.,)	
)	
Plaintiff,)	Case No. 2 08 CV 0204
)	
v.)	Judge Philip P. Simon
)	
BP Products North America, Inc.,)	
)	
Defendant.)	
)	

**DEFENDANT BP PRODUCTS NORTH AMERICA, INC.’S MOTION
TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE
FOR A STAY OF PROCEEDINGS**

Defendant, BP Products North America, Inc., (“BP”) moves the Court for an order dismissing Plaintiff’s Amended Complaint with prejudice pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure.

In the alternative, to the extent the Amended Complaint is not dismissed entirely, BP moves the Court to stay all further proceedings in this case until such time as the parallel proceedings currently pending before the Indiana Office of Environmental Adjudication, and any appeals that may arise there from, have been resolved.

The grounds for this motion are set out in a Memorandum in Support being filed herewith.

Respectfully submitted,

/s/ James H. O'Doherty

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*(A motion for admission of attorney Snyder to the bar of this Court is in the process of being submitted to the Clerk of Courts.)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Defendant BP Products North America, Inc.'s *Motion to Dismiss Or In The Alternative For A Stay of Proceedings* was served via the Court's electronic filing system this 12th day of January, 2009 upon all counsel of record.

/s/ James H. O'Doherty

An Attorney for Defendant,
BP Products North America, Inc.