

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

DICKERSON PETROLEUM, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 09-87
)	PCB 10-05
ILLINOIS ENVIRONMENTAL)	(UST Appeal)
PROTECTION AGENCY,)	(Consolidated)
)	
Respondent.)	

NOTICE OF FILING

TO: Mr. John T. Therriault	Carol Webb, Esq.
Assistant Clerk	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
James R. Thompson Center	1021 North Grand Avenue East
100 West Randolph, Suite 11-500	Post Office Box 19274
Chicago, Illinois 60601	Springfield, Illinois 62794-9274
(VIA ELECTRONIC MAIL)	(VIA U.S. MAIL)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a **NOTICE OF LIMITED WAIVER OF 120-DAY DECISION DEADLINE FOR AN ADDITIONAL 28 DAYS** directed to the Illinois Pollution Control Board, copies of which is herewith served upon you.

Respectfully submitted,

DICKERSON PETROLEUM, INC.,
Petitioner,

Dated: December 2, 2009

By: /s/Edward W. Dwyer
One of Its Attorneys

Edward W. Dwyer
Monica T. Rios
HODGE DWYER & DRIVER
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Petitioner,)	
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**NOTICE OF LIMITED WAIVER OF 120-DAY
DECISION DEADLINE FOR AN ADDITIONAL 28 DAYS**

NOW COMES Petitioner, DICKERSON PETROLEUM, INC. (hereinafter “Petitioner”), by and through its attorneys, HODGE DWYER & DRIVER, pursuant to 35 Ill. Admin. Code § 101.308(c)(2), and hereby agree to a limited waiver of the statutory 120-day decision deadline for an additional 28 days, or until February 4, 2010. In support of this Notice, Petitioner states as follows:

1. On April 15, 2009, Petitioner filed a Petition for Review of the Illinois Environmental Protection Agency’s (“Agency”) March 9, 2009 determination with the Illinois Pollution Control Board (“Board”). On May 7, 2009, the Board issued an Order stating that Petitioner had until June 8, 2009 to file an amended Petition for Review to include the date of service of the Agency’s final decision and a statement specifying the grounds of appeal. *Dickerson Petroleum, Inc. v. IEPA*, PCB No. 09-87 (Ill.Pol.Control. Bd. May 7, 2009). On May 26, 2009, Petitioner timely filed its Amended Petition for Review of the Agency’s March 9, 2009 determination issued to Petitioner.

Electronic filing - Received, Clerk's Office, December 2, 2009

2. On July 10, 2009, Petitioner filed a separate Petition for Review of the Agency's June 10, 2009 determination. *Dickerson Petroleum, Inc. v. IEPA*, PCB No. 10-05 (Ill.Pol.Control.Bd. July 10, 2009). On August 6, 2009, the Board consolidated PCB No. 09-87 and PCB No. 10-5 upon Petitioner's Motion. Board Order, *Dickerson Petroleum, Inc. v. IEPA*, PCB Nos. 09-87, 10-5 (consolidated) (Ill.Pol.Control.Bd. Aug. 6, 2009).

3. On August 12, 2009, Petitioner filed a Notice of Limited Waiver of 120-Day Decision Deadline for An Additional 46 Days, or until January 7, 2010. The current statutory deadline is January 7, 2010.

4. On December 2, 2009, Petitioner sought Respondent's agreement to filing a Reply Brief to Respondent's Brief filed on November 23, 2009. Counsel for the Petitioner and Respondent then contacted the Hearing Officer to make an oral motion for leave to reply and present an agreed upon schedule for such briefing.

5. Later on December 2, 2009, counsel for both parties participated in an unscheduled telephonic status conference with the hearing officer, during with Petitioner's counsel orally moved for leave to reply to Respondent's Brief and counsel for both parties presented an agreed upon briefing schedule. Counsel for Petitioner, also agreed to file a limited waiver of the decision deadline to accommodate the extended briefing schedule.

6. The hearing officer indicated that she would grant Petitioner's oral motion for leave to file a Reply Brief, and enter an Order providing that Petitioner's Reply Brief is due on December 9, 2009, and Respondent's Surreply Brief, if any, is due

on December 23, 2009. The hearing officer conditioned the ruling on Petitioner timely filing an amended waiver of the decision deadline to and including February 4, 2010.

7. Consistent with the hearing officer's ruling granting Petitioner's oral motion for leave to file a Reply Brief, and in order for the Board to have sufficient time to consider the additional briefing in this matter, Petitioner hereby agrees to a limited waiver of the statutory 120-day decision deadline for an additional 28 days, or until February 4, 2010.

WHEREFORE, Petitioner, DICKERSON PETROLEUM, INC., requests that the Illinois Pollution Control Board accept this limited waiver of the 120-day decision deadline for an additional 28 days, or until February 4, 2010, for final action on Petitioner's appeal of the March 9, 2009 and June 10, 2009 final decisions issued by the Illinois Environmental Protection Agency.

Respectfully submitted,

DICKERSON PETROLEUM, INC.,
Petitioner,

Dated: December 2, 2009

By: /s/Edward W. Dwyer
One of Its Attorneys

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Monica T. Rios
HODGE DWYER & DRIVER
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Post Office Box 5776
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CAHO:001/Fil/Consolidated 09-87&10-05/Waiver 03

CERTIFICATE OF SERVICE

I, Edward W. Dwyer, the undersigned, hereby certify that I have served the attached NOTICE OF LIMITED WAIVER OF 120-DAY DECISION DEADLINE FOR AN ADDITIONAL 28 DAYS upon:

John T. Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

via electronic mail on December 2, 2009; and upon:

James G. Richardson
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Carol Webb, Esq.
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Post Office Box 19274
Springfield, Illinois 62794-9274

by depositing said documents in the United States Mail, postage prepaid, in Springfield, Illinois on December 2, 2009.

/s/Edward W. Dwyer
Edward W. Dwyer