

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter Of:)	
)	
MARATHON PETROLEUM)	
COMPANY LP,)	
)	
Petitioner,)	
)	
v.)	PCB No. 18-49
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Don Brown	Carol Webb
Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500	1021 North Grand Avenue East
Chicago, Illinois 60601	P.O. Box 19274
(VIA ELECTRONIC MAIL)	Springfield, Illinois 62794-9274
	(VIA ELECTRONIC MAIL)

(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board **PETITIONER'S MOTION FOR LEAVE TO FILE SUPPLEMENT**, a copy of which is herewith served upon you.

Respectfully submitted,
MARATHON PETROLEUM COMPANY LP,

Dated: June 4, 2019

By: /s/ Melissa S. Brown
One of Its Attorneys

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CERTIFICATE OF SERVICE

I, Melissa S. Brown, the undersigned, on oath state the following:

That I have served the attached **PETITIONER'S MOTION FOR LEAVE TO FILE SUPPLEMENT** via electronic mail upon:

Don Brown
Clerk of the Board
Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
Don.Brown@illinois.gov

Carol Webb
Hearing Officer
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That my email address is Melissa.Brown@heplerbroom.com.

That the number of pages in the email transmission is 6 pages.

That the email transmission took place before 5:00 p.m. on the date of June 4, 2019.

/s/ Melissa S. Brown
Melissa S. Brown

Date: June 4, 2019

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PETITIONER'S MOTION FOR LEAVE TO FILE SUPPLEMENT

MARATHON PETROLEUM COMPANY LP ("Marathon"), by and through its attorneys, HEPLERBROOM, LLC, and pursuant to 35 Ill. Adm. Code § 101.500, hereby requests leave to file a supplement to Marathon's March 15, 2019 Reply to the Illinois Department of Natural Resources' ("IDNR") Response to the Illinois Environmental Protection Agency's ("Illinois EPA") Recommendation. In support of this motion, Marathon states as follows:

I. BACKGROUND

1. On September 10, 2018, Illinois EPA filed its Recommendation to the Illinois Pollution Control Board ("Board") regarding Marathon's Petition to Approve Alternative Thermal Effluent Limitations ("Petition"), in which Illinois EPA recommends that the Board grant Marathon's Petition. *See* Recommendation of Illinois EPA, PCB 18-49, at 4 (Sept. 10, 2018) ("Recommendation").

2. On December 28, 2018, IDNR filed its Response to Illinois EPA's Recommendation. *See* IDNR's Reply to Illinois EPA's Recommendation, PCB 18-49 (Dec. 28, 2018) ("Response").

3. In its Response, IDNR recommends that the Board issue a finding: (i) denying Marathon's Petition based on alleged deficiencies in burden of proof, (ii) requiring Marathon to obtain an Incidental Take Authorization, and (iii) revising Marathon's proposed mixing zone language.

4. On March 15, 2019, Marathon filed its Reply to IDNR's Response. Petitioner's Reply to IDNR's Response to Agency's Recommendation, PCB 18-49 (Mar. 15, 2019).

5. In its Response, Marathon objected to each of IDNR's recommendations and argued that the Board currently has all required information in the record to proceed with its decision in this matter. *See id.*

6. On April 12, 2019, Illinois EPA filed its Reply to IDNR's Response. Illinois EPA's Reply, PCB 18-49 (Apr. 12, 2019).

7. In its Reply, Illinois EPA provided arguments in opposition to IDNR's Response, asserting that Illinois EPA filed a complete Recommendation, that Marathon has met its burden of proof in this proceeding, and that the UIUC Bioassay has not changed Illinois EPA's Recommendation to grant the proposed alternative thermal effluent limitation. *See id.*

8. Additionally, as referenced in Illinois EPA's Reply, to further address one of IDNR's concerns raised in its Response, Illinois EPA requested that Marathon provide spawning temperature data for the Bigeye Chub and, if necessary, a representative important species. Marathon submitted the requested information to Illinois EPA and such information is attached to Illinois EPA's Reply. *See id.*

9. Subsequently, counsel for Marathon and counsel for IDNR had several discussions about IDNR's position asserted in its December 28, 2018 Response.

10. During those discussions, counsel for IDNR conveyed that it would no longer seek a denial of the Petition.

11. IDNR did not file a Reply pursuant to the May 15, 2019 deadline established by the February 7, 2019 Hearing Officer Order. It is Marathon's understanding that IDNR will not be filing a Reply to Marathon's or Illinois EPA's Replies.

12. As such, Marathon requests leave from the Board to supplement its March 15, 2019 Reply with the information provided below so as to convey IDNR's position to the Board.

13. Counsel for Illinois EPA and IDNR have reviewed this motion and the supplement below and have no objection to the granting of this motion.

II. SUPPLEMENT

14. As noted above, after Illinois EPA filed its Reply, counsel for Marathon and counsel for IDNR had several discussions about IDNR's position asserted in its December 28, 2018 Response.

15. During those discussions, counsel for IDNR conveyed that the additional information contained in Marathon's and Illinois EPA's Replies addressed IDNR's prior concerns raised in its December 28, 2018 Response.

16. Based upon the additional information contained in Marathon's and Illinois EPA's Replies, IDNR conveyed that it would no longer seek a denial of the Petition.¹

¹ Based on conversations with IDNR, Marathon has determined it will not seek an Incidental Take Authorization from IDNR for potential thermal impacts.

III. CONCLUSION

17. Marathon requests that the Board take into consideration the information in this supplement when formulating its decision as to Marathon's Petition.

18. Marathon believes that the Board has all required information in the record to proceed with its decision in this matter and requests that the Board grant Marathon's Petition.

WHEREFORE, for the above and foregoing reasons, MARATHON PETROLEUM COMPANY LP requests that the Illinois Pollution Control Board enter an Order granting this Motion for Leave to File Supplement, that the Illinois Pollution Control Board take into consideration the above information when formulating its decision as to MARATHON PETROLEUM COMPANY LP'S Petition to Approve Alternative Thermal Effluent Limitations, enter an Order granting MARATHON PETROLEUM COMPANY'S Petition to Approve Alternative Thermal Effluent Limitations, and grant such other and further relief in MARATHON PETROLEUM COMPANY LP'S favor as the Illinois Pollution Control Board deems just and proper.

Respectfully submitted,

MARATHON PETROLEUM COMPANY LP,

By: /s/ Melissa S. Brown
One of Its Attorneys

Dated: June 4, 2019

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