

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MARATHON PETROLEUM)	
COMPANY LP,)	
)	
Petitioner,)	
)	
v.)	PCB 18-49
)	(Thermal Demonstration)
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 **MARATHON PETROLEUM COMPANY LP'S MOTION FOR MODIFICATION OF THE BOARD'S APRIL 7, 2022 OPINION AND ORDER**, a copy of which is herewith served upon you.

Respectfully submitted,
MARATHON PETROLEUM COMPANY LP,

Dated: May 12, 2022

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

Alec Messina
Melissa S. Brown
HEPLERBROOM, LLC
4340 Acer Grove Drive
Springfield, Illinois 62711
Alec.Messina@heplerbroom.com
Melissa.Brown@heplerbroom.com
(217) 528-3674

CERTIFICATE OF SERVICE

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

That I have served the attached **MARATHON PETROLEUM COMPANY LP'S MOTION FOR MODIFICATION OF THE BOARD'S APRIL 7, 2022 OPINION AND ORDER**, 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
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Carol.Webb@illinois.gov

Sara Terranova
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
Sara.Terranova@illinois.gov

Renee Snow
Virginia Yang
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702-1271
Renee.Snow@illinois.gov
Virginia.Yang@illinois.gov

That my email address is Melissa.Brown@heplerbroom.com.

That the number of pages in the email transmission is 5 pages.

That the email transmission took place before 5:00 p.m. on the date of May 12, 2022.

/s/ Melissa S. Brown
Melissa. S. Brown

Date: May 12, 2022

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**MARATHON PETROLEUM COMPANY LP'S MOTION FOR MODIFICATION OF
THE BOARD'S APRIL 7, 2022 OPINION AND ORDER**

MARATHON PETROLEUM COMPANY LP ("Marathon"), by and through its attorneys, hereby files its Motion for Modification of the Illinois Pollution Control Board's ("Board") April 7, 2022 Opinion and Order pursuant to 35 Ill. Adm. Code 101.520. In support of its Motion, Marathon states as follows:

1. On April 7, 2022, the Board entered an Opinion and Order granting the alternative thermal effluent limitation ("ATEL"), mixing zone, and zone of passage relief as requested by Marathon.

2. The Board's Order also imposed two conditions on Marathon. First, the Board ordered that Marathon must seek an Incidental Take Authorization with the Illinois Department of Natural Resources ("IDNR"). The second condition located in Paragraph 5 of the Order, which is the subject of this Motion, provides as follows:

Marathon must conduct a study as suggested by the IDNR in its July 7, 2020 response to the Board's questions (see 7/7/20 IDNR Rep., Attach C) to determine whether Marathon's thermal discharge is causing an increased incidence of deformities, eroded fins, lesions and tumors (DELTs) in the representative important species, including the Bigeye Chub in Robinson Creek. This study must be completed by April 7, 2023, twelve months from the date of this order and

submitted to the Illinois Environmental Protection Agency (IEPA), the Illinois Department of Natural Resources (IDNR) and the Board.

3. After Marathon received and reviewed the Board's April 7, 2022 Opinion and Order, Marathon diligently began the process of contacting potential consultants to submit proposals to perform the DELTs study.

4. While Marathon is still in the process of retaining a consultant, based upon initial discussions it has become apparent that additional time is needed to engage a qualified consultant, prepare for and conduct the field and laboratory work for the DELTs study referenced in Paragraph 5 the Board's Order, and prepare and submit a report as required by the Board.

5. Section 101.520 of the Board's procedural regulations states that "[a]ny motion for reconsideration or modification of a Board order must be filed within 35 days after receipt of the order." 35 Ill. Adm. Code 101.520. "A timely-filed motion for reconsideration or modification stays the effect of the order until final disposition of the motion." *Id.*

6. Marathon was served with the Board's Order on April 7, 2022. Therefore, this Motion is timely filed pursuant to Section 101.520.

7. Marathon requests the Board modify its April 7, 2022 Opinion and Order as follows to allow additional time necessary to complete the required DELTs study:

Page 57 of the Opinion:

Board Finding. The Board finds that the record does not contain adequate information to determine if the synergistic effect of Marathon's thermal discharge and non-thermal stressors in Robinson Creek is causing an increased incidence of DELTs. Given that the proposed ATEL includes a mixing zone without a zone of passage, the Board will require as a condition to the ATEL that Marathon must conduct a study as suggested by IDNR (7/7/20 IDNR Rep., Attach C) to determine whether Marathon's thermal discharge is causing an increase incidence of DELTs in fish in the

Robinson Creek. This study must be completed by October 7, 2023 ~~within twelve months of the date of this order.~~

Paragraph 5 of the Order:

5. Marathon must conduct a study as suggested by the IDNR in its July 7, 2020 response to the Board's questions (see 7/7/20 IDNR Rep., Attach C) to determine whether Marathon's thermal discharge is causing an increased incidence of deformities, eroded fins, lesions and tumors (DELTs) in the representative important species, including the Bigeye Chub in Robinson Creek. This study must be completed by ~~April~~ October 7, 2023, ~~twelve months from the date of this order~~ and submitted to the Illinois Environmental Protection Agency (IEPA), the Illinois Department of Natural Resources (IDNR) and the Board.

8. Marathon believes an additional six months to complete and submit the study is sufficient time to perform the study as required.

WHEREFORE, Petitioner, MARATHON PETROLEUM COMPANY LP, respectfully prays for the Illinois Pollution Control Board to enter an Order granting its Motion to Modify the Board's April 7, 2022 Opinion and Order, ordering that Petitioner's deadline for completing and submitting the DELTs study is extended to October 7, 2023, and granting such other and further relief in its favor as the Board deems just and proper.

Respectfully submitted,

MARATHON PETROLEUM COMPANY LP,

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

Dated: May 12, 2022

Alec Messina
Melissa S. Brown
HEPLERBROOM, LLC
4340 Acer Grove Drive
Springfield, Illinois 62711
Alec.Messina@heplerbroom.com
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