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JAN 15 2004

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

THE PREMCOR REFINING )  
GROUP INC., )  
 )  
Petitioner, )  
 )  
v. )  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

PCB No. 04-66  
(RCRA Permit Appeal)

**NOTICE OF FILING**

TO: Ms. Dorothy M. Gunn  
Clerk of the Board  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601  
**(VIA FIRST CLASS MAIL)**

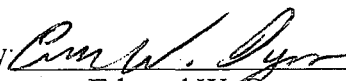
John J. Kim, Esq.  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276  
**(VIA FIRST CLASS MAIL)**

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies of Petitioner The Premcor Refining Group Inc.'s, **APPEAL OF AGENCY DETERMINATION REGARDING REQUEST TO MODIFY THE APPROVED CLOSURE PLAN**, copies of which are hereby served upon you.

Respectfully submitted,

THE PREMCOR REFINING  
GROUP INC.,  
Petitioner,

Dated: January 13, 2004

By:   
Edward W. Dwyer

Edward W. Dwyer  
HODGE DWYER ZEMAN  
3150 Roland Avenue  
Post Office Box 5776  
Springfield, Illinois 62705-5776  
(217) 523-4900

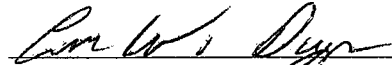
**CERTIFICATE OF SERVICE**

I, Edward W. Dwyer, the undersigned, certify that I have served the attached  
APPEAL OF AGENCY DETERMINATION REGARDING REQUEST TO MODIFY  
THE APPROVED CLOSURE PLAN upon:

Ms. Dorothy M. Gunn  
Clerk of the Board  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

John J. Kim, Esq.  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276

by depositing said documents in the United States Mail, postage prepaid, in Springfield,  
Illinois, on January 13, 2004.

  
Edward W. Dwyer

PREM:005/Fil/NOF-COS - Appeal

JAN 15 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS  
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THE PREMCOR REFINING )  
GROUP INC., )

Petitioner, )

v. )

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )

Respondent. )

PCB No. 04-66

(RCRA Permit Appeal)

**APPEAL OF AGENCY DETERMINATION REGARDING  
REQUEST TO MODIFY THE APPROVED CLOSURE PLAN**

NOW COMES Petitioner, THE PREMCOR REFINING GROUP INC.

("Petitioner" or "Premcor"), by and through its attorneys, HODGE DWYER ZEMAN ("HDZ"), and pursuant to Section 40 of the Illinois Environmental Protection Act ("the Act") (415 ILCS 5/40) and 35 Ill. Admin. Code Part 105, Subpart B, hereby appeals the Illinois Environmental Protection Agency's ("Illinois EPA") decision regarding Petitioner's request to modify the approved closure plan. In support thereof, Petitioner states as follows:

1. Premcor is a Delaware corporation doing business in the State of Illinois. Premcor owns property where a petroleum refinery is located in Hartford, Madison County, Illinois (the "Refinery"). Premcor formerly operated the refinery and refined petroleum into gasoline, diesel fuel, asphalt, and other products until September 27, 2002, when it ceased refinery operations. Premcor continues to perform petroleum storage, distribution, and terminal operations at parts of the Refinery.

2. On June 28, 2001, Illinois EPA approved the Resource Conservation and Recovery Act ("RCRA") closure plans for two former hazardous waste management

units at the refinery referred to as the "Dissolved Air Flotation Unit" and the "Roll-Off Box Container Storage Area" (Illinois EPA Log Nos. C-830 and C-831 respectively).

3. On January 10, 2003, Illinois EPA issued a Violation Notice ("VN") indicating that these units had not been properly closed needed to be addressed during RCRA closure efforts at this unit.

4. On May 30, 2003, Clayton Group Services, an environmental consulting firm, on behalf of Premcor, submitted a request to modify the approved closure plan for the Dissolved Air Flotation Unit and the Roll-Off Box Container Storage Area.

5. On September 10, 2003, Illinois EPA denied Premcor's request (herewith attached as Exhibit A).

6. On October 14, 2003, the Petitioner made a written request to Illinois EPA for an extension of time by which to file a petition for review, asking Illinois EPA to join in requesting that the Illinois Pollution Control Board ("Board") extend the thirty-five (35) day period for filing a petition to ninety (90) days to allow the parties additional time to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

7. On November 6, 2003, the Board extended the appeal period until January 13, 2004, as the parties requested.

8. The parties have been unable to reach resolution in this matter, yet.

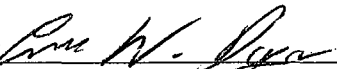
9. Petitioner hereby appeals Illinois EPA's decision to disapprove its request to modify the approved closure plan as erroneous.

WHEREFORE, for the above and foregoing reasons, Petitioner, THE PREMCOR REFINING GROUP INC., respectfully requests that the Illinois Pollution Control Board grant the following relief:

1. Find that Illinois EPA's September 10, 2003, final decision regarding the modification of the approved closure plan is in error, and reverse the same; and
2. Award such further relief as deemed just and equitable on these premises.

Respectfully submitted,

THE PREMCOR REFINING  
GROUP INC.,  
Petitioner,

By   
One of Its Attorneys

Dated: January 13, 2004

Edward W. Dwyer  
HODGE DWYER ZEMAN  
3150 Roland Avenue  
Post Office Box 5776  
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(217) 523-4900

PREM:005/RCRA Permit Appeal/Appeal of Agency Determination

SEP 15 2003



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276  
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601

ROD R. BLAGOJEVICH, GOVERNOR      RENEE CIPRIANO, DIRECTOR

9/15 orig: T. Mroz  
FEDEX

cc: B. Jones  
J. Dill

217/524-3300

September 10, 2003

CERTIFIED MAIL  
7002 3150 0000 1219 8896

Premcor Refining Group, Inc.  
Attention: Thomas Mroz, Site Remediation Manager  
1700 East Putnam Avenue, Suite 500  
Old Greenwich, Connecticut 06870

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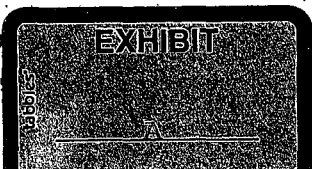
Re: 1190500002 -- Madison County  
Premcor  
Log No. C-830-M-2; C-831-M-2  
Received: June 2, 2003  
RCRA Closure

Dear Mr. Mroz:

This is in response to a May 30, 2003 submittal made on behalf of the Premcor Refining Group, Inc. by Monte Nienkerk, Clayton Group Services regarding RCRA closure activities at the above-referenced facility. As you know, Illinois EPA approved RCRA closure plans for two former hazardous waste management units referred to as the "Dissolved Air Flotation Unit" and the "Roll-Off Box Container Storage Area" on June 28, 2001 (Illinois EPA Log Nos. C-830 and C-831 respectively). On January 10, 2003, Illinois EPA issued a Violation Notice indicating that these units had not been properly closed and also pointed out that another release had occurred in the vicinity of the Roll-Off Box Container Storage Area that needed to be addressed during RCRA closure efforts at this unit.

Mr. Nienkerk's submittal included a two page cover letter, a completed LPC-PA18 form and a document entitled "RCRA Closure Evaluation and Sampling Report." Section 1.1 of this document indicates that its purpose is to evaluate whether the subject areas can be "clean-closed" based on the results of investigations previously conducted in the areas (including one recently conducted by Clayton Environmental Services). The conclusion section of the document indicates that the conditions in neither area meet clean-closure requirements at this time. The recommendation section of this document indicates that further evaluation of these areas is necessary.

Illinois EPA reviewed Mr. Nienkerk's submittal as a request to modify the approved closure plan for the Dissolved Air Flotation Unit and the Roll-Off Box Container Storage Area at the above-referenced facility. The subject request cannot be approved at this time for the following reasons:



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1. Contrary to the statement made in Section 1.2.2, Figure 2 does not show the boundaries of the Roll-Off Box Container Storage Area or the Laydown Area.
2. No information was provided regarding the locations where releases from roll-off boxes were observed during a November 26, 2002 Illinois EPA inspection and which were addressed in the January 10, 2003 Violation Notice). In addition, while the report indicates some material was removed from these areas, no analytical information was provided indicating that all contaminated material in the vicinity of these releases had been removed.

A review of Illinois EPA's files found that the leaking roll-off boxes observed November 26, 2002 were located just north of and between T-118 and the Flare Stack. No sampling has been done in this area. The entire area shown on the attached site layout map must be addressed through RCRA closure efforts.

3. Section 2.1 of the submittal contains information regarding closure efforts at the DAF Unit.
  - a. This section references Appendix D which is not legible;
  - b. No information was provided to support statements that there is actually a concrete base between the DAF Unit and the adjacent Sanitary Clow Unit. If there is indeed such a concrete base, then the approved closure plan for this unit requires that the base be steam cleaned, triple rinsed and inspected for integrity; soil samples must then be collected beneath any joints/cracks/defects in the base.
4. A statement is made in Section 3.2 that some of the polynuclear aromatic hydrocarbons detected above TACO Tier 1 levels in the Roll-Off Container Storage Area are not associated with the hazardous wastes managed in the area (F037, K048, K171). This is not a correct statement, as all PNAs are found in refinery-related wastes. It must be noted that Illinois EPA's closure plan approval letter for this unit required that all samples be analyzed for all the PNAs using Method 8310 of SW-846.
5. Section 6.0 (Recommendation) states, "It is recommended that the DAF and Roll-off Container storage Areas be further evaluated. The contaminants detected in these two areas are not at concentrations that pose an immediate threat to human health or the environment. The roll-off container storage area is no longer used, lessening the potential for workers to come into contact with the contaminated soil. The DAF area is either covered with concrete or gravel, also lowering the potential for contact with the contaminated soil. Information on a further evaluation of these areas or a method to

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address the contamination after further study of the data and engineering constraints in these areas should be prepared."

No information was provided regarding the procedures which will be followed in further evaluating these areas as proposed, or in preparing a method to address the contamination at these areas (after further study of the data and engineering constraints in the areas). In addition, no schedule is proposed for completing closure of these including the proposed efforts

6. Illinois EPA's closure plan approval letters for both areas required that all soil samples collected at these two units be analyzed for: (1) benzene, toluene, ethylbenzene and xylene; (2) polynuclear aromatic hydrocarbons using Method 8310 of SW-846; and (3) chromium, cyanide, nickel, lead and pH.
  - a. None of the samples collected by Clayton were analyzed for pH nor for the complete list of polynuclear aromatic hydrocarbons in Method 8310.
  - b. The samples collected by Burns and McDonnell for the DAF unit were not analyzed for total chromium, total lead, or total nickel; instead they were analyzed for TCLP chromium, TCLP lead and TCLP nickel (see Tabular summary in Appendix C).
7. Given the deficiencies noted above, no determination can be made that the horizontal and vertical extent of soil contamination at the Roll Off Container Storage Area has been established.

A revised document addressing the deficiencies noted above and how the requirements of 35 Ill. Adm. Code 725, Subpart G will be met in completing closure of the subject units must be submitted to Illinois EPA for approval. Guidance regarding the development of closure plans and modification requests is attached.

This letter shall constitute Illinois EPA's final decision on the subject submittal. Within 35 days of the date of mailing of the Illinois EPA's final decision, the applicant may petition for a hearing before the Illinois Pollution Control Board to contest the decision of the Illinois EPA, however, the 35-day period for petitioning for a hearing may be extended for a period of time not to exceed ninety days by written notice provided to the Board from the applicant and the Illinois EPA within the 35-day initial appeal period.

Work required by this letter, your submittal or the regulations may also be subject to other laws governing professional services, such as the Illinois Professional Land Surveyor Act of 1989, the Professional Engineering Practice Act of 1989, the Professional Geologist Licensing Act, and the



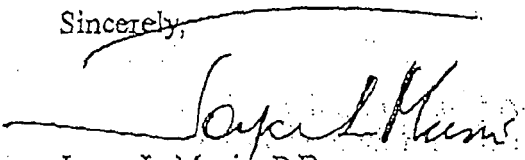
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Mr. Thomas Mroz  
C-830-M-2, C-831-M-2  
Page 4

Structural Engineering Licensing Act of 1989. This letter does not relieve anyone from compliance with these laws and the regulations adopted pursuant to these laws. All work that falls within the scope and definitions of these laws must be performed in compliance with them. The Illinois EPA may refer any discovered violation of these laws to the appropriate regulating authority.

If you have any questions regarding this matter, please contact James K. Moore, P.E. at 217/524-3295.

Sincerely,



Joyce L. Munie, P.E.  
Manager, Permit Section  
Bureau of Land

JLM:JKM:bjh\031261s.doc  
JKM

Attachments: Site Layout Map  
IEPA RCRA Closure Plan Guidance