

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

IN THE MATTER OF:	)	
	)	
CITGO PETROLEUM CORPORATION and	)	
PDV MIDWEST REFINING, L.L.C.,	)	
	)	PCB 12-94
Petitioners,	)	(Variance - Water)
	)	
v.	)	
	)	
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	
_____	)	

CITGO PETROLEUM CORPORATION and	)	
PDV MIDWEST REFINING, L.L.C.,	)	
	)	PCB 14-4
Petitioners,	)	(Variance - Water)
	)	(Not Consolidated)
v.	)	
	)	
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

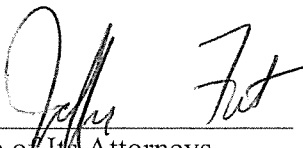
**NOTICE OF FILING**

To:

John Therriault, Clerk of the Board Illinois Pollution Control Board 100 West Randolph, Suite 11-500 Chicago, IL 60601	John J. Kim, Interim Director Illinois Environmental Protection Agency 1021 N. Grand Avenue East, P.O. Box 19274 Springfield, IL 62794-9274
Sara Terranova; Stephanie Diers, Office of Chief Legal Counsel Illinois Environmental Protection Agency 1021 N. Grand Avenue East P.O. Box 19274 Springfield, IL 62794-9274	Bradley P. Halloran Hearing Officer Illinois Pollution Control Board 100 West Randolph, Suite 11-500 Chicago, IL 60601

Please take notice that on August 8, 2013, we filed electronically with the Office of the Clerk of the Illinois Pollution Control Board the attached **Motion to Stay and Response to Board Order of July 25, 2013**, a copy of which is served upon you.

CITGO PETROLEUM CORPORATION and  
PDV MIDWEST REFINING, L.L.C.

By:   
One of Its Attorneys

Jeffrey C. Fort  
Irina Dashevsky  
Dentons US LLP  
233 S. Wacker Drive  
Suite 7800  
Chicago, IL 60606-6404

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**MOTION TO STAY AND RESPONSE TO BOARD ORDER OF JULY 25, 2013**

CITGO Petroleum Corporation and PDV Midwest Refining, L.L.C. (collectively, "Petitioners" or the "Lemont Refinery"), after consulting with the Illinois Environmental Protection Agency ("Respondent" or "IEPA"), respectfully move the Illinois Pollution Control Board (the "Board") to stay this proceeding. The Lemont Refinery also submits this document as

its Response to the Board's Order in these matters dated July 25, 2013.<sup>1</sup> The Parties are currently engaged in efforts to attempt to resolve the issues raised by the United States Environmental Protection Agency's ("U.S.EPA") disapproval of the variance granted by the Board and accepted by Petitioners in PCB 12-94. In support of this Motion, the Lemont Refinery states as follows:

1. On June 25, 2013 IEPA filed a Motion to Vacate with the Board requesting that the Board vacate its October 18, 2012 Opinion and Order in PCB 12-94, which granted a five-year variance to the Lemont Refinery. The basis for the IEPA's Motion to Vacate was a March 15, 2013, letter from the U.S.EPA formally disapproving the variance at issue.

2. On July 2, 2013 the Lemont Refinery filed an Objection to the Motion to Vacate the PCB 12-94 variance order, citing several grounds.

3. Additionally, on July 10, 2013, the Lemont Refinery filed a Petition for Modification of Variance to Include Additional Conditions For Protection of Aquatic Life Uses. While this Petition for Modification relates directly to the variance issued in PCB 12-94, the Board docketed this filing as PCB 14-4.

4. Subsequent to the filing of IEPA's Motion to Vacate and the Lemont Refinery's Petition for Modification, the Parties and U.S.EPA have engaged in discussions in an attempt to resolve the issues in dispute. The Lemont Refinery believes that U.S.EPA's reservations regarding the PCB 12-94 variance can be cured without the need for the Board to vacate its variance order as somehow improperly issued.

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<sup>1</sup> Concurrently with this filing, the Petitioners are submitting a Waiver of Decision Deadline with respect to these matters for a period of 120 days from September 12, 2013.

5. In further support of the this view, we note that the regulations adopted by U.S.EPA with respect to changes in water quality standards do allow States to include "policies generally affecting their application and implementation, such as mixing zones, low flows and variances." 40 CFR § 131.13. Petitioners further understand that U.S.EPA's policy includes criteria for the use of "variances, temporary standards and ambient-based criteria." Federal Register Vol. 63, No. 129 at 36758 - 62 (July 7, 1998).

6. On July 25, 2013, the Board issued an Order that reserved ruling on the filings listed in paragraphs 1, 2 and 3 above pending receipt of responses from the parties concerning various procedural options. The Parties are evaluating the Board's suggestion with respect to 35 Ill. Adm. Code. 101.902(b)(1) and appreciate the Board's attention to this matter given the unique circumstances at issue here. However, the Parties believe it is premature to comment regarding the procedural suggestion raised by the Board since any analysis of this issue would depend on the Parties' discussions and with U.S.EPA.

7. The Lemont Refinery respectfully requests that the Board stay the proceedings in these matters with respect to the pending Motion to Vacate and the Petition for Modification of the prior variance, for five weeks, until September 12, 2013, in order to allow adequate time for the parties to resolve the issues that have arisen with respect to the conditions in PCB 12-94. Petitioners are agreeing to extend the decision date in these matters until 120 days after that date.

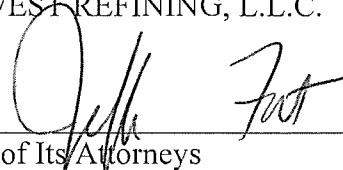
8. Counsel for the IEPA has reviewed this matter and has authorized counsel for the Lemont Refinery to advise the Board that the IEPA does not object to this Motion.

WHEREFORE, the Lemont Refinery requests that the Board stay the instant proceedings to allow the Parties to continue their discussions.

CITGO PETROLEUM CORPORATION and  
PDV MIDWEST REFINING, L.L.C.

By: \_\_\_\_\_

One of Its Attorneys

Handwritten signature of Jeffrey C. Fort in black ink, written over a horizontal line.

Dated: August 8, 2013

Jeffrey C. Fort  
Irina Dashevsky  
Dentons US LLP  
233 S. Wacker Drive  
Suite 7800  
Chicago, IL 60606-6404

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that I have served upon the individuals named on the attached Notice of Filing true and correct copies of this **Motion to Stay and Response to Board Order of July 25, 2013** by First Class Mail, postage prepaid, on August 8, 2013.

A handwritten signature in black ink, appearing to read "John C. [unclear]", is written over a solid horizontal line. The signature is cursive and somewhat stylized.