

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

THE PREMCOR REFINING)	
GROUP INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 07-30
)	(CAAPP Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Mr. John Therriault	Carol Webb, Esq.
Assistant Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 West Randolph Street	1021 North Grand Avenue East
Suite 11-500	Post Office Box 19274
Chicago, Illinois 60601	Springfield, Illinois 62794-9274
(VIA ELECTRONIC MAIL)	(VIA FIRST CLASS MAIL)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a **MOTION TO STAY THE PROCEEDING AND CONSOLIDATE CASES**, a copy of which is herewith served upon you.

Respectfully submitted,

THE PREMCOR REFINING GROUP INC.,
Petitioner,

Dated: January 22, 2016

By _____ / s/ Katherine D. Hodge
Katherine D. Hodge

Katherine D. Hodge
HEPLERBROOM, LLC
3150 Roland Avenue
Springfield, Illinois 62705-5776
(217) 523-4900

CERTIFICATE OF SERVICE

I, Katherine D. Hodge, the undersigned, certify that I have served the attached

MOTION TO STAY THE PROCEEDING AND CONSOLIDATE CASES upon:

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

via electronic mail on January 22, 2016; and upon:

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

Robb H. Layman, Esq.
Assistant Counsel
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 in Springfield, Illinois, postage prepaid, on January 22, 2016.

/s/ Katherine D. Hodge

Katherine D. Hodge

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

THE PREMCOR REFINING)	
GROUP INC.,)	
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Petitioner,)	
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v.)	PCB 2007-30
)	(CAAPP Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

MOTION TO STAY THE PROCEEDING AND CONSOLIDATE CASES

NOW COMES Petitioner, THE PREMCOR REFINING GROUP INC. (“Premcor” or “Petitioner”), by and through its attorneys, HEPLERBROOM, LLC, pursuant to 35 Ill. Admin. Code §§ 101.406, 101.500, and 101.514 and requests that the Illinois Pollution Control Board (“Board”) grant this Motion to Stay the Proceeding and Consolidate Cases. Petitioner provides as follows:

1. On September 19, 2006, the Illinois Environmental Protection Agency (“Illinois EPA” or “Respondent”) issued a Clean Air Act Permit Program (“CAAPP”) Permit (No. 96030082) to Premcor’s Hartford Terminal, a petroleum bulk storage and loading terminal, located in Hartford, Illinois.
2. On October 24, 2006, Premcor filed its Petition for Review (“Petition”) of the CAAPP Permit, explaining that the Respondent failed to incorporate comments submitted by Premcor into the final CAAPP Permit and, as such, the CAAPP Permit does not reflect the current applicable requirements or the current operations of the Hartford Terminal. Premcor requested a hearing and also filed a Motion to Stay the Effectiveness of the CAAPP Permit.

3. On November 16, 2006, the Board accepted the matter for hearing but reserved ruling on the Motion to Stay the Effectiveness of the CAAPP Permit until the Illinois Environmental Protection Agency (“Illinois EPA”) had a chance to respond.

4. On November 27, 2006, the Respondent filed a Motion to Dismiss the Petition, arguing that the Petition failed “to provide adequate specificity to apprise either the Board or the Illinois EPA of the subject matter of the appeal.”

5. On December 22, 2006, Premcor filed an Amended Petition, reiterating in detail the comments listed in Premcor’s exhibits to the Petition. The Board accepted the Amended Petition and granted Premcor’s Motion to Stay the Effectiveness of the CAAPP Permit on January 26, 2007.

6. Subsequently, Premcor and Illinois EPA came to an agreement on the issues raised by the appeal.

7. On December 9, 2009, Petitioner issued a revised CAAPP Permit for the Hartford Terminal to “reflect changes arising from the negotiated resolution of the permit appeal (Case No. 2007-30).”

8. On January 27, 2010, Premcor filed a Petition explaining that the revised CAAPP Permit does not reflect the current applicable requirements or the current operation of the facility. The matter was docketed as PCB 10-55.

9. This docket has remained open pending resolution of PCB 10-55.

10. Discussions between Premcor and Illinois EPA continue, and Premcor is currently awaiting Illinois EPA’s technical review of its most recent comments. Therefore, Premcor respectfully moves to stay the proceeding until at least December 31, 2016.

11. Section 101.514 of the Board's rules requires that motions to stay a proceeding be accompanied by sufficient information detailing why a stay is needed, a waiver of the decision deadline, and a status report. 35 Ill. Admin. Code § 101.514(a).

12. On December 12, 2006, Petitioner filed an open waiver of the decision deadline in this matter. Accordingly, a waiver is not included with this filing.

13. As required by Section 101.514(a), Petitioner is hereby updating the Board on the status of this matter. Premcor has provided Illinois EPA with comments and feedback on the most recently issued CAAPP Permit and is awaiting Illinois EPA's technical review. Accordingly, it is necessary to allow time for Illinois EPA to assess Premcor's comments and, if appropriate, issue a revised CAAPP Permit that replaces the most recently issued CAAPP Permit and resolves both this matter and PCB 10-55.

14. Further, granting a stay here would not result in any harm to the parties or the public. Premcor currently operates its facility pursuant to permits in effect as well as applicable State and federal regulations.

15. Thus, Petitioner has satisfied the requirements of 35 Ill. Admin. Code § 101.514(a).

16. Moreover, the Board has granted stays of proceedings in prior cases so there is precedent for doing so here. In PCB 01-72, Stepan Company appealed a CAAPP permit issued by Illinois EPA. *Stepan Company v. Illinois EPA*, PCB 01-72 (Ill.Pol.Control.Bd. Jan. 4, 2001). In *Stepan*, the Board found that a stay of the proceeding was needed "to conserve the resources of the parties and the Board while settlement discussions continue." *Id.* at 1.

17. Similarly, in another case the Board extended a stay of the proceedings to allow time for technical review of a permit application by Illinois EPA. *Cabot Corporation v. Illinois*

EPA, PCB 91- 197 (Ill.Pol.Control.Bd. Jan. 21, 1993). In *Cabot*, a company submitted a RCRA Part B Post-Closure Application for Illinois EPA to review. *Id.* at 1. The company argued that the RCRA Part B Post-Closure Permit and its revised closure plan would replace the closure plan that was the subject of the appeal. *Id.* The Board granted the request of the parties to stay the matter until Illinois EPA finished its technical review of the company's Part B Post-Closure Permit Application and revised closure plan for a vaporizer bottom treatment tank and Illinois EPA issues a permit.

18. Moreover, in light of the common issues, Premcor requests that this matter and PCB 10-55 be consolidated into one docket.

19. Section 101.406 of the Board Procedural Rules, 35 Ill. Adm. Code § 101.406, provides:

Consolidation of Claims

The Board, upon the motion of any party or upon its own motion, may consolidate two or more proceedings for the purpose of hearing or decision or both. The Board will consolidate the proceedings if consolidation is in the interest of convenient, expeditious, and complete determination of claims, and if consolidation would not cause material prejudice to any party. The Board will not consolidate proceedings where the burdens of proof vary.

20. Consolidation of the this matter and PCB 10-55 for hearing and decision is in the interest of convenient, expeditious, and complete determination of claims.

21. Both cases proposed for consolidation involve different versions of the same CAAPP Permit issued to Premcor's Hartford Terminal. These matters may be resolved by Illinois EPA issuing a revised CAAPP Permit for the facility. Furthermore, to resolve these matters, Premcor must discuss technical issues with the same Illinois EPA staff assigned to Premcor's CAAPP Permit.

22. The consolidation will not cause material prejudice to any party, as Premcor has no objections to awaiting Illinois EPA's technical review in these matters.

23. Both cases are permit appeals. Therefore, the Board's standard for both cases is the same.

24. It is the practice of the Board to consolidate multiple appeals of the same permit. *See Prairie Rivers Network, et al. v. Illinois EPA and Prairie State Generating Company, LLC*, PCB 06-124 and PCB 06-127 (consolidated) (Jan. 19, 2006).

WHEREFORE, Petitioner respectfully requests that the Board stay this proceeding until December 31, 2016, and consolidate cases PCB 07-30 and PCB 10-55.

Respectfully submitted,
THE PREMCOR REFINING GROUP INC.,
Petitioner,

Dated: January 22, 2016

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