

ILLINOIS POLLUTION CONTROL BOARD
March 3, 2016

THE PREMCOR REFINING GROUP INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 7-30
)	PCB 10-55
ILLINOIS ENVIRONMENTAL)	(CAAPP Permit Appeal)
PROTECTION AGENCY,)	(Consolidated)
)	
Respondent.)	

ORDER OF THE BOARD (by J.A. Burke):

The Premcor Refining Group Inc. (Premcor) petitions the Board to review two Illinois Environmental Protection Agency (IEPA) issuances of Clean Air Act Permit Program (CAAPP) permits. The permits concern Premcor's petroleum bulk storage and loading terminal at 201 East Hawthorne in Hartford, Madison County. The Board previously accepted the appeals for hearing, and automatically stayed the effectiveness of the CAAPP permits.

On January 22, 2016, Premcor moved to stay PCB 7-30 and PCB 10-55 and consolidate the two appeals.¹ On January 25, 2016, the hearing officer directed Premcor to submit additional information in support of its motion in PCB 10-55. Premcor responded (Resp.) on February 16, 2016.

REQUEST TO CONSOLIDATE

Premcor states that PCB 7-30 remains open pending resolution of PCB 10-55, and asks the Board to consolidate the two cases. Premcor states that it is concerned about procedural uncertainty associated with dismissing the appeal in PCB 7-30 while the PCB 10-55 appeal is still pending on a subsequent version of Premcor's CAAPP permit. Resp. at 2. Premcor also contends that dismissal of the PCB 7-30 appeal could result in a third party arguing that some portion of that earlier permit should go into effect. *Id.*

The Board's procedural rules allow for consolidating proceedings. Section 101.406 of those rules provides:

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

¹ For purposes of this order, the Board cites Premcor's motion (Mot.) filed in PCB 10-55.

consolidate proceedings where the burdens of proof vary. 35 Ill. Adm. Code 101.406.

The parties in both appeals are the same, and the appeals relate to different versions of the same CAAPP permit issued to Premcor's Hartford terminal. Further, resolution of both cases may come in the form of a revised IEPA permit for the facility, and Premcor's technical discussions in both cases are with the same IEPA staff. Mot. at 4. The Board finds that consolidating these appeals is in the interest of convenient, expeditious, and complete determination of the claims. Further, consolidation will not cause material prejudice to either party. The Board therefore grants the motions to consolidate PCB 7-30 and PCB 10-55 for hearing and decision. Future filings must reflect the amended caption of this order.

REQUEST FOR STAY

Premcor states that it and IEPA have reached agreement on the substantive changes to be made to Premcor's CAAPP permit that will resolve this appeal. Resp. at 2. Premcor has also provided IEPA with feedback on the most recently issued CAAPP permit and is awaiting IEPA's technical review. Mot. at 2. On February 5, 2016, and over the course of the following week, IEPA provided Premcor with an overview of its assessment on the best way to effectuate settlement. Resp. at 3. Premcor states that IEPA is committed to finalizing the CAAPP permit by Spring 2016. *Id.*

Premcor's motion and response to Board questions state why the stay is requested and provide information in support of the request, as required by 35 Ill. Adm. Code 101.514(a). Further, Premcor filed open waivers of the decision deadlines in both appeals. Based on this information, the Board stays this proceeding until July 1, 2016.

AGENCY APPEARANCE

The Board directed IEPA to respond to Premcor's additional information by February 19, 2016. The IEPA did not respond, and Premcor attached a letter from IEPA to its response wherein IEPA states it cannot make a formal finding with the Board "given the absence of any formal appointment or an assigned Assistant Attorney to the case matter." Resp. Exh. A at 2. The PCB 10-55 proceeding began in January, 2010 and the IEPA has not filed an appearance. However, Robb Layman filed an appearance on behalf of IEPA in PCB 7-30 on November 27, 2006. Robb Layman also submitted the letter to Premcor that was attached to Premcor's response in PCB 10-55.

Because the Board is consolidating these two cases, Robb Layman or another attorney for IEPA is directed to file an appearance in PCB 10-55 by April 4, 2016.

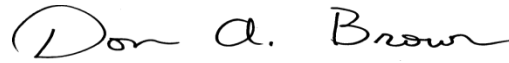
CONCLUSION

The Board stays this proceeding until July 1, 2016. A motion to stay these appeals beyond that date must be accompanied by a detailed status report of the progress in these appeals over the forthcoming months, as well as explanation of why a further stay is needed such as

future steps to be taken during such a stay, all as required by 35 Ill. Adm. Code 101.514(a). IEPA must file an attorney appearance in PCB 10-55 by April 4, 2016.

IT IS SO ORDERED.

I, Don A. Brown, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 3, 2016, by a vote of 5-0.

A handwritten signature in cursive script that reads "Don A. Brown".

Don A. Brown, Assistant Clerk
Illinois Pollution Control Board