

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PREMCOR REFINING GROUP,)	
)	
Petitioner,)	
)	
v.)	PCB 04-66
)	(RCRA Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Mr. John Therriault	Carol Webb, Esq.
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)

(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 the **STATUS REPORT, INSTANTER** a copy of which is hereby served upon you.

Respectfully submitted,
HEPLERBROOM, LLC,

Dated: July 6, 2016

By: /s/ Edward W. Dwyer
One of Its Attorneys

Edward W. Dwyer
HEPLERBROOM, LLC
3150 Roland Avenue
Springfield, Illinois 62703
Edward.Dwyer@heplerbroom.com
(217) 523-4900

CERTIFICATE OF SERVICE

I, Edward W. Dwyer, the undersigned, certify that I have served the attached STATUS REPORT, INSTANTER upon:

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

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

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

via electronic mail on July 6, 2016.

/s/ Edward W. Dwyer
Edward W. Dwyer

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

THE PREMCOR REFINING)	
GROUP INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 2004-66
)	(RCRA Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

STATUS REPORT, INSTANTER

NOW COMES Petitioner, THE PREMCOR REFINING GROUP INC. ("Premcor" or "Petitioner"), by and through its attorneys, HEPLERBROOM, LLC, and pursuant to the Illinois Pollution Control Board's ("Board") March 3, 2016 Order granting Premcor's Motion for Stay, provides the following status report, instanter:

Background/Permit Appeal History

1. Premcor owns property where a petroleum refinery is located in Hartford, Illinois ("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, the Illinois Environmental Protection Agency ("Illinois EPA") approved the Resource Conservation and Recovery Act ("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."

3. Subsequently, Illinois EPA issued a Violation Notice ("VN") alleging that two units had not been properly closed and needed to be addressed during RCRA closure.

4. On May 30, 2003, Premcor submitted a request to modify the approved closure plans 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.

6. On January 13, 2004, Premcor filed its appeal of Illinois EPA's disapproval of Premcor's request to modify its RCRA closure plans for the Dissolved Air Flotation Unit and the Roll-Off Box Container Storage Area.

7. On January 22, 2004, the Board accepted Premcor's petition.

Related Litigation History

8. On June 17, 2003, Premcor was served with a Complaint for Injunctive and Other Relief, (No. 03-CH-459 filed in Madison County Circuit Court) by the Office of the Illinois Attorney General ("AGO"), which addressed, *inter alia*, the units at issue in this permit appeal. On November 11, 2005, the AGO filed an Amended Complaint naming the Apex Oil Company a prior owner of the Refinery, as an additional defendant. In addition, in August of 2006, Premcor filed an Answer and Third Party Complaint naming approximately ten additional parties. The case is still ongoing in Madison County.

9. Importantly, since 2003, Premcor has been negotiating a consent order to resolve the Circuit Court matter with the AGO and Illinois EPA (hereinafter collectively: "the State"). In the meantime, Premcor under the oversight of IEPA, has voluntarily conducted multiple investigations of surface and subsurface conditions at the Refinery and conducted remediation including installation and operation of a groundwater pumping system to maintain gradient control along its western property boundary as part of its efforts to address the Illinois EPA's

concerns regarding units at the Refinery, including the issues referenced in the Illinois EPA's letter denying modification of Premcor's RCRA Closure Plan, that is the subject of this pending appeal. Premcor has provided periodic reports detailing the ongoing site work and its progress to Illinois EPA. The Quarterly reports are prepared in accordance with review and oversight provided by Illinois EPA.

Basis of Stay/Requirement for Status Report

10. Resolution of the Circuit Court matter in the form of a Consent Order will likely eliminate the need to pursue this permit appeal since a Consent Order likely would govern permitting, cleanup, and assessment issues that were raised in Illinois EPA's denial.

11. On January 21, 2016, Premcor, pursuant to Section 101.514 of the Board's rules, filed a Motion for Stay accompanied by information detailing why a stay was appropriate and necessary.

12. On March 3, 2016 the Board issued an Order granting the Motion for Stay and requiring a Status Report be submitted by July 1, 2016.

Status Report

13. Since the granting of the Stay, Premcor remains interested in resolving the Circuit Court matter with the State, via a consent order. They have negotiated a settlement with co-defendants Apex Oil Company. The settlement agreement provides for the creation of a remediation trust. Premcor and others have objected to the joint motion of the AGO and Apex for a good faith finding for the settlement. Premcor has also filed two motions for partial summary judgment, one concerning Premcor's liability vis a vis the federal court (S.D.IL) order and the second concerning its liability as affected by the bankruptcy court (E.D. MO) order and asset purchase agreement with Apex. A hearing is scheduled for August 12, 2016. Premcor

continues to conduct investigations of conditions at the refinery and to conduct remediation pursuant to the draft preliminary injunction order. In a recent court filing, Premcor states its costs to date to be \$51 million with future costs estimated to be \$152 million through 2043.

14. And as noted in paragraph 10 above Premcor continues, under the oversight of Illinois EPA, to voluntarily conduct multiple investigations of surface and subsurface conditions at the Refinery and remediation including installation and operation of a groundwater pumping system to maintain gradient control along its western property boundary

15. Premcor also continues to provide periodic reports detailing the ongoing site work and its progress to Illinois EPA including the following since January 1, 2016:

- Quarterly Groundwater Gauging – January 2016 and April 2016
- Semi-annual Groundwater Sampling – April 2016
- On-going Inward Gradient Control/Hydrocarbon Recovery
- On-going Light Non-Aqueous Phase Liquid (LNAPL) Recovery Systems

16. Premcor's counsel has shared this Status Report with counsel for the State and also conferred with counsel for the State. The State has no objection or additions to the Status Report.

17. Due to last minute changes to the Status Report on July 1, 2016 and vacation schedules of the undersigned and his client contacts, the undersigned was unable to have his client review the State's proposed changes. The undersigned conferred with counsel for the State and counsel agreed to seek informal leave to file instanter, after the holiday weekend. The undersigned then attempted to reach the Hearing Officer Carol Webb, and Board Member Deanna Glosser's assistant, Marie Tipsord while traveling out of town. Neither was available and detailed voicemail messages were left seeking a short extension to file the Status Report, instanter after the holiday weekend. The undersigned received an electronic mail from Hearing Officer Webb on July 5, 2016, while returning from a family reunion, advising that Ms. Tipsord

had orally approved the filing of the Status Report, Instanter. The undersigned thanks the Board for its accommodation and authorization to file this Status Report, Instanter.

WHEREFORE, Premcor respectfully requests that the Board accept this Status Report, Instanter, as being in compliance with the terms of the Board's Order of March 3, 2016 granting Premcor's Motion for Stay, and award any other relief the Board deems appropriate in this matter.

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

Dated: July 6, 2016

By: /s/ Edward W. Dwyer
Edward W. Dwyer

Edward W. Dwyer
HEPLERBROOM, LLC
3150 Roland Avenue
Springfield, Illinois 62705-5776
(217) 523-4900