

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. Don Brown	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
<b>(VIA ELECTRONIC MAIL)</b>	<b>(VIA ELECTRONIC MAIL)</b>

**(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 **JOINT MOTION TO CONTINUE STAY AND STATUS REPORT** a copy of which is hereby served upon you.

Respectfully submitted,  
HEPLERBROOM, LLC,

Dated: April 20, 2018

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

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**CERTIFICATE OF SERVICE**

I, Edward W. Dwyer, the undersigned, certify that I have served the attached JOINT MOTION TO CONTINUE STAY AND STATUS REPORT upon:

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

Carol Webb, Esq.  
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via electronic mail on April 20, 2018.

/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.	)	

**JOINT MOTION TO CONTINUE STAY AND STATUS REPORT**

NOW COMES Petitioner, THE PREMCOR REFINING GROUP INC. (“Premcor” or “Petitioner”), by and through its attorneys, HEPLERBROOM, LLC, and Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA” or “Respondent”) (hereinafter collectively “the Parties”), pursuant to 35 Ill. Admin. Code §§ 101.500 and 101.514 and request that the Illinois Pollution Control Board (“Board”) grant this Joint Motion to Continue Stay And Status Report (“Motion and Status Report”). In support of this Motion and Status Report, the Parties provide as follows:

**MOTION TO STAY**

1. The Parties now move to continue the stay of this proceeding in order to allow time to continue ongoing efforts to resolve a closely related matter in the Circuit Court.
2. For background on this permit appeal and the related proceeding: *People v. The Premcor Refining Group Inc., et al.* 03-CH-0459, Madison County (“State Case”), please see the previous filings listed below:
  - a. Motion to Stay filed by Petitioner in this matter on January 1, 2016;
  - b. Status Report filed on July 6, 2016; and
  - c. Joint Motion to Stay the Proceedings and Status Report filed on March 9, 2017.

3. On October 24, 2017, the Board entered an Order granting the parties' Joint Motion for Stay and Status Report. Pursuant to the Board's October 24, 2017 Order, the parties were also directed to file a Status Report no later than April 25, 2018.

5. The Parties are now requesting that the Board continue the stay of this proceeding for another six months from the date the Board grants this Motion to Stay.

6. 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).

7. A stay is needed in this proceeding because resolution of the Circuit Court matter will eliminate the need to pursue this permit appeal.

8. The issues regarding liability for groundwater contamination and the related RCRA closure obligations continue to be litigated in the State Case. Due to joinder of third party claims, the litigation of the State Case is complex and additional time is needed to come to a fair and just resolution of all claims.

9. Maintaining this permit appeal is necessary to protect Premcor's defenses in the related State Case and maintain its third party claims.

10. Petitioner filed an open waiver of the decision deadline in this matter on October 5, 2007. Accordingly, a waiver is not included with this filing.

11. A status report updating the Board on the status of this matter and the related Circuit Court case is included in the following section of this filing.

12. The Parties have satisfied the requirements of 35 Ill. Admin. § Code 101.514(a).

13. Furthermore, the Board has granted stays in permit appeals in prior cases so there is precedent for doing so here. *See Ameren Missouri and Pinckneyville Energy Center, v. IEPA,*

*PCB 15-134* (Ill.Pol.Control.Bd. February 4, 2016); *Saint-Gobain Containers, Inc. v. IEPA*, PCB 4-47 (Ill.Pol.Control.Bd. Feb. 16, 2006); *Stepan Company v. Illinois EPA*, PCB 01-72 (Ill.Pol.Control.Bd. Jan. 4, 2001); *C&S Recycling, Inc. v. Illinois EPA*, PCB 95-100 (Ill.Pol.Control.Bd. Apr. 4, 1996); *Cabot Corp. v. Illinois EPA*, PCB 91-197 (Ill.Pol.Control.Bd. Jan. 21, 1993).

14. Granting a stay here would not result in any harm to the parties or the public. Premcor is currently performing activities at its facility under the review of and with the consent of the Illinois EPA and the Office of the Illinois Attorney General (“AGO”).

#### **STATUS REPORT**

15. Since the last status report filed by Premcor on March 9, 2017, the litigation in the Circuit Court has progressed. As noted in our prior Status Report, on October 16, 2017, a Partial Consent Order between Premcor and the State of Illinois was entered by the Circuit Court in the State Case. The remaining issues that were not covered by that Partial Consent Order have been set for trial on June 25, 2018, which include issues relating to the instant permit appeal.

16. Since the entry of the Board’s October 24, 2017 Order, the parties have been engaged in further settlement discussions in an effort to resolve the remaining issues in the State Case. The State and Premcor have made significant progress on a final consent order and discovery matters are currently stayed. The State Case is presently set for a status conference in the Circuit Court on May 14, 2018.

17. Under the oversight of Illinois EPA, Premcor also continues to voluntarily conduct sequential investigations of surface and subsurface conditions at the refinery and perform remediation, which includes continuing operation of a groundwater pumping system to recover hydrocarbon and maintain gradient control along its western property boundary.

18. Premcor provides the State with quarterly updates detailing the ongoing site work and its progress, including Quarterly Groundwater Gauging.

19. Granting the stay sought above will allow Premcor and the State to focus efforts on resolving the State Case. In six months, the parties should be in a position to advise the Board of the status of the settlement discussions, or whether the State Case proceeded to trial in June 2018.

20. Counsel for Premcor has shared this Status Report with Complainant's counsel and has been advised the Complainant has no objection or additions to the Status Report.

WHEREFORE, the Parties respectfully requests that the Board:

- (a) Grant the Joint Motion to Continue Stay and stay this proceeding for another six months from the date of the Board's order granting the Motion to Stay;
- (b) Accept this Status Report; and
- (c) Award any other relief the Board deems appropriate in this matter.

Dated: April 20, 2018

THE PREM COR REFINING GROUP INC.,  
Petitioner,

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Respectfully submitted,

THE ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY, Respondent,

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