

ILLINOIS POLLUTION CONTROL BOARD
February 21, 2008

CITGO PETROLEUM CORPORATION and)
PDV MIDWEST REFINING, L.L.C.,)
)
Petitioners,)
)
v.) PCB 08-33
) (Variance – Water)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by T.E. Johnson):

On November 14, 2007, CITGO Petroleum Corporation (CITGO) and PDV Midwest Refining, L.L.C. (PDVMR) (petitioners) filed a petition to extend the variance issued by the Board in CITGO Petroleum Corporation and PDV Midwest Refining, L.L.C. v. IEPA, PCB 05-85 (Apr. 21, 2005). The variance and the petition for extension concern an oil refinery in Lemont, Will County, which CITGO operates and PDVMR owns. In a December 20, 2007 order, the Board identified several informational deficiencies in the petition and directed petitioners to file an amended petition to provide the additional information. On January 22, 2008, petitioners timely filed an amended petition (Am. Pet.), along with a motion to incorporate the record of PCB 05-85 (Mot.).

In the motion, petitioners ask the Board to incorporate the record of PCB 05-85 into the record of this proceeding, PCB 08-33. Mot. at 1. In PCB 05-85, the Board granted CITGO and PDVMR a variance from two Board water quality standards for Total Dissolved Solids (TDS). The TDS variance lasts through December 15, 2009. In PCB 08-33, petitioners seek to extend the PCB 05-85 variance relief. Petitioners filed the motion to incorporate in response to one of the Board's inquiries in the December 20, 2007 order. Am. Pet. at 2. Respondent, the Illinois Environmental Protection Agency (Agency), has not responded to petitioners' motion to incorporate. *See* 35 Ill. Adm. Code 101.500(d). The Board grants the motion and directs the Clerk to place a copy of the PCB 05-85 record into the PCB 08-33 record. *See* 35 Ill. Adm. Code 101.306, 104.210(d)(3).

The amended petition was filed in response to the informational deficiencies identified in the Board's order of December 20, 2007. With the amended petition, the Board finds that petitioners have provided the information required by the Board's procedural rules for the contents of a petition for variance extension. *See* 35 Ill. Adm. Code 104.204, 104.210. The 120-day statutory period for the Board to decide this case recommenced upon the filing of the amended petition. *See* 35 Ill. Adm. Code 104.232(a)(2). The Board will render a final decision consistent with the decision deadline (*see* 415 ILCS 5/38 (2006)), which only petitioners may extend by waiver. *See* 35 Ill. Adm. Code 101.308, 104.232(a)(1). Currently, the decision

deadline is May 21, 2008. The Board meeting immediately before the decision deadline is scheduled for May 15, 2008.

The Agency has not yet filed its recommendation. The Agency's recommendation is due by March 7, 2008, which is the 45th day after the filing of the amended petition. *See* 35 Ill. Adm. Code 104.216(b), 104.226(b). Petitioners will have 14 days after service to respond to the Agency's recommendation. *See* 35 Ill. Adm. Code 104.220. Though petitioners have waived hearing, the Board may nevertheless order a hearing. *See* 35 Ill. Adm. Code 104.234.

Finally, the Board's order of January 10, 2008, granted the Agency's motion for extension of time to February 11, 2008, to publish newspaper notice of the petition. *See* 415 ILCS 5/37(a) (2006); 35 Ill. Adm. Code 104.214(a). The Board reiterates that the Agency must file a certification of publication within 21 days after publication of the notice. *See* 35 Ill. Adm. Code 104.214(f).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 21, 2008, by a vote of 4-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board