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STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
March 5, 2012

CITGO PETROLEUM CORPORATION and)
PDV MIDWEST REFINING, L.L.C.,)
)
Petitioners,)
)
v.) PCB 12-94
) (Variance – Water)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

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HEARING OFFICER ORDER

During the March 1, 2012, status conference call, counsel for CITGO Petroleum Corporation and PDV Midwest Refining, L.L.C. (collectively, CITGO) represented that CITGO does not intend to respond to the recommendation (Rec.) of the Illinois Environmental Protection Agency (Agency). *See* 35 Ill. Adm. Code 104.220. Also during the conference call, CITGO counsel stated that CITGO would file a waiver of the statutory deadline for Board decision to August 9, 2012.

Though the 21-day period for requesting a hearing has expired and CITGO has waived hearing, there are circumstances under which the Board will order a hearing. *See* 35 Ill. Adm. Code 104.234. The hearing officer directs that CITGO address the issues set forth below. CITGO must file its response by April 6, 2012. The Agency or any other person may file a comment on CITGO's response no later than 14 days after the filing of the response.

1. The petitioners request a variance extension from Sections 302.208(g) and 302.407 (35 Ill. Adm. Code 302.208(g), 302.407) for Total Dissolved Solids (TDS). Petition (Pet.) at 4. However, as the petitioners (Pet. at 3) and the Agency (Rec. at 6) note, the Board has eliminated the water quality standard for TDS in general use waters. *See Triennial Review of Sulfate and Total Dissolved Solids Water Quality Standards*, R07-9 (Sept. 4, 2008). Please confirm whether the reference to Section 302.208(g) in the proposed variance extension language should be removed. *See* 35 Ill. Adm. Code 104.204(a).
2. CITGO states that it has "collected the data as required by Paragraphs 3, 4, and 5 of the Order in PCB 08-33" and attached the resulting information as Exhibit (Exh.) B to the petition. Pet. at 7. It appears, however, that the data collected pursuant to paragraph 5 of the PCB 08-33 order (monitoring TDS in the effluent of Outfall 001) has not been provided. Please submit the data. *See* 35 Ill. Adm. Code 104.210(d)(1), (2).
3. Please explain whether the addition of 4,000,000 gallons of tankage (Pet. at 10) satisfies

any of the compliance plan conditions of the PCB 08-33 order. *See* 35 Ill. Adm. Code 104.210(d)(1), (2).

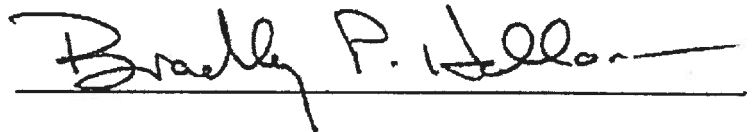
4. In PCB 08-33, the Board granted CITGO's motion to incorporate the record of PCB 05-85 into the PCB 08-33 record. *See* CITGO Petroleum Corporation and PDV Midwest Refining, L.L.C. v. IEPA, PCB 08-33, slip op. at 4 (May 15, 2008). Please address whether all or any part of the PCB 08-33 record should be incorporated into the PCB 12-94 record. *See* 35 Ill. Adm. Code 104.210(d)(3).
5. The petition refers to CITGO having added "4,000,000 gallons of tankage to enhance solids removal as a pre-treatment measure before the water treatment plan . . ." Pet. at 10. The sentence seems incomplete. Please provide the intended language and indicate the year in which the 4,000,000 gallons of tankage was added. *See* 35 Ill. Adm. Code 104.204(b)(7).
6. Please explain whether the 4,000,000 gallons of tankage could provide storage capacity to isolate the wet gas scrubber discharge during periods of elevated TDS levels in the receiving stream. *See* 35 Ill. Adm. Code 104.204(b)(7). For context, James Huff testified as follows in the PCB 05-85 proceeding: "[T]hese [TDS water quality] violations appear to occur over 15 consecutive days, but less than 22 days. The Lemont Refinery will have to come up with in excess of 4,000,000 gallons of capacity to isolate the wet gas scrubber during these periods of elevated TDS levels at the I-55 Bridge." CITGO, PCB 08-33, slip op. at 20.
7. In PCB 08-33, CITGO used the "projected discharge loadings" to calculate the incremental increase in TDS water quality, and estimated that the wet gas scrubber would add 304,000 pounds per day of TDS to the Lemont Refinery's wastewater discharge. Pet., Exh. A at 8. In the instant petition, CITGO uses "actual discharge loadings" to calculate the incremental increases. Pet. at 11-12. Please provide information on the actual TDS discharge loadings and concentrations. *See* 35 Ill. Adm. Code 104.204(b)(8).
8. In pre-filed testimony for Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304, R08-9(C), Mr. Huff stated that "[w]hen de-icing salts cause a spike in the chloride level, the Lemont Refinery loses its mixing zone for chlorides (and sulfates), as the Lower Ship Canal's upstream water quality exceeds the water quality standard for chlorides." Pet., Exh. G at 5; *see also id.* at 7 ("Section 302.102(b)(9) prohibits mixing zones for constituents where the water quality standard is already violated in the receiving stream."). Please comment on whether Mr. Huff's statement would also apply with respect to TDS and, if so, whether the statement constitutes a reason for the instant variance request. *See* 35 Ill. Adm. Code 104.204(c).
9. CITGO states that it has "collected influent data relating to chlorides upstream of the Refinery; that data is included in Exhibit C." Pet. at 7. The Agency recommends that, as a compliance plan condition, CITGO "provide chloride data for their effluent to ensure

that any future chloride water standard can be met.” Rec. at 6. Please comment on CITGO’s ability to provide such data from the past and CITGO’s position on including such a condition. If CITGO does not oppose such a condition, please consider proposing language for the condition. See 35 Ill. Adm. Code 104.204(c).

10. CITGO represents that the Lemont Refinery’s average daily production is 168,626 barrels. Pet. at 8; see also CITGO, PCB 08-33, slip op. at 7 (“Currently, the Lemont Refinery produces 168,626 barrels daily on average”); Pet. at 14 (“design average permitted discharge is 5.79 MGD”). None of the proposed variance conditions would require CITGO to re-evaluate its impact on TDS levels in the receiving stream if CITGO increased production above this average. If CITGO does not oppose such a condition, please consider proposing language for a condition that would require CITGO to re-evaluate its impact on the receiving stream in that event. See 35 Ill. Adm. Code 104.204(j).

The parties or their legal representatives are directed to appear at a telephonic status conference with the hearing officer on April 5, 2012, at 10:30 a.m. The telephonic status conference must be initiated by the petitioner, but each party is nonetheless responsible for its own appearance. At the conference, the parties must be prepared to discuss the status of the above-captioned matter and their readiness for hearing.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Bradley P. Halloran", is written over a horizontal line.

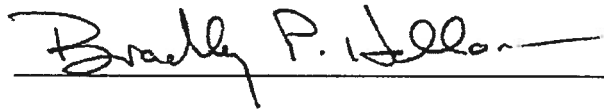
Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601
312.814.8917

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on March 5, 2012, to each of the persons on the service list below.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on March 5, 2012:

John T. Therriault
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Ste. 11-500
Chicago, Illinois 60601

A handwritten signature in black ink that reads "Bradley P. Halloran" with a horizontal line underneath.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
(312) 814-8917

PCB 2012-094
Stefanie N. Diers
IEPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

PCB 2012-094
John J. Kim
IEPA
1021 North Grand Avenue East
P.O. Box 9276
Springfield, IL 62794-9276

PCB 2012-094
Jeffrey C. Fort
SNR Denton US LLP
233 S. Wacker Drive
Suite 7800
Chicago, IL 60606-6404

PCB 2012-094
Sara Terranova
IEPA
1021 North Grand Avenue East
P.O. 19276
Springfield, IL 62794-9276

PCB 2012-094
Ariel J. Teshler
SNR Denton US LLP
233 S. Wacker Drive
Suite 7800
Chicago, IL 60606-6404