

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

THE PREMCOR REFINING)	
GROUP INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 2010-55
)	(CAAPP 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)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board **ENTRY OF APPEARANCE OF MATTHEW C. READ** and **PETITIONER'S RESPONSE TO BOARD QUESTIONS**, a copy of which is herewith served upon you.

Respectfully submitted,

THE PREMCOR REFINING GROUP INC.,
Petitioner,

Dated: February 16, 2016

By: /s/ Matthew C. Read
One of Its Attorneys

Katherine D. Hodge
Matthew C. Read
HEPLERBROOM, LLC
3150 Roland Avenue
Springfield, Illinois 62703
Katherine.Hodge@heplerbroom.com
Matthew.Read@heplerbroom.com
(217) 523-4900

CERTIFICATE OF SERVICE

I, Katherine D. Hodge, the undersigned, certify that I have served the attached ENTRY
OF APPEARANCE OF MATTHEW C. READ and PETITIONER'S RESPONSE TO BOARD
QUESTIONS, upon:

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

via electronic mail on February 16, 2016; and upon:

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

Robb H. Layman, Esq.
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

by depositing said documents in the United States Mail in Springfield, Illinois, postage prepaid,
on February 16, 2016.

/s/ Matthew C. Read
Matthew C. Read

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ENTRY OF APPEARANCE OF MATTHEW C. READ

NOW COMES Matthew C. Read, of the law firm of HEPLERBROOM, LLC, and hereby enters his appearance on behalf of Petitioner, THE PREMCOR REFINING GROUP INC., in the above-referenced matter.

Respectfully submitted,

THE PREMCOR REFINING GROUP INC.,
Petitioner,

By: /s/ Matthew C. Read
Matthew C. Read

Dated: February 16, 2016

Matthew C. Read
HEPLERBROOM, LLC
3150 Roland Avenue
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PETITIONER’S RESPONSE TO BOARD QUESTIONS

NOW COMES Petitioner, THE PREMCOR REFINING GROUP INC. (“Premcor” or “Petitioner”), by and through its attorneys, HEPLERBROOM, LLC, and responds to the questions presented by the Illinois Pollution Control Board (“Board”) in the Hearing Officer’s Order dated January 25, 2016, as follows:

1. On January 22, 2016, Petitioner filed a Motion to Stay the Proceeding and Consolidate Cases.
2. On January 25, 2016, the Hearing Officer issued an Order explaining that the Board requires additional information to support a stay. In particular, the Board directed Premcor to answer certain questions related to the status and nature of this case. In order to meet the informational requirement under 35 Ill. Admin. Code § 101.514(a), and to promote the efficient resolution of this matter, Premcor responds as follows:

Question:

1. Premcor states that discussions between it and the Illinois Environmental Protection Agency (IEPA) continue. Provide additional information on the progress that the parties have made in discussions up to this point.

Response:

The Illinois Environmental Protection Agency (“Illinois EPA”) and Premcor have reached agreement on the substantive changes to be made to Premcor’s Clean Air Act Permit Program (“CAAPP”) Permit that will resolve this appeal. The parties have discussed a timeline for issuance of a revised CAAPP Permit. Most notably, Illinois EPA has indicated its willingness to prepare a draft CAAPP Permit in the weeks ahead with the hopes of finalizing the CAAPP Permit by Spring 2016, if not sooner.

Question:

2. Premcor stated that PCB 07-30 has remained open pending resolution of this appeal. Describe how the conditions challenged in this appeal directly relate to the challenged conditions in PCB 07-30.

Response:

While the conditions challenged in this appeal are different from conditions challenged in PCB 07-30, Premcor is concerned about the procedural uncertainty associated with dismissing its appeal in PCB 07-30, and the stay granted by the Board in that case, while this appeal is still pending on a subsequent version of the CAAPP Permit. Although the December 23, 2009, CAAPP Permit issued by Illinois EPA was amended to resolve the first appeal, and arguably that permit replaced the CAAPP Permit issued by Illinois EPA on September 19, 2006, it is possible that a third party could contend that some portion of the earlier permit should go into effect upon dismissal of the PCB 07-30 appeal. When an appropriate CAAPP Permit is issued by Illinois EPA to address the issues in this appeal, and the appeal period has run without any appeal being

filed, Premcor will file a voluntary motion to dismiss its petitions in both this matter and PCB 07-30.

Question:

3. According to Board hearing officer orders, the parties have been waiting on IEPA's technical review since 2011. When did Premcor submit "its most recent comments" referred to in Premcor's motion? When does Premcor expect to receive IEPA's technical review on its most recent comments?

Response:

Premcor and Illinois EPA have periodically discussed technical issues since the initial filing of the petition. As set forth above, Illinois EPA and Premcor have reached agreement on the substantive changes to be made to Premcor's CAAPP Permit. On February 5, 2016, and over the course of the next week, Illinois EPA provided Premcor with an overview of its assessment on the best way to effectuate settlement. Illinois EPA documented its assessment in a letter dated February 11, 2016, attached hereto as Exhibit A.

Questions:

4. Provide a timeline of steps to resolving this appeal.

Response:

This appeal may be resolved if Illinois EPA issues an appropriately revised CAAPP Permit for Premcor's Hartford Terminal, the appeal period runs without any appeal being filed, and Premcor moves to voluntarily dismiss this appeal. To accomplish these goals, Premcor and Illinois EPA have discussed preparing a draft CAAPP Permit in the weeks ahead with the hopes of finalizing the permit by Spring 2016, if not sooner, and Premcor filing a motion to lift the stay of uncontested CAAPP Permit conditions and requesting that the Board remand the matter to Illinois EPA to revise the CAAPP Permit. Premcor anticipates filing such a motion shortly after reviewing the draft CAAPP Permit. However, a timeline for additional events, such as filing a

motion to lift the stay of uncontested CAAPP Permit conditions, issuance of a final CAAPP Permit, and filing a voluntary motion to dismiss cannot be generated at this time.

WHEREFORE, Petitioner respectfully renews its request for the Board to stay this proceeding and consolidate cases PCB 07-30 and PCB 10-55.

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

Dated: February 16, 2016

By: /s/ Matthew C. Read
One of Its Attorneys

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217)782-3397
BRUCE RAUNER, GOVERNOR LISA BONNETT, DIRECTOR

February 11, 2016

Katherine Hodge, Esquire
HeplerBroom
3150 Roland Avenue
Springfield, Illinois 62704

RE: Premcor Refining Group, Inc.
PCB Nos. 07-30 and 10-55
Status of Pending Negotiations

Dear Ms. Hodge:

As you know, the Pollution Control Board ("Board") recently requested a status report from the Illinois Environmental Protection Agency ("Illinois EPA") in the above-captioned permit appeal, including the progress that the parties have made in settlement negotiations. The Board's request has resulted in a re-evaluation by my client of its permitting work plan, which is an administrative protocol that generally dictates the time and resources devoted to various permitting actions. As a consequence of this consideration, I can report that Permits Section for the Division of Air Pollution Control intends to renew its efforts to prepare a final permit and resolve the administrative appeal currently pending in this matter.

In prior settlement discussions, we have frequently discussed the backlog of Clean Air Act Permit Program ("CAAPP") permit applications that await review and final action. Delays in permit reviews associated with administrative appeals are common, perhaps owing to the slower pace of negotiations that often accompany contentious matters or litigation in general. In the last three or four years, an emphasis has been placed by the Illinois EPA on trying to resolve other CAAPP appeals, namely, appeals involving Illinois' coal-fired electrical utility industry. While these efforts are continuing, and will likely consume considerable resources through the better part of this year, Permits Section is committed to preparing a draft permit for the Premcor facility in the weeks ahead with the hopes of finalizing the permit by sometime this spring, if not sooner.

We have spoken as recently as this week concerning our mutual understanding that the contested issues on appeal are resolved in principal. We have discussed, both last week and again yesterday, the procedural issues concerning how to best proceed with implementing the permit revisions to resolve the appeal, as well as to make needed updates to the CAAPP permit. As I mentioned during our call earlier this week and consistent with recent appeal proceedings involving blanket stays of a CAAPP permit, if

Ms. Katherine D. Hodge
February 11, 2016
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the Board is prepared to grant a motion by your client to lift the pending stay of the most recent CAAPP permit in PCB No. 10-55,¹ thereby allowing the uncontested conditions of the December 23, 2009, CAAPP permit to go into effect, my client will be authorized to modify the CAAPP permit. The contested conditions should remain stayed by the Board pending our issuance of a revised permit. In anticipation of this initial step, the Division of Air Pollution Control's Permits Section will begin the preparation of a draft permit that will memorialize the substance of our agreement concerning the contested issues from the appeal.

Given the time that has lapsed since the filing of the appeals, you have separately indicated your client's desire to address the addition of new Clean Air Act requirements that have become applicable to the source, including the carry-over of recent construction permits. Based on current circumstances, my client is likely obligated to update the CAAPP permit in accordance with the reopening procedures of the state's CAAPP program, as codified at 415 ILCS 5/39.5(15)(a)(i)(2010). Permits Section is prepared to initiate permit reopening, including the preparation of a draft permit and accompanying Statement of Basis for public notice, during the first quarter of 2017. The issues concerning the treatment of two lube cubes and an internal combustion engine as insignificant activities, cited in the later permit appeal, will likely be addressed contemporaneous with permit reopening or as a parallel proceeding accompanying the same.

Lastly, based on our conversation yesterday, I trust that you can understand my disinclination to make any formal filing with the Board, in this or any other such matters, given the absence of any formal appointment or an assigned Assistant Attorney to the case matter. In the interests of keeping the Board informed of case developments, I appreciate your willingness to include this letter in your own status update. Hopefully, it will serve to inform the Board of our past progress in addressing the contested conditions of the appeal and my client's restored commitment to preparing a revised permit for issuance as set forth above.

If you have any questions or concerns regarding this matter, please do not hesitate to call me at your convenience. I can be reached at 217-524-9137.

Sincerely,



Robb H. Layman
Assistant Counsel

¹ I am to understand that you wish to preserve the earlier appeal, PCB No. 07-30, as a protective measure until resolution of the later appeal is achieved through issuance of a revised CAAPP permit.