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OCT 21 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
STATE OF ILLINOIS  
Pollution Control Board

HARTFORD WORKING GROUP, )  
)  
Petitioner, )  
)  
v. )  
)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )

PCB No. 05-74  
(Construction Permit Appeal)

**NOTICE OF FILING**

TO: Ms. Dorothy M. Gunn  
Clerk of the Board  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601  
**(VIA FIRST CLASS MAIL)**

Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276  
**(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 an original and nine copies of a PETITION FOR REVIEW AND A MOTION TO STAY EFFECTIVENESS OF SPECIAL CONDITION 2.0 OF JOINT CONSTRUCTION AND OPERATING PERMIT, copies of which are hereby served upon you.

Respectfully submitted,

HARTFORD WORKING GROUP  
Petitioner,

By: Kath D. Hodge  
One of Its Attorneys

Dated: October 19, 2004

Katherine D. Hodge  
HODGE DWYER ZEMAN  
3150 Roland Avenue  
Post Office Box 5776  
Springfield, Illinois 62705-5776  
(217) 523-4900

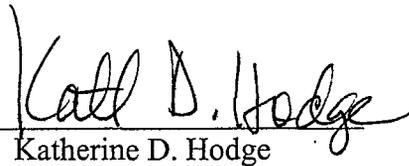
CERTIFICATE OF SERVICE

I, Katherine D. Hodge, the undersigned, certify that I have served the attached  
PETITION FOR REVIEW AND A MOTION TO STAY EFFECTIVENESS OF  
SPECIAL CONDITION 2.0 OF JOINT CONSTRUCTION AND OPERATING  
PERMIT upon:

Ms. Dorothy M. Gunn  
Clerk of the Board  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

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

by depositing said documents in the United States Mail, postage prepaid, in Springfield,  
Illinois, on October 19, 2004.

  
Katherine D. Hodge

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD **OCT 21 2004**

STATE OF ILLINOIS  
Pollution Control Board

HARTFORD WORKING GROUP, )  
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PCB 05-74  
(Construction Permit Appeal)

**PETITION FOR REVIEW**

NOW COMES, Petitioner, HARTFORD WORKING GROUP (hereinafter "HWG"), by and through its attorneys, HODGE DWYER ZEMAN, pursuant to Section 40 of the Illinois Environmental Protection Act (415 ILCS 5/40) ("Act") and 35 Ill. Admin. Code Part 105 Subpart B, and petitions the Illinois Pollution Control Board ("Board") for review of the Joint Construction and Operating Permit ("Construction Permit") granted to HWG by the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to Section 39 of the Act on September 14, 2004.

In support thereof, HWG states as follows:

1. HWG, consisting of Atlantic Richfield Company, Equilon Enterprises, L.L.C., d b a Shell Oil Products US and The Premcor Refining Group Inc., was established for the purpose of performing remediation work and sharing costs for the Hartford Area Hydrocarbon Plume Site, pursuant to an Administrative Order on Consent from the United States Environmental Protection Agency.
2. Pursuant to Section 39 of the Act and 35 Ill. Admin. Code § 201.163, HWG submitted an application for a Construction Permit to construct and operate three

vacuum extraction systems including vacuum blowers, thermal oxidizers and ancillary equipment (the "facility") at its Hartford, Illinois, facility to the Illinois EPA on June 17, 2004.

3. On September 14, 2004, Illinois EPA granted a final Construction Permit for the HWG facility. The September 14, 2004, permit is attached hereto as Exhibit A, Joint Construction and Operating Permit of Hartford Working Group. HWG is hereby petitioning the Board for relief from the following Special Condition.

4. Special Condition 2.0 of the Construction Permit provides that:

"For purposes of the Clean Air Act Permit Program (CAAPP), unless the Hartford Working Group is determined to be a separate source from the Premcor Refining Group, 201 East Hawthorne, Hartford (I.D. No. 119090AAA) under Section 39.5 of the Environmental Protection Act, the Permittee must submit its complete CAAPP application for the extraction system within 12 months after commencing operation, pursuant to Section 39.5(5)(x) of the Act."

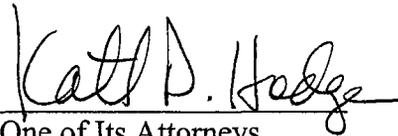
HWG requests that this section be deleted because HWG is a separate source from the Premcor Refining Group facilities, i.e., the Premcor Hartford Distribution Center, as "source" is defined in the Act. The rationale for classifying HWG and the Premcor Hartford Distribution Center as separate sources is attached hereto as Exhibit B, Letter, dated September 8, 2004, from Jeffery L. Pope, P.E. to Donald E. Sutton, P.E. regarding the Hartford Working Group Application for Joint Construction and Operating Permit.

5. For the above-referenced reasons, the referenced Special Condition does not reflect the current applicable requirements at the facility, and is thus arbitrary, capricious, without merit, and poses an unreasonable hardship on HWG.

WHEREFORE, HWG petitions the Board for review of Special Condition 2.0 in the Construction Permit issued by the Illinois EPA. And, as set forth in the accompanying Motion to Stay Effectiveness of Special Condition 2.0 of Joint Construction and Operating Permit, HWG requests that the effectiveness of Special Condition 2.0 of the Construction Permit be stayed until the Board's final determination in this matter.

Respectfully submitted,

HARTFORD WORKING GROUP  
Petitioner,

By:   
One of Its Attorneys

Dated: October 19, 2004

Katherine D. Hodge  
HODGE DWYER ZEMAN  
3150 Roland Avenue  
Post Office Box 5776  
Springfield, Illinois 62705-5776  
(217) 523-4900



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

P.O. BOX 19506, SPRINGFIELD, ILLINOIS 62794-9506

RENEE CIPRIANO, DIRECTOR

217/782-2113

JOINT CONSTRUCTION AND OPERATING PERMIT

PERMITTEE

Hartford Working Group
c/o Clayton Group Services
Attn: Monte Nienkerk
3140 Finley Road
Downers Grove, Illinois 60515

Application No.: 04060060
Applicant's Designation: VCS 001
Subject: Three Vacuum Extraction Systems
Date Issued: September 14, 2004

I.D. No.: 119050AAS
Date Received: June 17, 2004

Operating Permit Expiration
Date: September 14, 2009

Location: 201 East Hawthorne, Hartford

Permit is hereby granted to the above-designated Permittee to CONSTRUCT and OPERATE emission source(s) and/or air pollution control equipment consisting of three vacuum extraction systems including vacuum blowers (B1, B2, and B3), thermal oxidizers (TO-1, TO-2, and TO-3) and ancillary equipment, as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1.0 UNIT SPECIFIC CONDITIONS

1.1 Unit: Vacuum Extraction Systems
Control: Thermal Oxidizers

1.1.1 Description

Operation of three vacuum extraction systems to remediate soil and groundwater contaminated with petroleum products. The systems consist of vacuum blowers, thermal oxidizers and ancillary equipment.

1.1.2 List of Emission Units and Pollution Control Equipment

Table with 3 columns: Emission Unit, Description, Emission Control Equipment. Row 1: Vacuum Extraction Systems, Blowers, Ancillary Equipment, Thermal Oxidizers.

1.1.3 Applicability Provisions and Applicable Regulations

- a. An "affected unit" for the purpose of these unit-specific conditions, are the vacuum extraction systems described in Conditions 1.1.1 and 1.1.2.

ROD R. BLAGOJEVICH, GOVERNOR

PRINTED ON RECYCLED PAPER

ATTACHMENT A

- b. The affected unit is subject to 35 IAC Part 219, Subpart TT: Other Emission Units.

1.1.4 Non-Applicability of Regulations of Concern

- a. This permit is issued based upon the affected unit not being subject to the 40 CFR Part 63 Subpart GGGGG: National Emission Standards for Hazardous Air Pollutants: Site Remediation because the site remediation is required by orders authorized under RCRA section 7003 [40 CFR 63.7881(b)(3)].

1.1.5 Control Requirements, Operational Limits and Work Practices

- a. The emission capture and control equipment shall achieve an overall reduction in uncontrolled VOM emissions from each affected unit of at least 81 percent from each emission unit, pursuant to 35 IAC 219.986(a).
- b. The thermal oxidizers shall be in operation at all times when the affected units are in operation and emitting air contaminants.
- c. Each thermal oxidizer combustion chamber shall be preheated to at least the manufacturer's recommended temperature but no less than the temperature at which compliance was demonstrated in the most recent compliance test, or 1400°F in the absence of a compliance test. This temperature shall be maintained during operation.
- d. Natural gas shall be the only fuel fired in the thermal oxidizers.
- e. The maximum gas flow rate to each thermal oxidizer shall not exceed 750 scfm.

1.1.6 Emission Limitations

- a. Emissions from the affected units (combined) shall not exceed the following limits. Compliance with annual limits shall be determined from a running total of 12 months of data.

<u>Pollutant</u>	<u>Emissions</u>	
	<u>(Tons/Mo)</u>	<u>(Tons/Yr)</u>
NO <sub>x</sub>	----	9.20
CO	----	7.73
VOM	2.77	33.20

1.1.7 Testing Requirements

- a. When in the opinion of the Agency it is necessary to conduct testing to demonstrate compliance with 35 IAC 219.986, the owner or operator of a VOM emission unit subject to the requirements of 35 IAC Part 219, Subpart TT shall, at his own expense, conduct such tests in accordance with the applicable test methods and procedures specified in 35 IAC 219.105 [35 IAC 219.988(a)].
- b. Nothing in 35 IAC Part 219 shall limit the authority of the USEPA pursuant to the Clean Air Act, as amended, to require testing [35 IAC 219.988(b)].

1.1.8 Monitoring Requirements

- a. The Permittee shall use Illinois EPA approved continuous monitoring equipment which shall be installed, calibrated, maintained, and operated according to vendor specifications at all times the afterburner is in use except. The continuous monitoring equipment shall monitor the combustion chamber temperature of each afterburner.

1.1.9 Recordkeeping Requirements

- a. The Permittee shall collect and record all of the following information each day and maintain the information at the source for a period of three years:
  - i. Control device monitoring data.
  - ii. A log of operating time for the capture system, control device, monitoring equipment and the associated emission source.
  - iii. A maintenance log for the capture system, control device and monitoring equipment detailing all routine and non-routine maintenance performed including dates and duration of any outages.
- b. The Permittee shall maintain a file for the affected unit documenting the following:
  - i. Maximum rated exhaust flow rate from each unit, as exhausted to an oxidizer (SCFM);

- ii. Maximum VOM concentration in uncontrolled exhaust (ppm-v);
  - iii. Maximum rated burner capacity of each thermal oxidizer (mmBtu/hr); and
  - iv. Potential NO<sub>x</sub> and CO emissions from each unit, with supporting documentation and calculations.
- c. The Permittee shall maintain records of the VOM emissions (ton/month and tons/year) with supporting calculations and documentation.

#### 1.1.10 Reporting Requirements

- a. The Permittee shall promptly notify the Illinois EPA of deviations of the affected units with the permit requirements. Reports shall describe the probable cause of such deviations, and any corrective actions or preventive measures taken.
- b. The Permittee shall notify the Illinois EPA in the following instance [35IAC 219.991(a)(3)]:
  - i. Any record showing a violation of the requirements of 35 IAC Part 219, Subpart PP, QQ, RR or TT shall be reported by sending a copy of such record to the Illinois EPA within 30 days following the occurrence of the violation.

#### 1.1.11 Operational Flexibility/Anticipated Operating Scenarios

N/A

#### 1.1.12 Compliance Procedures

- a. Compliance with the VOM emission limit in Condition 1.1.6 shall be based on a the recordkeeping requirements in Condition 1.1.9 and the following equation:

$$ER = Q \times C \times MW \times 1.581 \times 10^{-7} \times (1 - OE/100)$$

Where:

ER = Emission rate (lb/hr)

Q = Pumping rate (cfm)

C = VOM concentration (ppm-v)

MW = Molecular weight of VOM (lb/lb-mole)

and

$$\text{ppm-v} = C \times (RT/P) \times (1/MW) \times 1000 \text{ liters/m}^3$$

Where:

C = Concentration ( $\mu\text{g/liter}$ )  
R = Gas constant  
= 0.06236 (mm Hg  $\text{m}^3$ ) / (mole K)  
T = Temperature (K)  
= 273.15 +  $^{\circ}\text{C}$   
P = Atmospheric pressure (mm Hg)  
= 760 mm Hg  
MW = Molecular weight of contaminant  
OE = Overall control efficiency

- b. Compliance with the  $\text{NO}_x$  and CO emission limits in Condition 1.1.6 shall be determined by appropriate emission factors and the recordkeeping requirements in Condition 1.1.9.
2. For purposes of the Clean Air Act Permit Program (CAAPP), unless the Hartford Working Group is determined to be a separate source from the Premcor Refining Group, 201 East Hawthorne, Hartford (I.D. No. 119090AAA) under Section 39.5 of the Environmental Protection Act, the Permittee must submit its complete CAAPP application for the extraction system within 12 months after commencing operation, pursuant to Section 39.5(5) (x) of the Act.

If you have any questions on this, please call Jason Schnepf at 217/782-2113.

*Donald E. Sutton*

Donald E. Sutton, P.E.  
Manager, Permit Section  
Division of Air Pollution Control

DES:JMS:jar

cc: Region 3

3140 Finley Road  
Downers Grove, IL 60515  
630.795.3200  
Fax: 630.795.1130



September 8, 2004

Donald E. Sutton, P.E.  
Manager, Air Permits Section  
Division of Air Pollution Control  
**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**  
1021 North Grand Avenue East  
Post Office Box 19506  
Springfield, Illinois 62794-9506

Clayton Project No. 15-03095.13-002

**RE: Hartford Working Group  
Application for Joint Construction and Operating Permit  
Facility I.D. No.: 119050AAS  
Application No.: 04060060**

Dear Mr. Sutton:

This letter is to follow up on recent conversations with Jason Schnepf regarding whether the emission source and air pollution control equipment covered by the above-referenced application constitutes a separate source from the Premcor Hartford Distribution Center (Facility I.D. No. 119050AAA). This letter will demonstrate that the Hartford Working Group is a separate "source" as defined in Section 39.5 of the Illinois Environmental Protection Act ("Act") from the Premcor Hartford Distribution Center.

## **INTRODUCTION**

As you know, the Hartford Working Group, consisting of Atlantic Richfield Company, Equilon Enterprises, L.L.C., d b a Shell Oil Products US and The Premcor Refining Group Inc, was established for the purpose of performing remediation work and sharing costs for the Hartford Area Hydrocarbon Plume Site, pursuant to an Administrative Order on Consent ("AOC") from United States Environmental Protection Agency ("USEPA") (No. R7003-5-04-001). Pursuant to the Cost-Sharing Agreement between these entities, the above-mentioned parties agreed to designate contractors to investigate, implement and design a vapor extraction system to abate any on-going threat of discharge and contamination to the area. All three parties separately agreed to share equally the costs associated with this activity and to designate Clayton Group Services, Inc. ("Clayton") to run the operation and management of the remediation, to consist of acquiring equipment and overseeing the modification and installation of the pollution control equipment on behalf of the Hartford Working Group. It was further agreed among the parties that Clayton would subcontract out the work to be performed in a bidding process and would run the day-to-day operations at the subject site, in accordance with direction from all three parties.

The subject of this letter, the application for Joint Construction and Operating Permit, by the Hartford Working Group, provides for the construction and operation of an extraction system and air pollution control equipment consisting of three vacuum extraction systems including vacuum blowers, thermal oxidizers and ancillary equipment in order to carry-out the AOC. As you know, the issue of whether the Hartford Working Group and Premcor Hartford Distribution Center should be considered a "single source" for air permitting has been the subject of our recent conversations. The Premcor Hartford Distribution Center is a petroleum bulk storage and loading terminal.

## DEFINITIONS

As you know, the Act definition of "source" closely parallels the federal definition of "major source" in 40 C.F.R. Part 70 as it was the General Assembly's plan that the law of Illinois be consistent with the federal law in this area. Further, effective August 14, 1998, the definition of "source" in Section 39.5 of the Act (415 ILCS 5/39.5) was amended to read as follows, and a definition of "support facility" was added:

"Source" means any stationary source (or any group of stationary sources) that are located on one or more contiguous or adjacent properties and that are under common control of the same person (or persons under common control) and that belongs to a single major industrial grouping. For the purposes of defining "source," a stationary source or group of stationary sources shall be considered part of a single major industrial grouping if all of the pollutant emitting activities at such source or group of sources located on contiguous or adjacent properties and under common control belong to the same Major Group (i.e., all have the same two digit code) as described in the Standard Industrial Classification Manual, 1987, or such pollutant emitting activities at a stationary source (or group of stationary sources) located on contiguous or adjacent properties and under common control constitute a support facility. The determination as to whether any group of stationary sources are located on contiguous or adjacent properties, and/or are under common control, and/or whether the pollutant emitting activities at such group of stationary sources constitute a support facility shall be made on a case by case basis.

"Support facility" means any stationary source (or group of stationary sources) that conveys, stores, or otherwise assists to a significant extent in the production of a principal product at another stationary source (or group of stationary sources). A support facility shall be considered to be part of the same source as the stationary source (or group of stationary sources) that it supports regardless of the 2-digit Standard Industrial Classification code for the support facility.

1998 Ill. Legis. Serv. P.A. 90-773 (West). These amendments expand the definition of source to include "support facilities" that significantly assist the

production of another facility regardless of SIC codes. Moreover, as you can see, the relevant "source" determination definitions require existence of three different criteria, which the Board has also enunciated, in determining whether two or more emission sources are one "source," as follows:

1. Whether all emission sources are located on property that is contiguous or adjacent;
2. Whether the emission sources are under the common control of the same person or group of persons; and
3. Whether the sources belong to the same major industrial grouping.

#### **CRITERIA NO. 1 - CONTIGUOUS OR ADJACENT PROPERTY**

As to the first criteria, all "sources" must be located on property that is contiguous or adjacent. As discussed in the preambles to the proposed and final federal regulations, federal guidance documents, and in common law decisions discussing the meaning of "source" and "contiguous" or "adjacent", the determination of whether sources are contiguous or adjacent is based upon a case-by-case analysis and will consider the distance between the sources, along with any physical connections, shared personnel/management, common industrial grouping, and the support relationship. In this case, both sources are located on property owned by The Premcor Refining Group Inc. However, there is no physical connection between the facilities, and as set out below, there is no support relationship. Further, there are no shared personnel between the Hartford Working Group entities nor with the Premcor Hartford Distribution Center. As mentioned above, Clayton was charged with the responsibility to obtain contractors to perform the remediation work. Moreover, from a reading of the federal guidance and common law decisions interpreting the single source determination, it is clear that USEPA, in developing this criteria, intended for multiple sources to be categorized as a single source where the operations of the facilities supported one another in production, not dissimilar sources such as in this case. Further, as we will set out below, the remaining criteria cannot be established because the facilities are not under common control of the same person or group of persons and the sources do not belong to the same major industrial grouping and do not fit the definition of "support facility" in the Act. Therefore, the two permitted sources cannot be considered a "single source" as defined in the Act.

## CRITERIA NO. 2 - COMMON CONTROL

As to the second criteria, the Hartford Working Group is not under the common control of the same person or group of persons as the Premcor Hartford Distribution Center. As you know, USEPA regulations do not provide a definition of "control". However, federal guidance suggests that common ownership constitutes common control. Additionally, common ownership is not the only evidence of control. Federal guidance on this issue sets forth a number of questions to determine common control:

1. Do the facilities share common workforces, plant managers, security forces, corporate executive officers, or board of executives?
2. Do the facilities share equipment, other property, or pollution control equipment? What does the contract specify with regard to pollution control responsibilities of the contractee? Can the managing entity of one facility make decisions that affect pollution control at the other facility?
3. Do the facilities share common payroll activities, employee benefits, health plans, retirement funds, insurance coverage, or other administrative functions?
4. Do the facilities share intermediates, products, byproducts, or other manufacturing equipment? Can the new source purchase raw materials from and sell products or byproducts to other customers? What are the contractual arrangements for providing goods and services?
5. Who accepts the responsibility for compliance with air quality control requirements? What about for violations of the requirements?
6. What is the dependency of one facility on the other? If one shuts down, what are the limitations on the other to pursue outside business interests?
7. Does one operation support the operation of the other? What are the financial arrangements between the two entities?

This list of questions is not exhaustive and together, is not dispositive of the issue. First, as a matter of clarification, one must look at the three Hartford Working Group entities as a "facility" to understand the answers to the above-mentioned questions. As to the first question, as you know, the Hartford Working Group approved Clayton to oversee the acquiring of equipment, modification, and installation on behalf of the Working Group. Clayton is charged with the authority to manage the day-to-day activities and to subcontract the remediation work.

As to the second question, the Hartford Working Group entities do not share equipment or other property with each other nor with the Premcor Hartford Distribution Center. The Hartford Working Group intends to utilize three new vacuum blowers and three new thermal treatment units utilizing the underground piping network from a previously installed system. The existing blowers and thermal treatment unit will be demolished once the new system is online and operating properly. Further, the decisions and responsibilities of the Hartford Working Group are split evenly between the three parties and the Premcor Hartford Distribution Center has no involvement in decision-making. Thus, no one party has decision-making primacy.

As to the third question, the facilities are separate entities and do not share common payroll, employee benefits, health plans, retirement funds, insurance coverage, or other administrative functions.

As to the fourth question, the facilities are separate and therefore, do not share intermediaries, byproducts or other manufacturing equipment, as discussed above, nor can the new source produce or sell anything as its function is solely remediation. Further, there is no contractual arrangement providing for goods and services.

As to the fifth question, the Hartford Working Group entities accept equal responsibility for compliance of air quality control requirements and for such violations. Further, the Premcor Hartford Distribution Center has no relationship to this responsibility.

As to the sixth question, there is no dependency of one source on the other such that if one shut down, the other could not pursue outside business interests. The only relationship is the supply of utilities from the Premcor Hartford Distribution Center to the Hartford Working Group. Certainly, if the Premcor Hartford Distribution Center shut down, the Hartford Working Group could find this supply elsewhere and this deficiency would not hamper the Hartford Working Group's outside business interests because they have no outside business interests. Similarly, the Premcor Hartford Distribution Center is not dependent upon the Hartford Working Group in any manner.

Finally, one operation does not support the operation of the other. The operations at these sources are distinctly separate as discussed above. Moreover, there are virtually no financial arrangements between the two facilities.

### CRITERIA NO. 3 - FACILITY SIC CODE

As to the third criteria, of same industrial grouping or SIC code, or alternatively, a "support facility" relationship, it is clear that the sources do not belong to the same major industrial grouping, nor does one serve as a "support facility" to another. The Premcor Distribution Center SIC code is 5171 and the Hartford Working Group's SIC code is 4959. Therefore, the two facilities have different SIC codes. As a matter of background, the federal "support facility" concept, relied upon by USEPA when making "source" determinations in the New Source Review program, provides that even if pollutant-emitting activities do not share the same SIC Code, if the activities are adjacent, share common control and there is a support facility relationship, they should be classified as a single source. According to the definition of "support facility" in the Act, the source acting as such would be required to convey, store, or assist to a significant extent in the production of a principal product at the other source. In this case, Hartford Working Group's purpose is to facilitate the remediation of groundwater contamination and the Premcor Hartford Distribution Center's operation is related to petroleum storage and distribution. Therefore, neither facility assists in the production of a principal product of another facility, and obviously, cannot significantly participate in such activity. The only support relationship that possibly could be seen is the supply of electricity and gas from the Premcor Hartford Distribution Center to the Hartford Working Group's operation. However, the costs associated with these utilities is shared equally among the Hartford Working Group entities, therefore, proving that there is not common ownership or control, and such supply does not assist in the production of a product. Because the two sources have different SIC codes and neither acts as a "support facility" pursuant to the definition set forth in the Act, the sources must be considered "separate" permitted facilities, as the definition of "source" within the Act requires all three criterion be met, and as indicated, this third criterion cannot be met.

### SUMMARY

In summary, the purpose of the Hartford Working Group is to enable the Hartford Working Group entities to perform the activities pursuant to the AOC, which was properly signed by all three entities in the presence of a corporate officer, to assume costs of such work equally and to assume responsibility for the project equally. While the Hartford Working Group's planned vapor control system (new blowers, new oxidizers) will be located on property owned by The Premcor Refining Group Inc., the Hartford Working Group, acting as a "facility", has a different SIC code than the Premcor Hartford Distribution Center and further, the Hartford Working Group is not a "support facility" as defined in the Act as assisting in production at the Premcor Hartford Distribution Center. Moreover, the Hartford Working Group is not under common ownership or control of the Premcor Hartford Distribution Center. Therefore, the Hartford Working Group and Premcor Hartford Distribution Center cannot be considered a single source, as not all of



Mr. Donald Sutton  
Illinois Environmental Protection Agency  
RE: Comments on Final Draft Permit

Clayton Project No. 15-03095.13-002  
September 8, 2004  
Page 7

the three criteria pursuant to Section 39.5 of the Act have been met. Accordingly, the Hartford Working Group firmly believes that it is a separate "source" for the purpose of air permitting.

I would like thank you for your consideration, cooperation, and assistance in this matter. If you would like to discuss this matter further, please feel free to give me a call directly at 630-795-3211.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffery L. Rope". The signature is written in a cursive style with a large, looping initial "J".

**Jeffery L. Rope, P.E.**  
Vice President  
Director of Remediation  
Engineering Services

cc: Hartford Working Group  
Steve Faryan (USEPA, Region 5)  
Kevin Turner (USEPA, Region 5)  
Robert Egan (USEPA, Region 5)  
Tom Binz (TT EMI)  
Jim Moore (IEPA, Springfield)  
Chris Cahnovsky (IEPA, Collinsville)

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

OCT 21 2004

STATE OF ILLINOIS  
Pollution Control Board

HARTFORD WORKING GROUP, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

PCB 05-14  
 (Construction Permit Appeal)

**MOTION TO STAY EFFECTIVENESS OF SPECIAL CONDITION 2.0 OF  
 JOINT CONSTRUCTION AND OPERATING PERMIT**

NOW COMES, Petitioner, HARTFORD WORKING GROUP (hereinafter  
 "HWG"), by and through its attorneys, HODGE DWYER ZEMAN, hereby moves the  
 Illinois Pollution Control Board ("Board") to stay the effectiveness of Special Condition  
 2.0 of the Joint Construction and Operating Permit ("Construction Permit") issued by the  
 Illinois EPA that is the subject of this matter, pursuant to the Board's authority to grant  
 discretionary stays of permit conditions. (Community Landfill Company and City of  
 Morris v. Illinois EPA (October 19, 2000), 2000 Ill. ENV. LEXIS 670, 11, PCB Nos. 01-  
 48, 01-49).

In support thereof, HWG states as follows:

1. On September 14, 2004, the Illinois Environmental Protection Agency  
 ("Illinois EPA") issued a final Joint Construction and Operating Permit (No.  
 119050AAS) for vacuum extraction systems, including thermal oxidizers and ancillary  
 equipment, to be constructed by the HWG in Hartford, Illinois;

2. Today, HWG has filed a Petition for Review of Special Condition 2.0 in  
 order to preserve its right to appeal in this matter;

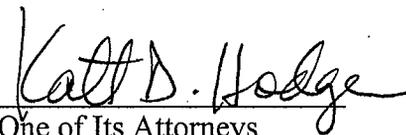
3. A stay of effectiveness of Special Condition 2.0 of the Construction Permit is needed to prevent irreparable harm to the Petitioner and to protect a certain and clearly ascertainable right of the Petitioner, the right to appeal permit conditions, no adequate remedy exists at law and Petitioner has a probability of success on the merits; and

4. The Illinois EPA, the public, and the environment will not be harmed if a stay is granted.

WHEREFORE, the Petitioner moves the Board to grant a stay of effectiveness of Special Condition 2.0 of HWG's Construction Permit until the Board's final action in this matter.

Respectfully submitted,

HARTFORD WORKING GROUP  
Petitioner,

By:   
One of Its Attorneys

Dated: October 19, 2004

Katherine D. Hodge  
HODGE DWYER ZEMAN  
3150 Roland Avenue  
Post Office Box 5776  
Springfield, Illinois 62705-5776  
(217) 523-4900