

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

HARTFORD WORKING GROUP,)	
)	
Petitioner,)	
)	
v.)	PCB 05-74
)	(Construction Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Ms. Dorothy M. Gunn	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 ELECTRONIC MAIL)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board Hartford Working Group's **MOTION TO VOLUNTARILY DISMISS PETITION FOR REVIEW** a copy of which is herewith served upon you.

Respectfully submitted,

HARTFORD WORKING GROUP,
Respondent,

Dated: October 5, 2005

By: /s/ Katherine D. Hodge
One of Its Attorneys

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

MOTION TO VOLUNTARILY DISMISS PETITION FOR REVIEW upon:

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

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

via electronic mail on October 5, 2005; and upon:

Robb H. Layman, Esq.
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 in Springfield, Illinois, postage prepaid, on October 5, 2005.

/s/ Katherine D. Hodge
Katherine D. Hodge

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)	
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MOTION TO VOLUNTARILY DISMISS PETITION FOR REVIEW

NOW COMES Petitioner, HARTFORD WORKING GROUP (“Petitioner” or “HWG”), by its attorneys, HODGE DWYER ZEMAN, and pursuant to 35 Ill. Admin. Code 101.Subpart E, Section 101.500, moves the Illinois Pollution Control Board (“Board”) to voluntarily dismiss this action. In support of this Motion, Petitioner states as follows:

1. On September 14, 2004, the Illinois Environmental Protection Agency (the “Illinois EPA”) granted a Joint Construction and Operating Permit (the “Construction Permit”) to HWG for the purpose of installing certain equipment to remediate soil and groundwater contaminated with petroleum products.
2. On October 21, 2004, Petitioner filed a petition for review requesting deletion of Special Condition 2.0 contained in the Construction Permit.
3. Special Condition 2.0 of the Construction Permit provided 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.”

4. In the interim timeframe, the Illinois EPA and HWG have cooperated in efforts to obtain a final determination from the United States Environmental Protection Agency (“USEPA”) regarding whether HWG was a separate source from the Premcor Refining Group (“Premcor”) or whether HWG and Premcor were part of a single source and to revise the Construction Permit accordingly.

5. On July 21, 2005, USEPA, Region V, issued a letter wherein the USEPA states that it “believes that the Hartford Working Group project and the Premcor Distribution Center should not be considered a single source for Title V and Prevention of Significant Deterioration (PSD) purposes.” A copy is attached hereto as Exhibit 1.

6. The Illinois EPA has prepared a draft Joint Construction and Operating Permit – Revised (the “Revised Construction Permit”), which includes an appropriate revision to Condition 2, and has committed to the issuance the Revised Construction Permit in a timely manner.

7. As all issues between the parties have been resolved, Petitioner requests that the Board grant this Motion to Voluntarily Dismiss Petition for Review, and dismiss this action.

WHEREFORE, Petitioner, HARTFORD WORKING GROUP, respectfully requests that the Illinois Pollution Control Board enter an Order dismissing this action.

Respectfully submitted,

HARTFORD WORKING GROUP,
Petitioner,

By: /s/ Katherine D. Hodge
One of Its Attorneys

Dated: October 5, 2005

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

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 5
 77 WEST JACKSON BOULEVARD
 CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF

(AR-18J)

JUL 21 2005

Don Sutton, Manager
 Permit Section
 Illinois Environmental Protection Agency
 P.O. Box 19506
 Springfield, Illinois 62794-9506

Dear Mr. Sutton:

Thank you for your February 15, 2005, letter requesting a single source determination for the Hartford Working Group. In your letter, you state that the Illinois Environmental Protection Agency (IEPA) has already recently issued a construction permit to the Hartford Working Group for the equipment to be used to remediate the soil and groundwater contamination in the area. The purpose for the remediation equipment is to settle an administrative order on consent from the United States Environmental Protection Agency (USEPA) to abate any ongoing threat of discharge and contamination to the area. IEPA has requested that USEPA provide guidance on whether the Hartford Working Group remediation site and the nearby Premcor Distribution Center are a single source. The USEPA believes that the Hartford Working Group project and Premcor Distribution Center should not be considered a single source for Title V and Prevention of Significant Deterioration (PSD) purposes.

The Federal PSD regulations define "stationary source" as "any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Act" and further defines "building, structure, facility, or installation" as all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control.) 40 C.F.R. 52.21 (b) (5) and (6). Furthermore, if multiple emissions units exist and do not have the same two-digit SIC code, a support facility relationship may be determined if facilities "convey, store, or otherwise assist in the production of the principal product.." (See draft New Source Review Workshop Manual, page A.2 - A.3).

Our understanding is that the Hartford Working Group remediation site and the Premcor Distribution Center are on contiguous property that is owned, at least in part, by Premcor. Furthermore, Premcor owns a share of both facilities. However, we did not see evidence in your letter that Premcor exercises control over either of these facilities. Additionally, the facilities have

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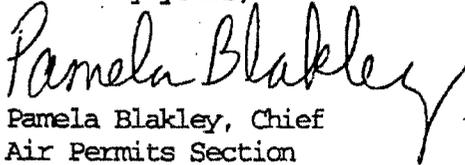
IEPA - DAPC - SPFLC

-2-

different SIC codes. Therefore, based on the information as we understand it, the facilities do not meet the three criteria necessary to be defined as a single source. Furthermore, there is no evidence that either of the facilities provides support services to the other. It is our understanding that the extent of their relationship is that the remediation facility gets electricity from the Distribution Center. Because this does not appear to be the type of assistance contemplated in the New Source Review Workshop Manual as necessary to support a determination of a support relationship, we do not believe that the relationship between the Distribution Center and the remediation facility is that of a main and support facility.

We hope this letter will be useful. If you have any further questions, please feel free to contact me or have your staff contact Constantine Blathras at (312) 886-0671 or Danny Marcus at (312) 353-8781.

Sincerely yours,



Pamela Blakley, Chief
Air Permits Section