

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

June 10, 2005

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STATE OF ILLINOIS
Pollution Control Board

Premcor Refining Group Inc.,)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)
)

IEPA-05-006
(Provisional Variance – RCRA -Land)

RE: **PROVISIONAL VARIANCE APPROVAL**
Premcor Refining Group Inc.
Cook County/Compliance

On June 10, 2005, the Illinois EPA received the attached request in which Premcor Refining Group Inc. ("Premcor") requested a provisional variance from the accumulation time limitations of 35 Ill. Adm. Code 722.134(b) for the above-referenced facility. The Illinois EPA has reviewed the information provided and has decided to grant a provisional variance from the accumulation time limitations of 35 Ill. Adm. Code 722.134(b) due to unforeseen, temporary and uncontrollable circumstances. Compliance with the accumulation time limitations of 35 Ill. Adm. Code 722.134(b) would impose, under these circumstances, an arbitrary or unreasonable hardship.

The grant of this provisional variance appears consistent with 40 CFR 262.34(b) (1991), adopted pursuant to the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), which authorizes the Regional Administrator for the United States Environmental Protection Agency to grant similar extensions when hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, or uncontrollable circumstances.

This provisional variance from the accumulation time limitations of 35 Ill. Adm. Code 722.134(b) is granted for the time period from June 11, 2005 through July 11, 2005 subject to the following conditions:

- A. Premcor shall notify Brian White of the Agency by telephone at 217/782-9987 when the waste has been delivered to the TSD facility. Written confirmation of this notice shall be sent within five days to the following address:

Illinois Environmental Protection Agency
Bureau of Land – Compliance Section
Attention: Brian White
1021 North Grand Avenue East, MC #24
P.O. Box 19276
Springfield, Illinois 62794-9276

- B. Premcor shall sign a certificate of acceptance of this provisional variance and forward that certificate to Brian White at the address indicated above within ten days of the date of this order. The certification should take the following form:

I(We) _____, hereby accept and agree to be bound by all terms and conditions of the provisional variance granted by the Illinois EPA in _____ dated _____.

Petitioner

Authorized Agent

Title

Date

The Illinois EPA grants this provisional variance in accordance with its authority contained in Sections 35(b), 36(c) and 37(b) of the Environmental Protection Act (415 ILCS 5/35(b), 36(c) and 37(b) (2004)). The decision to grant this provisional variance is not intended to address compliance with any other applicable law and regulation.

Sincerely,



William D. Ingersoll
Acting Chief Counsel

Attachment

cc: Illinois Pollution Control Board



HODGE • DWYER • ZEMAN
ATTORNEYS AT LAW

THOMAS G. SAFLEY
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E-mail: tsafley@hdzlaw.com

June 10, 2005

VIA FACSIMILE

William D. Ingersoll, Esq.
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276 - mail code #21
Springfield, Illinois 62794-9276

RE: Provisional Variance Request
KLLM Transport Services, Inc. Tractor
Trailer Incident at Intersection of 142nd Street
and Paxton Avenue in Calumet City, Illinois
Date of Incident: March 4, 2005
Our File No. – PREM:009

Dear Mr. Ingersoll:

I am writing on behalf of our client, The Premcor Refining Group Inc. ("Premcor"), pursuant to 35 Ill. Admin. Code §§ 180.201 and 180.204, to request that the Illinois Environmental Protection Agency ("Illinois EPA") issue Premcor a provisional variance from the 90-day accumulation time limit of 35 Ill. Admin. Code § 722.134(a). We appreciate Illinois EPA's consideration of this request.

I. BACKGROUND

Our understanding of the facts of this issue are as follows. On March 4, 2005, a tractor-trailer operated by KLLM Transport Services ("KLLM") was crossing railroad tracks near the intersection of 142nd Street and Paxton Avenue in Calumet City, Illinois. The tractor-trailer was carrying drums of acrylic acid to an adjacent facility operated by Ashland Chemical Company.

A train operated by CSX hit the trailer. This collision pushed the trailer onto property immediately north of the railroad tracks. It also caused some number of the drums inside the trailer to rupture (we do not have exact information on the number of drums at issue, but approximately five were ruptured), and acrylic acid from the ruptured drums spilled out of the trailer. That spilled acrylic acid entered soil and standing rainwater present at the location.

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Premcor operates an underground petroleum pipeline that is located underneath the property onto which the KLLM trailer was pushed by the collision with the train. The KLLM trailer collided, or nearly collided, with a vent pipe for that pipeline.

KLLM responded to the collision and removed some amount of soil and water from the location. KLLM disposed of that soil and water off-site as hazardous waste. It is our understanding that KLLM on April 28, 2005, submitted a "final report" to Illinois EPA's Office of Emergency Response regarding its efforts. Mr. Edward Osowski of Illinois EPA's Des Plaines office apparently was involved in conversations with KLLM regarding those efforts.

Thereafter, Premcor was required, by federal law, to inspect its pipeline in order to ensure that the incident had not damaged the pipeline. In order to do this, Premcor had to remove standing rainwater and excavate soil at the site. Premcor sampled and analyzed water and soil at the site and found them to contain acrylic acid. Accordingly, on March 12, 2005, Premcor removed standing water to "Baker tanks" and removed soil to roll-off containers at the site.

It was, and is, Premcor's understanding that the acrylic acid present in the excavated soil and removed water came from the spill of acrylic acid from the KLLM truck. Thus, Premcor understood that KLLM would manage this soil and water. However, recently, KLLM indicated to Premcor that its understanding is that its consultant conducted a complete remediation of that spill, and therefore, that the acrylic acid present in the excavated soil and containerized water must have come from some source other than the KLLM truck, potentially the adjacent Ashland Chemical facility or some activity associated with that facility.

In light of the above, Premcor and KLLM currently are in a disagreement regarding whose responsibility it is to manage the excavated soil and containerized water. Again, the soil and water were removed on March 12. Ninety days from March 12 is today.

Despite the parties' disagreement, in order to ensure that Premcor complies with any Resource Conservation and Recovery Act ("RCRA") generator requirements that might apply to it in connection with this matter, Premcor has decided to have the material shipped off-site for disposal as hazardous waste. Accordingly, Premcor has made arrangements for all of the excavated soil, and potentially one truckload of water, to be shipped off-site today to a licensed RCRA Treatment, Storage and Disposal ("TSD") facility. However, because of the short timeframe, Premcor has tried but has been unsuccessful in arranging with a TSD facility for shipment of all of the containerized water today.

Therefore, pursuant to 35 Ill. Admin. Code § 722.134(b) and 35 Ill. Admin. Code Part 180, Premcor requests that Illinois EPA grant it a provisional variance to allow it an additional fourteen days of accumulation time for the containerized water. Premcor is hopeful that it can

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arrange for the disposal of the water in fewer than fourteen days, but requests fourteen days in order to give it sufficient time to ensure that it can arrange for disposal. Pursuant to 35 Ill. Admin. Code Part 180, Premcor sets out more specifics regarding its provisional variance request below.

II. PROVISIONAL VARIANCE REQUEST

Pursuant to 35 Ill. Admin. Code Part 180, Premcor provides the following information in support of its provisional variance request set forth above.

A. Section 180.202(b)(1) – Regulation from which Variance is Requested

35 Ill. Admin. Code § 722.134(a).

B. Section 180.202(b)(2) – Activity for which Variance is Requested

Please see the description above. In addition, Premcor does not believe that any “population [or] geographic area,” other than the geographic location at which the “Baker tanks” are located, is “affected by the applicant’s operations” at issue, that is, the continued accumulation of water for less than two weeks.

C. Section 180.202(b)(3) – Materials Used in Activity at Issue

Please see the description above.

D. Section 180.202(b)(4) – Information Regarding any Discharge Pursuant to Variance

Not applicable.

E. Section 180.202(b)(5) – Information Regarding any Material in Drinking Water

Not applicable.

F. Section 180.202(b)(6) – Assessment of Any Adverse Environmental Impacts from Variance

Premcor does not believe that any adverse environmental impacts will result from the requested provisional variance. The containerized rainwater at issue is contained in compliance with RCRA requirements, and Premcor does not request any variance from those container

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requirements. Premcor only requests a variance from the accumulation time limit in order to allow it additional time to arrange for the disposal of the material.

G. Section 180.202(b)(7) – Statement as to Why Compliance with Regulation Imposes a Hardship

As discussed above, Premcor has tried to arrange for the disposal of this water today, but in light of the timing, Premcor simply has not been able to locate a TSD facility that can take this material, and transport this material from the site, today. Thus, unfortunately, compliance with the 90-day accumulation time limit of Section 722.134(a) is not possible.

H. Section 180.202(b)(8) – Proposed Methods to Achieve Compliance

As discussed above, Premcor has already begun making arrangements to have the water disposed of within the next two weeks. The operations at this location do not produce hazardous waste. Thus, this situation will not reoccur.

I. Section 180.202(b)(9) – Alternative Methods of Compliance/Reason for Seeking Provisional Variance

Premcor knows of no alternative methods for compliance, and, for the reasons stated above, therefore is seeking a provisional variance.

J. Section 180.202(b)(10) – Period for Which Variance is Requested

Fourteen days.

K. Section 180.202(b)(11) – Provisional Variances Granted to Premcor This Calendar Year

None.

L. Section 180.202(b)(12) – Premcor's Current Permit Status as it Relates to Variance Request

Not applicable. Premcor's operations at this location do not produce hazardous waste.

M. Section 180.202(b)(13) – Board Orders in Effect regarding Premcor's Activities/ Matters Currently Before Board in which Premcor is a Party

The only Board Order of which Premcor is aware which may be in effect regarding Premcor's activities was issued in People v. Clark Refining and Marketing, Inc., PCB No. 95-

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163, and relates to certain operations at Premcor's facility in Hartford, Illinois. The only matter currently before the Board in which Premcor is a party is PCB No. 04-66, in which Premcor is the petitioner in an appeal regarding closure plans for areas at its facility in Hartford, Illinois.

III. CONCLUSION

Mr. Ingersoll, we and Premcor greatly appreciate your consideration of this request on such short notice. If Illinois EPA is unable to make a decision on this request today, we request that Illinois EPA, if it approves this request at a later date, make its decision retroactive to today.

I will contact you shortly to ensure that you have received this request and to provide you any additional information that you might need.

Sincerely,


Thomas G. Safley

TGS:plt
pc: John Kim, Esq. (via facsimile)

PREM:009/Corr/Ingersoll01ltr



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-814-6026

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

(217)782-5544
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Telefax: 217-782-9807

June 10, 2005

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JUN 14 2005

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

STATE OF ILLINOIS
Pollution Control Board

RE: NOTICE OF PROVISIONAL VARIANCE APPROVAL
Premcor Refining Group Inc.

Dear Ms. Gunn:

Pursuant to Subsection 37(b) of the Environmental Protection Act (415 ILCS 5/37(b)), attached is a copy of the Illinois EPA's recent approval of a request for provisional variance. As you know, the Board must maintain for public inspection copies of all provisional variances filed with it by the Illinois EPA. Please feel free to call me at the number referenced above should you have any questions.

Sincerely,

William D. Ingersoll
Acting Chief Legal Counsel

Attachment