

ILLINOIS POLLUTION CONTROL BOARD
November 16, 2006

THE PREMCOR REFINING GROUP INC.,)
)
 Petitioner,)
)
 v.) PCB 07-30
) (CAAPP Permit Appeal – Air)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by T.E. Johnson):

On October 24, 2006, the Premcor Refining Group Inc. (Premcor) timely filed a petition asking the Board to review a September 19, 2006 determination of the Illinois Environmental Protection Agency (Agency) to issue a Clean Air Act Permit Program (CAAPP) permit. *See* 415 ILCS 5/40.2(a) (2004); 35 Ill. Adm. Code 105.302(e). Premcor filed a motion to stay the effectiveness of the CAAPP permit concurrently with the petition.

In the petition, Premcor alleges that the Agency failed to make certain changes to the CAAPP permit, as requested by Premcor, and failed to appropriately incorporate provisions from construction permits, ultimately resulting in duplicative and inconsistent requirements. Pet. at 3. The CAAPP permit application concerns Premcor’s petroleum bulk storage and loading terminal at 201 East Hawthorne, Hartford, Madison County.

Section 40.2(a) of the Illinois Environmental Protection Act (Act) (415 ILCS 5/40.2(a) (2004)) allows several persons to appeal Agency CAAPP permit determinations: permit applicants; persons who participated in the Agency’s public comment process under Section 39.5(8) of the Act (415 ILCS 5/39.5(8) (2004)); and persons who could obtain judicial review under Section 41(a) of the Act (415 ILCS 5/41(a) (2004)). 415 ILCS 5/40.2(a) (2004); *see also* 35 Ill. Adm. Code 105.302(c). Premcor is the CAAPP permit applicant. Premcor appeals on the grounds that Premcor contends that the CAAPP permit does not reflect the current applicable requirements or the current operations of the facility, and thus is not consistent with the Clean Air Act and regulations promulgated thereunder. Pet. at 4. The Board accepts the petition for hearing.

Premcor has the burden of proof. 415 ILCS 5/40.2(a) (2004); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40.2(c) (2004)), which only Premcor may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, “the permit shall not be deemed issued; rather, the petitioner shall be entitled to an Appellate Court order pursuant to Section 41(d) of this Act [415 ILCS 5/41(d) (2004)].” 415 ILCS 5/40.2(c) (2004). Currently, the decision deadline is February 21, 2007 (the 120th day after

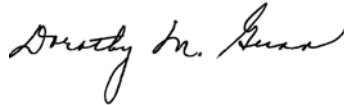
Premcor filed its petition). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for February 15, 2007.

Unless the Board or the hearing officer orders otherwise, the Agency must file an answer, including the entire record of its determination within 30 days after it is served with the petition. 35 Ill. Adm. Code 105.302(f). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.302(f).

As stated, Premcor also filed a motion to stay the effectiveness of the CAAPP permit concurrently with the petition. The Board will reserve ruling on that motion to allow for a response from the Agency.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 16, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board