

ILLINOIS POLLUTION CONTROL BOARD
August 22, 2013

CITGO PETROLEUM CORPORATION and)	
PDV MIDWEST REFINING, L.L.C.,)	
)	
Petitioners,)	
)	
v.)	PCB 12-94
)	(Variance – Water)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

CITGO PETROLEUM CORPORATION and)	
PDV MIDWEST REFINING, L.L.C.,)	
)	
Petitioners,)	
)	
v.)	PCB 14-4
)	(Variance – Water)
ILLINOIS ENVIRONMENTAL)	(Not Consolidated)
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.K. Zalewski):

This matter comes before the Board on related filings in two cases involving variance relief requested by CITGO Petroleum Corporation (CITGO) and PDV Midwest Refining, L.L.C. (PDVMR) (collectively, petitioners) from the Board’s water quality standards at 35 Ill. Adm. Code 302.208(g), and 302.407. That relief was granted in PCB 12-94 on October 18, 2012. In a motion dated June 25, 2013 and amended June 26, 2013, Illinois EPA requested that the Board vacate its opinion and order granting the variance as inconsistent with the federal Clean Water Act (CWA), and USEPA rules at 40 CFR 131. However, petitioners seek continued relief for discharges from the oil refinery in Lemont, Cook County (Lemont Refinery), which CITGO operates and PDVMR owns. The Lemont Refinery discharges into the Chicago Sanitary and Ship Canal, which is a tributary to the Des Plaines River.

MOTION TO STAY

As a result of the Board’s procedural order dated July 25, 2013, petitioners filed both a Motion to Stay and Response to the Board Order of July 25, 2013 (Motion) and a Waiver of Decision Deadline on August 8, 2013. In their Motion, petitioners state that “the Parties and U.S. EPA have engaged in discussions in an attempt to resolve the issues in dispute . . . the

Parties believe it is premature to comment regarding the procedural suggestion raised by the Board [in the July 25, 2013 order] since any analysis of this issue would depend on the Parties' discussions and with U.S. EPA." Motion at 2-3. Petitioners request that the Board stay both the Illinois EPA's Motion to Vacate and petitioner's Petition for Modification until September 12, 2013, "in order to allow adequate time for the parties to resolve the issues that have arisen with respect to the conditions in PCB 12-94." Motion at 3. In addition, petitioners indicate that they waive the statutory decision date in PCB 14-4 until 120 days after September 12, 2013. *Id.*

ILLINOIS EPA'S RESPONSE TO THE BOARD'S ORDER

On August 19, 2013, the Board received the Illinois EPA's response (Response) to the Board's procedural order of July 25, 2013. In the response, Illinois EPA indicates that it has no objection to the stay as requested by CITGO. Response at 1. Consistent with CITGO's motion, Illinois EPA states that discussions addressing U.S. EPA's concerns are ongoing between the parties. *Id.* Illinois EPA requests that a telephone status conference be scheduled to occur at the close of the stay in order for the parties to update the Board on progress with the settlement discussions. *Id.*

DISCUSSION

The Board's procedural rules provide that "[m]otions to stay a proceeding must be directed to the Board and must be accompanied by sufficient information detailing why a stay is needed. . . ." 35 Ill. Adm. Code 101.514(a). The decision to grant or deny a motion for stay is "vested in the sound discretion of the Board." See People v. State Oil Co., PCB 97-103, slip op. at 2 (May 15, 2003), *aff'd sub nom. State Oil Co. v. PCB*, 822 N.E.2d 876, 291 Ill. Dec. 1 (2nd Dist. 2004).

Petitioners seek a stay in this matter to continue discussions with Illinois EPA and U.S. EPA about a possible resolution of U.S. EPA's, and thus Illinois EPA's, objection to the relief previously granted in PCB 12-94. In their motion, petitioners indicate that "[c]ounsel for the [Illinois EPA] has reviewed this matter and has authorized counsel for the Lemont Refinery to advise the Board that the [Illinois EPA] does not object to this motion." Motion at 3. Illinois EPA's response indicates that it is in agreement with CITGO regarding the stay. Response at 1. Under these circumstances, and in the interest of conserving resources, the Board grants petitioner's motion.

The Board's stay of these proceedings will last until September 12, 2013, as requested. Pursuant to the Hearing Officer order, dated August 20, 2013, the parties are directed to participate in a status conference on September 12, 2013. The Board also notes that petitioner has waived the decision deadlines in PCB 12-94 and PCB 14-4 for 120 days up to, and including, January 10, 2014.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 22, 2013 by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board