

ILLINOIS POLLUTION CONTROL BOARD  
March 3, 2016

PREMCOR REFINING GROUP, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 04-66  
 ) (Permit Appeal- RCRA)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondents. )

ORDER OF THE BOARD (by D. Glosser):

On January 21, 2016, Premcor Refining Group (petitioner) filed a motion (Mot.) seeking a stay in this proceeding until December 31, 2016. Petitioner represent that the Illinois Environmental Protection Agency (IEPA) does not object to the stay. Mot. at 5. For the reasons discussed below the Board grants the requested stay, but directs the parties to file a status report on July 1, 2016.

On January 15, 2004, petitioner filed a petition asking the Board to review IEPA's determination rejecting a request to modify the approved closure plan regarding petitioner's dissolved air flotation unit and roll-off box container storage facility at the Premcor refinery in Hartford, Madison County. On January 22, 2004, the Board accepted the petition for hearing.

Petitioner explains that on June 17, 2003, the Office of the Illinois Attorney General (the People) served petitioner with a complaint for injunctive and other relief, (No. 03-CH-459 filed in Madison County Circuit Court). The complaint addressed, among other things, the units at issue in this permit appeal. Mot. at 2. On November 11, 2005, the People amended the complaint by adding the prior owner of the refinery, and in August 2006, petitioner filed an answer and third party complaint naming ten additional parties. *Id.* Petitioner has been negotiating a consent order to resolve the circuit court matter with the People and IEPA since 2003. *Id.*

Petitioner states that during settlement discussions, it has conducted investigations of the surface and subsurface conditions at the refinery under the oversight of IEPA and conducted remediation including a groundwater pumping system. Mot. at 2. Petitioner provided quarterly reports to IEPA detailing the ongoing site work. *Id.* at 3. Petitioner opines that resolution of the circuit court complaint through a consent order would likely eliminate the need to pursue this appeal. *Id.*

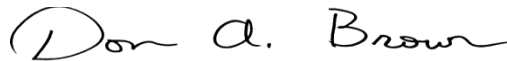
Petitioner notes that pursuant to Section 101.514 of the Board's procedural rules, a movant for a stay must provide sufficient information as to why a stay is needed, request a waiver of the decision deadline, and submit a status report. Mot. at 3, citing 35 Ill. Adm. Code

101.514(a). Petitioner filed an open waiver of the decision deadline and continues to provide the IEPA with quarterly updates on the progress at the facility. Petitioner argues that a stay will not result in harm to the “parties or the public”. *Id.* Thus, petitioner argues that it has satisfied Section 101.514. *Id.* Petitioner notes that the Board has granted stays in permit appeals and in cases where alternative methods of resolution were being pursued. *Id.* at 3-4.

The Board agrees that the resolution of the circuit court case may impact the need to proceed with this appeal. In addition, petitioner’s report indicates that the circuit court case is progressing and that the parties will incur no harm or prejudice if a stay is allowed. Ordinarily granting a stay for almost 10 months in a case that has been before the Board for such a length of time would be disconcerting to the Board; however, in this case, the Board considers the extensive explanation and the ongoing work in the circuit court case in granting a stay. In order for the Board to be informed on the progress in circuit court, the Board directs the parties to file a status report on July 1, 2016 informing the Board of the status of the circuit court case. The Board stays this proceeding until December 31, 2016.

IT IS SO ORDERED.

I, Don A. Brown, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 3, 2016, by a vote of 5-0.



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Don A. Brown, Assistant Clerk  
Illinois Pollution Control Board