



October 9, 2012

Division of Air Quality
655 S. Bay Road, Suite 5 N
Dover, DE 19901

**Re: Delaware City Refining Company LLC (DCRC) Application for an Air Permit for the Unit 43
Ether Cooling Tower Restart Project.**

To Whom It May Concern,

The Delaware Riverkeeper Network would like to request a public hearing on this permit application to ensure full consideration of the issues that need to be addressed. We would also like to ask for an extension of the public comment period as the level of information and concern regarding this project goes far deeper than it initially appears from the public notice and application materials and so there is a need for more time for the public to be able to provide fully informed substantive comments.

Additionally, we suggest that this permit application should not be considered in the vacuum that it has been placed in. Restarting the Ether Plant's Cooling Tower should require a new NPDES Permit. The NPDES Permit for the Delaware City Refinery expired a decade ago (on 8/31/2002). Much of the facility has operated historically using once through cooling. While this cooling tower seems to be part of the commitment made for this facility to DNREC back in 2008 to reduce its cooling water intake and so is being postured as a positive for the River and the region – the fact of the matter is that the cooling water intake operations of this facility kills millions of fish a year needlessly, and that it must be brought into conformance not just with the Clean Air Act but also with the Clean Water Act before it can be allowed to move forward.

The Clean Water Act requires the Delaware City Refinery to minimize the adverse impacts of its cooling water intake structures, those associated with the whole facility. The water intake operations at the Delaware City Refinery are antiquated and there is no justifiable reason to allow this facility to operate with dated equipment and expired Clean Water Act permitting so it can continue to inflict needless fish kills as the result of a 303 million gallon per day intake.

DNREC must require the facility to secure up to date Clean Water Act NPDES permitting for the facility prior to granting this air permit; as the cooling water intake technology to be used will in many ways dictate the air impacts of the facility and it is possible we could see reduced fish kills, reduced water needs, reduced

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temperature outputs into the River and reduced air pollution by making the right decision regarding cooling water technology for the facility.

Studies commissioned by the Delaware City Refinery and reviewed by DNREC scientists show that this facility can kill as many as 40,000 equivalent adult striped bass in a given year; and for weakfish the figure has been as high as 50,000. In addition, the Refinery has been estimated to kill as many 17 million Bay Anchovy, an important forage fish, in a given year; an estimated 19% of the Delaware River and Bay stock. And as many as 7.38 million white perch of varying life stages can also be killed at the refinery in a given year.

Bay Anchovy are important forage fish and support commercial and recreational fisheries. Striped Bass are a prized commercial and recreational catch, and White perch are important recreational fish. And Weakfish, while having a rich history for fishing, have suffered tremendous declines that has changed that picture, and they are ill equipped as a population to sustain another hit.

When the fish kills of the Delaware City Refinery are combined with those of the Salem Nuclear Generating Station across the River it has been determined that just these two facilities combined kill more than half of the striped bass population of the Delaware River – a shocking 56%. Of the Weakfish population, the two facilities combined kill up to 23% of all the Weakfish found in the River.

Because of the high kills of Bay Anchovy alone Dr. Desmond Kahn, a DNREC scientist, says “the refinery could be having a noticeable impact on the total productivity of the Bay and River for the production of desirable predator species as well as reducing the attraction of adult predators.”

Over 53 species of fish have been found killed through the operations of the Delaware City Refinery Cooling operations and so the death of the millions of fish counted in these research efforts is but a mere sampling of the total fish kills that happen at the Delaware City Refinery.

In a September 22, 2008 presentation, Premcor Refining Group committed to reduce the intake of the Delaware City Refinery by 33%, and ultimately to convert more of the facility to recirculating cooling towers. But the fact of the matter is that the Delaware City Refinery inflicts dramatic harms on the fish populations of the Delaware Estuary, Bay and River – fish important for the economic, ecological and recreational health of Delaware and the region. And so part of this process must be to bring this facility into compliance with 316(b) of the Clean Water Act and to ensure the facility is minimizing the adverse impacts inflicted by its cooling water intakes.

With regards,



Maya K. van Rossum
the Delaware Riverkeeper