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June 13, 2013

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RETURN RECEIPT REQUESTED

U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733
Attn: Craig Lutz

RE: Clean Air Act Section 114 Information Request – Confidential Business Information ("CBI") Response
The Premcor Refining Group, Inc, A Valero Company
AFS ID 4824500004

Dear Mr. Lutz:

Enclosed please find the Valero Port Arthur Refinery's (the "Refinery") response to EPA Region VI's Request for Information under Section 114 of the Clean Air Act ("114 Request"), received on May 14, 2013. As required by the 114 Request, the Refinery is submitting its response within 30 days of the receipt. In addition to this letter, the Refinery has produced responsive data and documents via CD. Data and documents are provided in separate electronic folders identified by Exhibit and Question number.

OVERVIEW AND GENERAL OBJECTIONS

1. Scope of Review.

The 114 Request itself contains 9 separate questions, many of which contain subparts. In order to identify information responsive to all of these requests within the 30 days allowed by EPA, the Refinery convened a production team that has engaged in data and document identification, reviewed environmental and administrative files at the Refinery, reviewed responsive data and documents with the Refinery's Environmental Director, Environmental Manager, and staff-level environmental engineers. The Refinery is producing all data and documents that it believes to be responsive which can be reasonably produced within the time frame allowed by EPA.

At the same time, the breadth of the questions and the extremely short response time required the Refinery to impose certain limitations on the scope of the review. For example, Refinery personnel reviewed files where they expected responsive data and documents would be most likely kept in the ordinary course of business and produced responsive information. The Refinery was unable to perform an exhaustive search for all data and documents due to insufficient time.

2. General Objections.

As a threshold matter, the Refinery reserves its right to object to the 114 Request on the basis that it may violate the Paperwork Reduction Act ("PRA"). EPA is prohibited from conducting a "collection of information" directed towards more than ten persons without undertaking several procedural steps under the PRA including, most significantly: (1) obtaining approval from the Office of Management & Budget (OMB); (2) publishing advanced notice for public comment of the proposed collection of information in the Federal Register; (3) obtaining a valid OMB control number for the information request; (4) marking that control number on the request together with a statement that the respondent is not required to respond to the information request unless the collection of the information displays a valid OMB control number. See 44 U.S.C.A. §§ 3502(a)(3), 3506(c), 3507(a).

The Refinery believes EPA has sent identical or virtually identical 114 Requests to more than ten persons. If the requests constitute a collection of information under the PRA, the Refinery would not need to respond to the 114 Request because EPA has not provided either an OMB control number or the requisite statement that the Refinery need not respond if no such control number is provided. Further, as far as the Refinery is aware, no notice of the information request was published in the Federal Register. The Refinery therefore may not be required to respond to the 114 Request. However, without waiving any objections, claims or defenses, the Refinery has chosen to provide as much information to EPA as it reasonably can in the time provided.

The Refinery also raises a general objection to the 114 Request to the extent the documents or information requested are outside the scope or authority of Section 114 of the Clean Air Act ("CAA"), 42 U.S.C. § 7414. Except when gathering information for administrative proceedings, EPA's authority to request information from any person under Section 114 is limited to information relevant to determining the person's compliance status, CAA § 7414(a)(ii). Many of the questions seek information that goes well beyond the applicable regulatory requirements (for example, detailed documentation on various measures of Vent Gas composition and steam rates to the flare). The Refinery objects to those aspects of the information requests that demand information that either was, during the relevant timeframes, or is not required to be developed and maintained to demonstrate compliance.

EPA's authority under the CAA is also circumscribed by the standard of reasonableness. Accordingly, the Refinery also objects to the individual requests to the extent they are vague, unclear, ambiguous, unnecessarily burdensome, or call for speculation. For example, several of the requests seek data that the Refinery does not regularly maintain at all, or in the required format; others would require the Refinery to perform a variety of detailed calculations that are not required under any permit or regulation. Section 114 does not allow EPA to require facilities to interpret, assemble, compare, contrast, summarize, create, change the format of, or manipulate in other ways the available information. In the spirit of cooperation, and in an attempt to respond to the request, the Refinery is producing readily available data and, where appropriate, estimates based on such data.

The Refinery further objects because the time provided for the response is unreasonable. These requests are not limited to merely obtaining and copying specifically identified documents, but rather requests the Refinery to perform extensive calculations and data manipulations. The Refinery cannot reasonably be expected to respond to such extensive requests within the 30 days allowed by EPA.

The Refinery also objects to requests that require the Refinery to draw legal conclusions. Legal opinions are not "information" that the Refinery is required to provide pursuant to Section 114 of the CAA. The

Refinery further objects to the 114 Request to the extent that it seeks documents that are subject to the attorney-client privilege, the attorney work product privilege, or any other applicable privilege, protection, or immunity authorized by law.

Without limiting the foregoing and reserving its rights to assert any of its objections at any time, the Refinery also sets forth specific objections in the narrative responses to specific questions, outlined below. The Refinery's review and document production is limited by both its general objections to the 114 Request and by the request-specific objections and clarifications noted below.

The Company further objects to the following Instructions and Definitions:

Instruction 1. The Refinery objects to Instruction 1, because the open-ended obligation to supplement every response imposes a significant and undue burden that is not justified under Section 114. Continuously supplementing the response to these requests on an ongoing basis would impose an unreasonable burden on the Refinery and is unnecessary to accomplish the stated purpose of Section 114, which is to determine the Company's current compliance status (see 42 U.S.C. § 7414(a)(ii)). In order to respond within the 30 days required by EPA, the Refinery provides herein responsive documents and information that was generated through October 10, 2011, through January 31, 2013, for Questions 1 – 5 and 7; April 14, 2013, through May 14, 2013, for Question 6; and through May 14, 2013, for Questions 8 and 9.

Instruction 2. The Refinery objects to the instruction to provide all of the documents in a "logically sequenced, bound format" because it is unduly burdensome, impractical, and in conflict with earlier portions of the instruction. Given the scope of the documents requested, the Refinery cannot produce them in a "bound" format; given the extremely short time provided for a response, the Refinery cannot manipulate the large number of documents involved into a specific "sequence." The Refinery is producing the available documents as they are maintained in the ordinary course of business.

Instruction 3. The Refinery objects to the instruction to provide a separate response to each question, to the extent it requires the Refinery to provide a written explanation in addition to responsive documents. Several requests ask for specific documents or facts that are not readily convertible to a narrative format. Moreover, where such documents are available, the documents themselves are the best available source of the requested information. In most cases, the Refinery has provided information responsive to the requests in the form in which it is maintained in the ordinary course of business.

Instruction 4. The Refinery objects to the instruction to identify each individual who was involved in preparing its responses because it is outside the scope of Section 114 and unduly burdensome. Section 114 allows EPA to assess a facility's compliance with the law; the identity of specific individuals who prepared the response to these requests is entirely irrelevant to that effort. Moreover, given the extremely broad scope of the requests, the Refinery cannot reasonably identify each specific employee who may have been consulted at some point to determine whether he or she had relevant knowledge. The Company has identified the employee who had primary responsibility for overseeing development

information responsive to each request. Paula LaRocca had primary responsibility for overseeing development of this information for the Port Arthur Refinery.

Instruction 5. The Refinery objects to the instruction to identify each document "consulted, examined, or referred to" in preparing its response as vague and unduly burdensome and beyond the scope of Section 114. Given the breadth of both the requests and the definition of "document," the Refinery has been required to review significant amount information in an attempt to identify responsive material. Some of these documents were nonresponsive; and so by definition, these documents cannot advance the compliance goals of Section 114 and therefore need not be produced. Other documents were duplicative, only tangentially related to the issues in the request, and/or not the best source of the requested information. Again, given the extreme breadth of the request and the limited time allowed for a response, it is unduly burdensome to demand that the Refinery produce copies of all such documents.

The Refinery further objects to Instruction 5 to the extent it demands that the Refinery produce documents even when the applicable information request demands only a written explanation. Requiring the Refinery to produce the same information in multiple formats is duplicative and unduly burdensome, especially in light of the broad scope of the requests and limited time provided to respond.

Instruction 6. The Refinery objects to EPA's demand that if there is no responsive information or documents for a particular question, then it is to "submit a statement certifying this, along with a detailed explanation." There is no legal basis for requiring such a certification as part of a CAA Section 114 information request. Although §7414(a)(3) allows EPA to require a certification statement under the Title V Operating Permit program, that provision does not extend to CAA Section 114 information requests.

Definition 1. The Refinery objects to the definition of "document" as beyond the scope of Section 114, overbroad, vague, and unduly burdensome, especially in light of the extremely limited time allowed for a response. The definition devotes seventeen lines of text to identifying almost 60 separate examples of "documents" that the Refinery is required to produce, including phone messages, journals, desk pads, and all available electronic data, including backup tapes and memory cards. Moreover, the definition further demands that the Refinery produce multiple copies of each document, together with every document that happens to be "referred to" in any of the above materials. The Refinery cannot reasonably produce such extensive, duplicative information for several years of operation within the 30 days allowed by EPA. As discussed above, the Refinery has devoted significant effort to responding to the 114 Request. The Refinery has reviewed the locations that it reasonably anticipated would contain responsive information, and has communicated with relevant personnel, and has produced the information and documents that the Refinery believes, based on its engineering and professional judgment, are responsive to the Request. During the course of this effort, the Refinery has not excluded any documents based on the type or format of the document, but it has not made specific efforts to identify all of the listed categories of documents.

Definitions 2-4. The Refinery objects to the definitions of "Valero Port Arthur Refinery," "Valero," "person," "persons," "you," and "yours" as beyond the scope of Section 114, vague, overbroad, and unduly burdensome as it relates to (i) related corporate entities, including predecessors and successors; (ii) corporate officers and directors; (iii) agents and representatives; and (iv) non-Valero personnel, including consultants, attorneys, and accountants. The requests are designed to assess the compliance status of the Refinery; many of the individuals and entities referred to in Definitions 2-4 would have no information responsive to these requests, or would have only duplicative information. The Company has

focused its efforts on those locations and individuals whom it believes are most likely to contain/have knowledge of responsive information. During the course of this review, the Refinery has not excluded

any individuals or entities based on the distinctions set forth in Definitions 2-4, but it has not made specific efforts to search all of the other related entities and individuals covered by these terms.

The Refinery further objects to the inclusion of its attorneys in Definition 4, because it violates the attorney-client privilege and attorney work-product immunity.

3. Objection to the Requirement for Certification.

The Refinery objects to EPA's demand for a certification from a "responsible official," because there is no legal basis for requiring such a certification as part of a CAA Section 114 information request. Although §7414(a)(3) allows EPA to require a certification statement under the Title V Operating Permit program, that provision does not extend to CAA Section 114 information requests. Moreover, as a practical matter, the Refinery cannot truthfully sign the required certification given the timeframe to develop a response and the scope of the information at issue. As noted above, the 114 Request asks the Refinery to provide extensive documentation, compiled over a significant period of time by a variety of personnel (some of whom may no longer be employed by the Refinery) and also asked for estimates. Nevertheless, the Refinery believes that it is producing true and complete copies of the responsive documents as they were found at the Refinery and, where required, has endeavored to develop responsible data that it believes to be accurate based on available information.

4. Confidential Business Information

The Refinery asserts claims of Confidential Business Information ("CBI") for the response to Question 8 pursuant to its rights under 42 U.S.C. § 7414(b) and 40 C.F.R.§ 2.120 et seq. A separate CBI response is being submitted.

Without limiting the foregoing and reserving its rights to assert any of its objections at any time, the Company also sets forth specific objections in the narrative responses to specific questions in the Requests, outlined below. The Company's review and document production is limited by both its general objections to the 114 Request and by the request-specific objections and clarifications noted below.

RESPONSES TO SPECIFIC REQUESTS

Question 8. For the date range specified in paragraph 1 above, if there have been any changes made, since the submission of the response to the previous 114 letter dated October 5, 2011 (Previous 114 letter), to any and all documents in your possession, custody, or control, that prescribe or recommend the amount of steam or air to be added to each facility flare, provide copies of the documents, with an itemized list of the changes. Provide a copy of the entire document if, within the document, it states the maximum steam or air rate, minimum steam or air rate, steam or air addition rate associated with a vent scenario, general steam-to-vent gas or air-to -organic gas/vent gas ratio, or any other reference to steam addition. If there have been no changes,

additions, or subtractions for any of the afore mentioned documents since the submission of the response to the Previous 114 letter, please state that this paragraph is not applicable.

The Refinery objects to Question 8 because it is vague, unclear, ambiguous, overly broad and unnecessarily burdensome. Additionally, the Refinery objects to Question 8 as it seeks confidential business information. The Refinery further objects to Question 8 to the extent that it seeks information not kept by the Refinery in the normal course of business and to the extent it seeks information that the Refinery was not and/or is not required to keep. The Refinery also objects to the use of the undefined terms in the 114 Request "Purge Gas," "Waste Gas," "Supplemental Gas," and "Vent Gas." As these terms are vague, the Refinery has made certain assumptions in order to provide an answer to this. The Refinery assumes the following definitions.

- "Pilot Gas" means gas injected at a flare tip to maintain a flame.
- "Purge Gas" or "Sweep Gas" means all gas introduced prior to the flare tip to protect against oxygen build up in the Flare header and/or to maintain a constant flow of gas through the flare and out the tip.
- "Supplemental Gas" means all gas introduced to raise the hearing value of Waste Gas.
- "Vent Gas" means all gases found just prior to the flare tip, This gas includes all Waste Gas, Purge Gas, Supplemental Gas, nitrogen and hydrogen, but does not include Pilot Gas or steam.
- "Waste Gas" means all gases routed to a flare for combustion, excluding Purge Gas, Supplemental Gas, Pilot Gas, and steam.

Without waiving these objections, and in an attempt to respond to this request, the Refinery provides the following response. The CBI response is being provided as Exhibit F.

The Refinery has made a sincere effort to produce all information and documents that it believes to be responsive which can be reasonably produced within the requested timeframe. For additional information about the request, please contact me at 409-985-1200.

Sincerely,

Paula LaRocca

Paula LaRocca
Manager Environmental Engineering

JB/cmg

Enclosures