

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN PETROLEUM INSTITUTE,)
Plaintiff,)

Civil Action No. 02-2247 (PLF)

v.)
)
)

CHRISTINE TODD WHITMAN,)
Administrator, United States Environmental)
Protection Agency, *et al.*)
Defendants.)

PETROLEUM MARKETERS ASSOCIATION)
OF AMERICA, *et al.*,)
Plaintiffs,)

Civil Action No. 02-2249 (PLF)

v.)
)
)

CHRISTINE TODD WHITMAN,)
Administrator, United States Environmental)
Protection Agency, *et al.*)
Defendants.)

MARATHON OIL CO.,)
Plaintiff,)

Civil Action No. 02-2254 (PLF)

v.)
)
)

CHRISTINE TODD WHITMAN,)
Administrator, United States Environmental)
Protection Agency, *et al.*)
Defendants.)

))
**MOTION OF THE STATE OF NEW YORK TO INTERVENE AS DEFENDANTS IN CASE NOS
02-2247 AND 02-2254**

Pursuant to Federal Rules of Civil Procedure 24(a) and (b) and L.CvR 7.1(j) of this Court, the State of New York hereby moves the Court for leave to intervene as a defendant in Civil Actions Nos 02-2247 and 02-2254 (the Actions). Counsel for the State has telephoned counsel for all parties to the Actions to determine their position on this motion. Counsel for plaintiff American Petroleum Institute (API) stated API has not yet formed a position on the motion. Counsel for plaintiff Marathon Oil Company stated that Marathon would oppose the motion. Counsel for defendants Christine Todd Whitman and the United States has not yet formed a position on the motion.

The State seeks intervention of right under Fed. R. Civ. P. 24(a)(2) because the State has an interest relating to the subject matter of this litigation; the State is so situated that the disposition of this action, may as a practical matter, impair or impede its ability to protect that interest, its interest may not be adequately represented by existing parties to the case; and its motion to intervene is timely.

In the alternative, the State seeks permissive intervention under Fed. R. Civ. P. 24(b)(2) because the defenses that the State would assert and the main action share common questions of law and fact; the State's participation in the action will not delay or prejudice the rights of the parties; and the State's motion is timely.

In support of its motion, the State relies on the accompanying memorandum of law and exhibits.

New York, New York
July 21, 2003

Respectfully submitted,

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of New York
Attorney for Proposed Intervenor –
Defendant State of New York

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