

No. \_\_\_\_\_

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**In the Supreme Court of the United States**

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MRP PROPERTIES COMPANY, LLC; VALERO REFINING COMPANY—OKLAHOMA; PREMCOR  
REFINING GROUP INC.; ULTRAMAR, INC.; VALERO REFINING COMPANY—TENNESSEE  
LLC; VALERO REFINING—TEXAS, L.P.

*Applicants,*

v.

UNITED STATES OF AMERICA,

*Respondent.*

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**APPLICATION FOR AN EXTENSION OF TIME TO FILE  
A PETITION FOR A WRIT OF CERTIORARI**

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To the Honorable Brett M. Kavanaugh  
Associate Justice of the Supreme Court of the United States and  
Circuit Justice for the Sixth Circuit

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## CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6, Applicants state as follows:

Applicant MRP Properties Company, LLC, is a wholly owned subsidiary of Valero Energy Corporation.

Applicant Valero Refining Company — Oklahoma is a wholly owned subsidiary of Valero Energy Corporation.

Applicant Valero Refining Company — Tennessee, LLC, is a wholly owned subsidiary of Valero Energy Corporation.

Applicant Premcor Refining Group Inc. is a wholly owned subsidiary of Valero Energy Corporation.

Applicant Valero Refining — Texas, L.P. is a wholly owned subsidiary of Valero Energy Corporation.

Applicant Ultramar Inc. is a wholly owned subsidiary of Valero Energy Corporation.

Valero Energy Corporation is a publicly traded company (NYSE: VLO). It has no parent corporation, and The Vanguard Group, Inc. owns more than 10% of its stock.

To the Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Sixth Circuit:

1. Pursuant to Supreme Court Rule 13.5, Applicants MRP Properties Company, LLC; Valero Refining Company–Oklahoma; Premcor Refining Group Inc.; Ultramar, Inc.; Valero Refining Company–Tennessee LLC; and Valero Refining–Texas, L.P., respectfully request a 59-day extension of time to and including Friday, December 22, 2023, to file a petition for a writ of certiorari. That extension would be less than the maximum 60-day extension authorized by Supreme Court Rule 13.5 and 28 U.S.C. § 2101(c).

2. The United States Court of Appeals for the Sixth Circuit issued an initial opinion on June 23, 2023, and an amended opinion on June 29, 2023. The opinion is reported at 72 F.4th 166, and a copy of the amended opinion is attached as Exhibit A. The Sixth Circuit denied Applicants’ timely rehearing petition on July 26, 2023. A copy of that order is attached as Exhibit B. This Court’s jurisdiction would be invoked under 28 U.S.C. § 1254(1).

3. Currently, Applicants’ petition for writ of certiorari seeking review of this Sixth Circuit decision would be due on October 24, 2023. This application is being filed more than 10 days in advance of that date. No prior application has been made in this case.

4. This case presents questions worthy of this Court’s review. Applicants filed this action in 2017 under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Declaratory Judgment Act to ensure that the federal government pays its fair share of cleanup costs for historic refineries

located at 12 different sites across the country. To ensure adequate supply of petroleum products during World War II, the United States government controlled every aspect of Applicants' operations at these refineries through coercive and mandatory commands. The government dictated to Applicants' predecessors what products to produce, at what quantity, and using which raw materials. The government required these entities to convert manufacturing equipment to make new products and wastes that never would have been made but for government dictates. The government's control over and demands of the refineries involved activities related to pollution. Applicants must now clean up the resulting hazardous waste. Under CERCLA, Applicants may recover a fair share of clean-up costs from another "operator" of the refineries, including the United States. Yet the Sixth Circuit held that the United States was not an "operator," despite its pervasive control over pollution-producing activities.

5. The standard for operator liability under CERCLA is deeply contested. *Compare FMC Corp. v. U.S. Dep't of Com.*, 29 F.3d 833, 843 (3d Cir. 1994) (holding that the federal government was an operator because it "determined what product the facility would manufacture, controlled the supply and price of the facility's raw materials, ... supplied equipment," had authority over employees, and controlled "the price of the facility's product" and "who could purchase the product"), *with MRP Properties Co., LLC v. United States*, 72 F.4th 166, 173 (6th Cir. 2023) (rejecting the argument that the government was an operator even though it "told refineries what to produce and . . . , to produce those items, refineries altered their operations in ways that increased waste production").

6. Applicants recently engaged undersigned counsel, who was not previously involved in the case. This case presents complex questions and a significant record developed over six years of litigation. That record covers 12 different refinery sites nationwide and spans approximately 80 years. A 59-day extension would give counsel sufficient opportunity to review the record, analyze the issues presented, and prepare the petition for filing. The extension is also necessary given the heavy press of matters the undersigned counsel is responsible for over the next two months.

7. Applicants respectfully request that an order be entered extending the time to file a petition for a writ of certiorari up to and including Friday, December 22, 2023.

Dated: September 28, 2023

Respectfully submitted.

/s/ Scott A. Keller

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