

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

COMMODITIES EXPORT COMPANY,

Plaintiff/Counter-Defendant,

v.

Case No. 09-CV-11060-DT

CITY OF DETROIT, UNITED STATES OF
AMERICA,

Defendants/Cross-Defendants,

and

DETROIT INTERNATIONAL BRIDGE
COMPANY,

Defendant/Counter-Plaintiff/Cross-
Plaintiff/Third Party Plaintiff,

v.

WALTER LUBIENSKI and DEAN AYTES,

Third Party Defendants.

**ORDER DENYING WITHOUT PREJUDICE PLAINTIFF'S
RENEWED MOTION FOR PERMANENT INJUNCTION**

On February 5, 2010, Plaintiff Commodities Export Company filed a "Renewed Motion for a Permanent Injunction and a Declaratory Judgment." On March 5, 2010, the court entered an order holding in abeyance Plaintiff's renewed motion pending resolution of other motions before the court. Additionally, "because the resolution of the other motions could and likely will alter the landscape of the issues presented in Plaintiff's renewed motion," the court also ordered that the briefing on the motion be suspended until the other motions were resolved. (3/05/2010 Order at 1.) While the

court has resolved some of the issues impacting the renewed motion, the parties have subsequently filed additional motions, also impacting the resolution of the motion for permanent injunction. As a practical matter, at this point, the procedural posture of this case, as well as the factual circumstances underlying the motion for permanent injunction, have already shifted so much that the motion is too stale to address, yet simultaneously not yet ripe for review.¹ Inasmuch as Plaintiff's motion for permanent injunction seeks the final injunction to end this case, it should not be presented until the issues have sufficiently narrowed in order to address Plaintiff's request. Accordingly, the court will deny the renewed motion without prejudice to the right of Plaintiff to bring the motion at a later date, preserving all of Plaintiff's rights until that time. After resolution of the currently pending motions, the court will set a status conference to determine whether the time is ripe for Plaintiff's motion or whether any party is entitled first to a bench or jury trial or to any other hearing. Accordingly,

IT IS ORDERED that Plaintiff's "Renewed Motion for a Permanent Injunction and a Declaratory Judgment" [Dkt. # 57] is DENIED WITHOUT PREJUDICE.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: September 28, 2010

¹For example, a substantial portion of Plaintiff's motion deals with the duties of the United States to control the actions of its alleged agent or instrumentality, the Detroit International Bridge Company ("DIBC"). On June 29, 2010, the court issued an order holding that DIBC was not a federal instrumentality. Thereafter, DIBC filed both a motion for reconsideration and a motion to vacate the June 29 order. Whatever the resolution of these motions, the procedural and factual landscape will have significantly changed since the filing of Plaintiff's renewed motion for permanent injunction on this issue and will necessarily require supplemental briefing.

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, September 28, 2010, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522

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