

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

KCBX TERMINALS COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 11-43
)	(Air Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Mr. John Therriault	Mr. Bradley P. Halloran
Assistant Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 West Randolph Street	100 West Randolph Street
Suite 11-500	Suite 11-500
Chicago, Illinois 60601	Chicago, Illinois 60601
(VIA ELECTRONIC MAIL)	(VIA FIRST CLASS MAIL)

(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a **PETITIONER'S RESPONSE TO THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S REQUESTS FOR EXTENSION OF TIME, AND PETITIONER'S MOTION FOR ENTRY OF PROPOSED DISCOVERY SCHEDULE** and a proposed **DISCOVERY SCHEDULE**, copies of which are herewith served upon you.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

Dated: February 24, 2011

By: /s/ Katherine D. Hodge
Katherine D. Hodge

Katherine D. Hodge
Lauren C. Lurkins
HODGE DWYER & DRIVER
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

THIS FILING SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

I, Katherine D. Hodge, the undersigned, hereby certify that I have served the attached PETITIONER'S RESPONSE TO THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S REQUESTS FOR EXTENSION OF TIME, AND PETITIONER'S MOTION FOR ENTRY OF PROPOSED DISCOVERY SCHEDULE and proposed DISCOVERY SCHEDULE upon:

Mr. John Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

via electronic mail on February 24, 2011 and upon:

Mr. Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Christopher Grant, Esq.
Illinois Attorney General's Office
69 West Washington Street
Suite 1800
Chicago, Illinois 60602

by depositing said documents in the United States Mail, postage prepaid, in Springfield, Illinois on February 24, 2011.

/s/ Katherine D. Hodge
Katherine D. Hodge

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**PETITIONER'S RESPONSE TO THE
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S
REQUESTS FOR EXTENSION OF TIME, AND PETITIONER'S
MOTION FOR ENTRY OF PROPOSED DISCOVERY SCHEDULE**

NOW COMES Petitioner, KCBX TERMINALS COMPANY ("KCBX"), a North Dakota corporation, by and through its attorneys, HODGE DWYER & DRIVER, and for its Response to the Illinois Environmental Protection Agency's ("Illinois EPA") Requests for Extension of Time and for its Motion for Entry of Petitioner's Proposed Discovery Schedule, states as follows:

1. On February 1, 2011, KCBX filed with the Illinois Pollution Control Board ("Board") its Petition for Review ("Petition") and Motion to Confirm Automatic Stay of Effectiveness of Federally Enforceable State Operating Permit ("FESOP") or, in the Alternative, to Request Stay of Effectiveness ("Motion to Stay"), with regard to the Renewed FESOP issued to KCBX by Illinois EPA on December 29, 2010.
2. On February 17, 2011, the Board accepted the Petition, but reserved ruling on the Motion to Stay.
3. Also on February 17, 2011, Illinois EPA filed a Request for Extension of Time to File Response, requesting until February 28, 2011, to file its response to KCBX's

Motion to Stay. Additionally, Illinois EPA filed a Request for Extension of Time to File Record, requesting a thirty (30) day extension of the deadline to file the Record, or until April 4, 2011.

4. KCBX has no objection to either extension requested by Illinois EPA.

5. Based on the date KCBX filed its Petition, the current decision deadline in this matter is June 1, 2011. However, in light of Illinois EPA's Request for Extension of Time to File Record, and KCBX's agreement to the same, KCBX is also willing to agree to a corresponding thirty (30) day limited waiver of the Board's statutory decision deadline until July 1, 2011.

6. Because KCBX has requested a hearing in this matter and does not intend to agree to any additional waivers of the decision deadline beyond July 1, 2011, KCBX desires that the Hearing Officer proceed to set a schedule to govern the proceedings in this matter.

7. Accordingly, KCBX hereby submits the enclosed Discovery Schedule as its proposal for the Hearing Officer's consideration.

WHEREFORE Petitioner, KCBX TERMINALS COMPANY, respectfully prays that the Hearing Officer enter its proposed Discovery Schedule filed herewith and provide it all other relief just and proper in the premises.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

Dated: February 24, 2011

By: /s/ Katherine D. Hodge
One of Its Attorneys

Katherine D. Hodge
Lauren C. Lurkins
HODGE DWYER & DRIVER
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KCBX:003/Fil/FESOP Permit Appeal/Motion for Entry of Proposed Discovery Schedule

