

ILLINOIS POLLUTION CONTROL BOARD  
March 20, 2014

KCBX TERMINALS COMPANY, )  
)  
Petitioner, )  
)  
v. ) PCB 14-110  
) (Permit Appeal - Air)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )

ORDER OF THE BOARD (by J.D. O’Leary):

On February 21, 2014, KCBX Terminals Company (KCBX) timely filed a petition (Pet.) asking the Board to review a January 17, 2014 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2012); 35 Ill. Adm. Code 101.300(b), 105.206. On February 25, 2014, KCBX filed a motion to supplement the petition for review (Mot.). On March 6, 2014, the Board accepted the petition for hearing, but reserved ruling on the motion to supplement. For the reasons below, the Board now grants the unopposed motion to supplement.

In this case, the Agency denied KCBX’s “Request for Revision to Revised Construction Permit for its South Facility.” KCBX appealed on various grounds. KCBX’s motion to supplement contends that, in support of certain statements in its petition for review, it filed an unsigned affidavit for Mr. Terry Steinert. Mot. at 1, citing Pet. Exh. 16. KCBX argues that, because Mr. Steinert was out of town at the time it filed the petition for review, KCBX could not obtain a signed affidavit. Mot. at 1. Instead, KCBX agreed to file a signed affidavit upon Mr. Steinert’s return. *Id.* KCBX now requests that the record be supplemented with Mr. Steinert’s signed affidavit, which is attached to the motion as Exhibit 1. *Id.*

Pursuant to Section 101.500(d) of the Board’s procedural rules, a party has 14 days to file a response to a motion. 35 Ill. Adm. Code 101.500(d). If a response is not filed, “the party will be deemed to have waived objection to the granting of the motion.” *Id.* The Agency did not file a response. Thus, any objections to the granting of the motion are waived. *See* 35 Ill. Adm. Code. 101.500(d). Having reviewed the motion to supplement, the original unsigned document filed with the petition for review as Exhibit 16, and the signed document filed with the motion as Exhibit 1, and in the absence of any opposition, the Board grants KCBX’s unopposed motion to supplement and admits Mr. Steinert’s signed affidavit into the record.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 20, 2014 by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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John T. Therriault, Clerk  
Illinois Pollution Control Board