

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

KCBX TERMINALS COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB No. 14-110
)	(Air Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

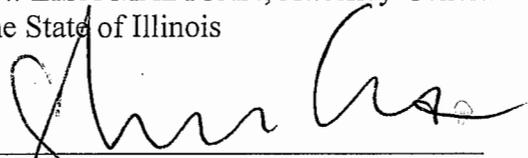
NOTICE OF ELECTRONIC FILING

To: *Via Facsimile*
 Katherine D. Hodge
 Edward W. Dwyer
 Matthew C. Read
 Hodge Dwyer & Driver
 3150 Roland Avenue
 Springfield, IL 62705

Via Email
 Bradley P. Halloran
 Hearing Officer
 Illinois Pollution Control Board
 James R. Thompson Center, Suite 11-500
 100 W. Randolph Street
 Chicago, Illinois 60601

PLEASE TAKE NOTICE that on the 11th day of April, 2014, the Respondent filed its *Motion to Hearing Officer to Clarify* with the Illinois Pollution Control Board, by Electronic Filing. A true and correct copy of the document so filed is attached hereto and is hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN, Attorney General
 of the State of Illinois

By: 
 Kathryn A. Pamerter
 Christopher J. Grant
 Assistant Attorneys General
 Environmental Bureau
 69 W. Washington St., 18th Floor
 Chicago, IL 60602
 (312) 814-0608
 (312) 814-5388

DATE: April 11, 2014

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

KCBX TERMINALS COMPANY)	
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Petitioner,)	
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v.)	PCB No. 14-110
)	(Permit Appeal-Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY)	
)	
Respondent.)	

RESPONDENT'S MOTION TO HEARING OFFICER TO CLARIFY RESPONDENT'S POSITION ON FILING OF INTERLOCUTORY APPEAL AND RESPONSE TO KCBX MOTIONS FOR PROTECTIVE ORDER AND TO SUPPLEMENT

1. On April 9, 2014, the Hearing Officer issued his Order in follow up of the status conference held on April 8, 2014. Respondent now seeks to clarify its position on the filing of an interlocutory appeal of the Hearing Officer's April 8, 2014 Order.

2. Respondent acknowledges that it advised the Hearing Officer that it would attempt to file this Appeal by April 11, and also intended to file its response to Petitioner's April 8, 2014 Motion for Protective Order as soon as reasonably possible. Petitioner will also respond to Petitioner's April 9, 2014 Motion to Supplement the Record as quickly as possible.

3. Assistant Attorneys General Kathryn Pamenter and Christopher Grant are presently assigned to this case. On the date the Hearing Officer entered his decision, April 8, 2014, AAG Grant was at Illinois EPA's offices in Springfield, Illinois, preparing for depositions on April 9. On April 9, both Pamenter and Grant were presenting witnesses at opposing counsel's office in Springfield. On April 10, 2014, a third deposition was taken by Petitioner, also at counsel's office in Springfield. On April 11, Petitioner's counsel took the deposition of a fourth Illinois EPA witness in Chicago. Depositions are now scheduled for April 14 and 15 in Chicago, and April 16 in Springfield (2 depositions).

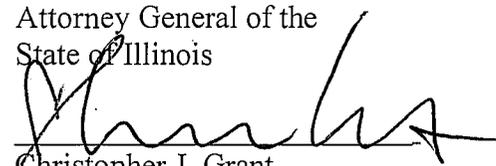
4. In addition to the above, the undersigned will be in Court in Kane County on April 14th, and a hearing in Kankakee County April 18th. Respondent is currently seeking to have a third attorney assigned to the case to assist with the overwhelming amount of work necessitated by the abbreviated schedule.

5. Respondent will attempt to file its Interlocutory Appeal on April 14, 2014, and its responses to the other two Motions as soon as reasonably possible. Respondent believes that it is entitled to prepare and present the best case possible, and that the Board is entitled to a thorough examination of the issues in these filings. Respondent notes that the Board has acknowledged that in cases where a Petitioner refuses to extend the statutory review deadline, the Board must balance the rights of the Petitioner to an expedited hearing with the interests of the public for a fair review of the issues must be taken into consideration. *Joliet Sand & Gravel Company v. Illinois EPA*, PCB 86-159 (December 23, 1986).

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

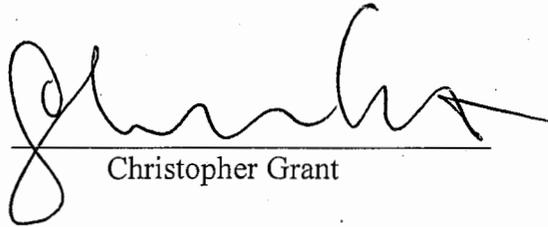
by LISA MADIGAN
Attorney General of the
State of Illinois



Christopher J. Grant
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CERTIFICATE OF SERVICE

I, Christopher Grant, an Assistant Attorney General, do certify that I caused to be served this 7th day of April, 2014, the attached Notice of Electronic Filing and Respondent's Motion to Hearing Officer to Clarify upon (a) Edward W. Dwyer, Katherine D. Hodge and Matthew C. Read *via facsimile* and (b) Bradley P. Halloran *via email*.



Christopher Grant