

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

KCBX TERMINALS COMPANY,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 10-110
	)	PCB 11-43
ILLINOIS ENVIRONMENTAL	)	(Permit Appeal – Air)
PROTECTION AGENCY,	)	(Consolidated)
	)	
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
<b>(VIA ELECTRONIC MAIL)</b>	<b>(VIA FIRST CLASS MAIL)</b>

**(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 **JOINT MOTION TO CANCEL HEARING**, a copy of which is herewith served upon you.

Respectfully submitted,

KCBX TERMINALS COMPANY,  
Petitioner,

Dated: May 24, 2011

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

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

CERTIFICATE OF SERVICE

I, Katherine D. Hodge, the undersigned, hereby certify that I have served the attached JOINT MOTION TO CANCEL HEARING 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 May 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

Christopher R. Pressnall, Esq.  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
Post Office Box 19276 - mail code #21  
Springfield, Illinois 62794-9276

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

/s/ Katherine D. Hodge  
Katherine D. Hodge

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v.	)	PCB 10-110
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	)	
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**JOINT MOTION TO CANCEL HEARING**

NOW COME Petitioner, KCBX TERMINALS COMPANY, a North Dakota corporation, by and through its attorneys, HODGE DWYER & DRIVER, and Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, by and through its attorneys, and pursuant to 35 Ill. Admin. Code § 101.510, hereby jointly move that the Hearing Officer cancel the hearing in the above-referenced consolidated matters set for June 1 and 2, 2011.

1. The parties have recently discussed the potential for a negotiated settlement on the contested conditions at issue in these matters. And, in order for the parties to engage in settlement negotiations in these matters, a meeting has been scheduled for June 1, 2011, in Springfield, to continue to June 2, 2011, as necessary.

2. Therefore, the hearing originally scheduled in these matters for June 1 and 2, 2011, should be cancelled.

3. The parties intend to update the Hearing Officer as to the status of the settlement negotiations during the telephone status conference scheduled for June 2, 2011. At that time, the parties will be in a position to better determine whether it will be

necessary for the hearing to be rescheduled in these matters and, if so, to discuss a possible rescheduled hearing date.

4. Petitioner also intends to file a Notice of Waiver of Decision Deadline to extend the Illinois Pollution Control Board's 120-day statutory decision deadline to allow for the settlement negotiations to take place between the parties.

5. The Hearing Officer has been informed of the meeting scheduled between the parties, and has also been informed that the request for the cancellation of the hearing is not due to either party's lack of diligence, but instead, because of the parties' intention to engage in good faith settlement negotiations that may lead to resolution of these matters.

WHEREFORE, Petitioner, KCBX TERMINALS COMPANY, and Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, respectfully request that the Hearing Officer cancel the hearing in these matters set for June 1 and 2, 2011.

Respectfully submitted,

KCBX TERMINALS COMPANY,  
Petitioner,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,  
Respondent,

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

By: /s/ Christopher Grant  
One of Its Attorneys

Katherine D. Hodge  
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Springfield, Illinois 62794-9576

Dated: May 24, 2011  
KCBX:003/Fil/Joint Motion to Cancel Hearing