

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 |
| (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 **NOTICE OF WAIVER OF 120-DAY DECISION DEADLINE**, a copy of which is herewith served upon you.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

Dated: July 28, 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 NOTICE OF WAIVER OF 120-DAY DECISION DEADLINE 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 July 28, 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 July 28, 2011.

/s/ Katherine D. Hodge
Katherine D. Hodge

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| |) | |
| |) | |
| Respondent. |) | |

NOTICE OF WAIVER OF 120-DAY DECISION DEADLINE

NOW COMES Petitioner, KCBX TERMINALS COMPANY (“KCBX”), a North Dakota corporation, by and through its attorneys, HODGE DWYER & DRIVER, pursuant to 35 Ill. Admin. Code § 101.308(c)(2), and hereby agrees to waive the statutory 120-day decision deadline for final action by the Illinois Pollution Control Board (“Board”) in this proceeding until December 6, 2011. In support of this Notice, KCBX states as follows:

1. On April 5, 2011, KCBX filed its Response to Respondent’s Motion to Consolidate with Case No. PCB 11-43, stating it had no objection to the consolidation of KCBX Terminals Company v. IEPA, PCB 10-110 (“PCB 10-110”) and the case of KCBX Terminals Company v. IEPA, PCB 11-43 (“PCB 11-43”) provided only that no delay resulted from the consolidation.

2. In light of such consolidation, KCBX voluntarily agreed to waive the statutory 120-day decision deadline in PCB 10-110 until August 18, 2011, which was also the current decision deadline in PCB 11-43.

3. On May 24, 2011, KCBX filed a Notice of Waiver of 120-Day Decision Deadline until September 22, 2011.

4. On June 3, 2011, KCBX filed a Notice of Waiver of 120-Day Decision Deadline until October 6, 2011.

5. On June 10, 2011, KCBX filed a Notice of Waiver of 120-Day Decision Deadline until November 3, 2011.

6. The current statutory decision deadline for this consolidated matter is November 3, 2011.

7. KCBX hereby voluntarily agrees to waive the statutory 120-day decision deadline until December 6, 2011, in order to conduct settlement negotiations in this matter.

WHEREFORE, Petitioner, KCBX TERMINALS COMPANY, prays that the Illinois Pollution Control Board accept this waiver of the statutory 120-day decision deadline until December 6, 2011, for final action on KCBX's appeal of the "Construction Permit - Revised" and KCBX's appeal of the "Revised FESOP" issued to it by the Illinois Environmental Protection Agency.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

Dated: July 28, 2011

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

Katherine D. Hodge
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Lauren C. Lurkins
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