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IN THE MATTER OF:)) No. 2014-020 ILLINOIS POLLUTION CONTROL) BOARD EMERGENCY MEETING)

REPORT OF THE PROCEEDINGS held in the above entitled cause before Chairman Deanna Glosser, called by the Illinois Pollution Control Board, taken by Steven Brickey, CSR, for the State of Illinois, 100 West Randolph Street, Chicago, Illinois, on the 23rd day of January, 2014, commencing at the hour of 11:00 a.m.

L.A. COURT REPORTERS, LLC. (312) 419-9292

January 23, 2014

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1	APPEARANCES	
2	MS. DEANNA GLOSSER, Chairman	
3	MR. JERRY O'LEARY, Board Member MS. JENNIFER BURKE, Board Member	
4	MS. CARRIE ZALEWSKI, Board Member MR. JOHN THERRIAULT, Clerk	
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1	MS. GLOSSER: We will allow members
2	of the public to address the Board at this time
3	concerning items that appear on today's agenda.
4	If you wish to speak, please state your name and
5	who you represent for the court reporter. We ask
6	that you keep your remarks brief so everyone has a
7	chance to speak. Is there anyone who wishes to
8	speak today who is signed up on the sheet? Will
9	you come forward?
10	MR. WOLF: Good morning. My name is
11	Tom Wolf, executive director of the Energy Council
12	at the Illinois Chamber of Commerce. Thank you
13	for the opportunity to comment on this important
14	issue, Case 2014-020.
15	Today in the interest of
16	efficiency, I'm representing not only the voice of
17	the Illinois Chamber and its members, but also the
18	Illinois Manufacturer's Association, the Chemistry
19	Industry Council of Illinois, the Illinois
20	Petroleum Council, the Illinois Coal Association
21	and the Illinois Environmental Regulatory Group
22	and all their members.
23	Also in the interest of
24	efficiency, I'm not going to recite our comments L.A. COURT REPORTERS, LLC. (312) 419-9292

1 or the comments of our agency brethren, which I'm sure you have already read, but instead I'm going 2 3 to sum up the situation and decision before you by making two points and one plea. 4 Point number one there is no 5 6 emergency. Section 27(c) of the Illinois 7 Environmental Protection Act clearly and 8 unequivocally states the conditions that must 9 exist for emergency rules to be promulgated. 10 There is no doubt in our minds that the IEPA 11 request before you fails to meet any of those 12 standards. Petroleum coke is a non-toxic, 13 non-hazardous and certainly is not an imminent health threat. 14 15 Coal has been stored in Illinois 16 for decades. It has stringent regulations 17 pertaining to air and water protection. For both materials, there are existing fugitive dust 18 regulations that have been a successful part of 19 20 IEPA's permitting program. There is no disaster, 21 there is no severe public health emergency, there 2.2 has been no new scientific study showing why 23 petcoke or coal should be stored differently 24 immediately. There is no imminent threat to the L.A. COURT REPORTERS, LLC. (312) 419-9292

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1	public interest, safety or welfare. There was a
2	dust incident on Chicago's southside in August of
3	last year and because of that incident the city is
4	looking at new regulations and the Attorney
5	General's Office and other groups have begun to
6	look at possible legislation or regulatory
7	changes. Neither of these groups has declared an
8	emergency. This is simply regulatory overreach.
9	Point number two, haste makes
10	waste and bad public policy. Why? Because
11	emergency rules by definition don't give anyone
12	the opportunity to look at the value of the
13	regulations nor the potential unintended
14	consequences. After reading the proposed
15	emergency regulations, it doesn't take long to
16	figure out the potential risk. Members have filed
17	information with you about deadlines that couldn't
18	be met if they tried either because it's
19	physically impossible, weather wouldn't allow it
20	or permits can't be done that quickly. All this
21	would do is put companies in the unenviable
22	situation of either risking noncompliance and
23	fines or shutting down.
24	No one knows the cost associated L.A. COURT REPORTERS, LLC. (312) 419-9292

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1	with this nor the number of facilities that would
2	be affected. There hasn't been time to figure it
3	out. If our members don't know it, certainly the
4	IEPA doesn't know it. If this were an actual
5	public health emergency, the cost might not
6	matter, but I go back to point number one where is
7	the emergency that rationalizes this action?
8	So my plea is this. Just say
9	no. Just say no to emergency regulations that are
10	in response to a false emergency. Just say no to
11	regulations that were written with input from
12	environmental NGO's, but with no input from
13	industry groups. Just say no to regulations that
14	have been available to review for only four
15	business days and include no perspective on how it
16	could affect the bottom line of companies across
17	the state that have been following regulations
18	that are already on the books. Just say no to
19	forcing businesses to choose between noncompliance
20	because of a possible deadline or shutting down.
21	Just say no to usurping the regular rulemaking or
22	legislative process which we believe should only
23	be done in extreme cases which clearly this is
24	not. L.A. COURT REPORTERS, LLC. (312) 419-9292

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1 In conclusion, if the Agency has 2 concerns about current regulations of petcoke and 3 coal storage and believe changes should be made, then let's go through the rulemaking process and 4 review the ideas and resolve a very solvable issue 5 6 with the benefits of perspective, scientific data, 7 time, reason, research and the opportunity for 8 public input. The people of Illinois deserve 9 nothing less. Thank you for your time and your 10 attention. 11 MS. GLOSSER: Thank you, Mr. Wolf. 12 Do we have a second person wanting to speak? 13 MR. REINT: Good morning. My name is Jake Reint. I'm a spokesperson for KCBX 14 15 Terminals in Chicago. On behalf of my company, thank you for the opportunity to comment today on 16 the proposed emergency rulemaking for petroleum 17 coke and bulk coal materials. In addition to my 18 comments today, we have filed detailed written 19 20 testimony that we hope the Board will take into consideration before ruling on this very important 21 2.2 matter. 23 KCBX strongly disagrees with the 24 characterization that there is an emergency L.A. COURT REPORTERS, LLC. (312) 419-9292

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1	situation warranting the use of the state's
2	authority to impose regulations that may be
3	impossible to implement on businesses such as ours
4	that pose no proven health risk. Our company has
5	a long history in Illinois. We've handled bulk
6	materials including coal and petroleum coke on
7	Chicago's southeast side for more than 20 years.
8	A year ago we acquired a second
9	bulk materials facility from DTE and immediately
10	started to make significant improvements including
11	the addition of a new dust suppression system.
12	The new system has been in place since November
13	which was after when the summer windstorm caused a
14	dust event in the area.
15	Since then we have worked with
16	an independent environmental expert to design and
17	direct the testing of surfaces and soil in the
18	neighborhoods near our facility. Sixty-nine
19	samples from various public areas were collected
20	in late November and early December. These
21	samples show no unusual levels of dust particles
22	that could be associated with petcoke or coal.
23	The data supporting this analysis has been
24	included in our written testimony. Also included L.A. COURT REPORTERS, LLC. (312) 419-9292

1 in our testimony is a copy of a recent report by the Congressional Research Service which finds 2 3 that emissions of airborne particulate matter from petcoke pose a low human health risk. 4 We are also in the process of 5 6 working with the US EPA to install air monitors 7 which will provide additional scientific data to 8 better assess any potential impacts from the 9 products we handle at our facility. KCBX has 10 always worked hard to maintain a safe and compliant operation. We want to work with the 11 12 state and city to address the concerns of our 13 neighbors. As we've stated previously, this 14 includes a willingness to build a structure to 15 cover materials we handle at our sites. 16 As a company, we are fully 17 committed to complying with the law. However, 18 these emergency rules as proposed makes compliance 19 unachievable and they have the potential to force the closure of our business and other businesses 20 across Illinois without justification or 21 2.2 consideration for all the people that depend on the jobs these businesses create. 23 24 KCBX has the utmost respect for L.A. COURT REPORTERS, LLC. (312) 419-9292

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1	our neighbors and we are committed to doing the
2	right thing. We also have 40 employees of our own
3	whose families depend on these jobs. We're going
4	to make every effort to stay in business and work
5	with each appropriate jurisdiction to ensure our
6	operations remain in compliance and continue
7	contributing to the local economy. We strongly
8	urge the Board to deny Illinois EPA's motion for
9	emergency rulemaking and instead we ask you to
10	allow the traditional rulemaking process to
11	proceed.
12	We appreciate the Board's
13	consideration of these comments and our written
14	testimony. Thank you very much.
15	MS. GLOSSER: Thank you. Do we have
16	another person on the list? We have another one.
17	MS. CASSEL: Good morning,
18	chairwoman, members of the Board. My name is
19	Jennifer Cassel and I'm an attorney with the
20	Environmental Law and Policy Center. I want to
21	thank the Board for the opportunity as well to
22	comment this morning. We want you to know that we
23	are strongly in agreement and in support of both
24	the governor's and the Illinois Environmental L.A. COURT REPORTERS, LLC. (312) 419-9292

Protection Agency's recognition of this problem as 1 2 the emergency that it, in fact, is. 3 As you all know, the rules require rules -- emergency rules may be 4 promulgated when the state finds that a situation 5 6 constitutes a threat to the public interest, 7 safety or welfare as undoubtedly is the case with 8 the petcoke situation that we're seeing on the 9 southeast side of Chicago and with the growing 10 amounts of petcoke that are being produced and 11 will be produced by both our refineries within the 12 state as well as the BP refinery immediately 13 adjacent to the state. 14 As the governor has said, we 15 need to make sure that every neighborhood in the State of Illinois is protected from the hazard of 16 17 petroleum coke. We need to make sure the health and safety of people come first. No site of 18 19 Illinois should be a dumping ground. Petcoke 20 while there are not that many studies to show all of its health impacts we know that it is a form of 21 22 particulate matter which has been unequivocally 23 shown to have serious and severe health impacts at 24 various different sizes both PM-10 and PM-2.5 and L.A. COURT REPORTERS, LLC. (312) 419-9292

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1	smaller particles. Undoubtedly the blackened
2	indoor air filters that our residents are
3	experiencing on the southeast side of Chicago as
4	well as the incidents such as that that happened
5	to be captured on camera in August where tons of
6	this black soot flew into a baseball game that
7	some young children were playing and, mind you,
8	that August incident was not isolated. That just
9	happened to be one that was captured on camera.
10	It is not a one-time event. We appreciate the
11	governor and the IEPA's presentation of this and
12	recognition of this as an emergency.
13	Second point and I'll be brief.
14	However, the rules as drafted do not address it as
15	the emergency that it is. IEPA recognizes in its
16	filing that the only way to adequately control the
17	emissions of petcoke, coal and other fugitives is
18	by enclosure and while we're pleased to hear that
19	KCBX is willing to include enclosure, the rules
20	themselves do not, in fact, require that right
21	away nor do they require that no operations go
22	forward unless and until enclosure is completed.
23	That is the only way that these rules will
24	actually address the emergency properly as it will L.A. COURT REPORTERS, LLC. (312) 419-9292

Page 13 1 actually protect the communities of the southeast 2 side and also of other areas in Illinois where 3 petcoke has increasingly become a problem. Therefore, while we encourage 4 you to adopt emergency rules, we ask that you 5 adopt one which bans all operations of coke and 6 7 coal bulk facilities unless and until enclosure is 8 complete. Thank you very much. 9 MS. GLOSSER: Thank you, Ms. Cassel. 10 Is there anyone else that wishes to make remarks 11 before the Board? Seeing none, this concludes the time the Board has set aside to allow the public 12 13 to address the Board. We will now proceed with 14 the items on our agenda. 15 16 17 18 19 20 21 2.2 23 24 L.A. COURT REPORTERS, LLC. (312) 419-9292

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1	STATE OF ILLINOIS)
2) SS.
3	COUNTY OF COOK)
4	
5	I, Steven Brickey, Certified Shorthand
6	Reporter, do hereby certify that I reported in
7	shorthand the proceedings had at the trial
8	aforesaid, and that the foregoing is a true,
9	complete and correct transcript of the proceedings
10	of said trial as appears from my stenographic
11	notes so taken and transcribed under my personal
12	direction.
13	Witness my official signature in and for
14	Cook County, Illinois, on this day of
15	, A.D., 2014.
16	
17	
18	
19	
20	STEVEN BRICKEY, CSR
21	8 West Monroe Street
22	Suite 2007 Chicago, Illinois 60603
23	Phone: (312) 419-9292 CSR No. 084-004675
24	
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