

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

KCBX TERMINALS COMPANY,)
)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB No. 14-110
(Air Permit Appeal)

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 17th day of April, 2014, the Respondent's Motion to Amend Witness Disclosure was filed with the Illinois Pollution Control Board, a true and correct copy of which is attached hereto and is hereby served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

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 17, 2014

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

RESPONDENT'S MOTION TO AMEND WITNESS DISCLOSURE

Respondent, Illinois Environmental Protection Agency, pursuant to 35 Ill. Adm. Code 101.502, hereby moves to amend its witness disclosure. In support of its motion, Respondent states as follows:

1. On February 21, 2014, KCBX Terminals Company ("KCBX") filed its Petition for Review of the Illinois Environmental Protection Agency's ("Illinois EPA") Permit Denial dated January 17, 2014 to the Request for Revision to Revised Construction Permit that KCBX submitted to Illinois EPA on July 23, 2013.

2. On March 24, 2014, Respondent timely filed the Administrative Record in the above-captioned Permit Appeal.

3. KCBX has advised that it does not intend to waive the 120-day deadline for the Illinois Pollution Control Board to issue its decision in this Permit Appeal. 415 ILCS 5/40 (2012). Accordingly, on March 25, 2014, a Hearing Officer Order was entered scheduling the hearing in this matter on April 29, 2014, and ordering the close of discovery on or before April 18, 2014.

4. On March 28, 2014, KCBX filed its Witness Disclosure in this matter.

5. On April 4, 2014, the Illinois EPA filed its Witness Disclosure in this matter.

6. On April 15, 2014, Petitioner filed its Motion to Amend Witness Disclosure and attached its Amendment to its Witness Disclosure.

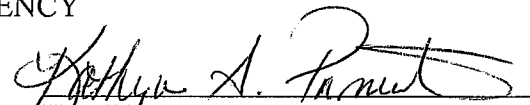
7. The Illinois EPA does not object to Petitioner's amendment to its witness disclosure, though it reserves the right to object to the testimony of Mr. Bill Reiss.

8. In light of the foregoing, the Illinois EPA seeks to amend its witness disclosure to reserve the right to call any of KCBX's witnesses as set forth on its Witness Disclosure, as amended. In addition, based upon the depositions taken in this Permit Appeal, the Illinois EPA does not intend to call Katherine D. Hodge as a witness at the April 29, 2014 hearing, and has removed her name from the Illinois EPA's witness list.

WHEREFORE, the Respondent, Illinois Environmental Protection Agency, respectfully requests that the Hearing Officer enter an Order granting this Motion and such other relief as the Hearing Officer deems proper.

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

By:



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RESPONDENT'S AMENDED WITNESS DISCLOSURE

Respondent, Illinois Environmental Protection Agency, hereby submits its Amended Witness Disclosure as follows:

1. Respondent may call the following witnesses at the hearing scheduled on April 29, 2014 in response to KCBX Terminals Company's ("KCBX") presented case-in-chief:

- A. Robert Bernoteit, Air Permit Section Manager, Illinois Environmental Protection Agency, Permits Section, Bureau of Air, 1021 North Grand Avenue East, Springfield, IL 62794.
- B. Michael Dragovich, Permit Analyst, Illinois Environmental Protection Agency, Permits Section, Bureau of Air, 1021 North Grand Avenue East, Springfield, IL 62794.
- C. Julie Armitage, Chief, Bureau of Air, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, Springfield, IL 62794.
- D. Michael Estadt, Operations Manager, KCBX Terminals Chicago South, 10730 Burley Avenue, Chicago, IL 60617.

2. Respondent may call the following opinion witness at the hearing scheduled on April 29, 2014 in response to KCBX's presented case-in-chief:

- A. Julie Armitage, Chief – Bureau of Air, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, Springfield, IL 62794. To the extent that it may be considered opinion testimony, Ms. Armitage would tender the following opinion: KCBX Terminals Company did not present sufficient information to the Illinois Environmental Protection Agency in

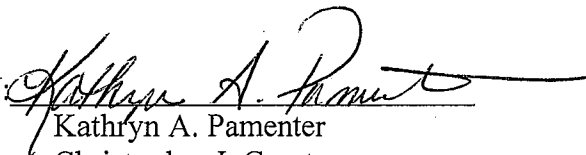
support of its July 23, 2013 construction permit application to establish that the facility located at 10730 S. Burley Avenue, Chicago, Illinois would not cause a violation of the Illinois Environmental Protection Act and the corresponding regulations, namely 415 ILCS 5/9 and 35 Ill. Adm. Code 201.152, 201.160(a), 212.301 and 212.321, if the July 23, 2013 construction permit application was granted. The basis for Ms. Armitage's opinion is the Administrative Record.

3. Respondent reserves the right to call any of the witnesses listed in Petitioner's Witness Disclosure, as amended, in response to KCBX's presented case-in-chief.

Respectfully Submitted,

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

BY



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CERTIFICATE OF SERVICE

I, KATHRYN A. PAMENTER, an Assistant Attorney General, do certify that I caused to be served this 17th day of April, 2014, the attached Notice of Electronic Filing and Respondent's Motion to Amend Witness Disclosure upon (a) Edward W. Dwyer, Katherine D. Hodge and Matthew C. Read *via facsimile* and (b) Bradley P. Halloran *via email*.


KATHRYN A. PAMENTER