

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

KCBX TERMINALS COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 08-103
)	(Permit Appeal – Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Mr. John Therriault	Bradley P. Halloran, Esq.
Assistant Clerk	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
James R. Thompson Center	James R. Thompson Center
100 West Randolph, Suite 11-500	100 West Randolph, Suite 11-500
Chicago, Illinois 60601	Chicago, Illinois 60601
(VIA ELECTRONIC MAIL)	(VIA US MAIL)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a **MOTION TO WITHDRAW PETITION FOR REVIEW**, directed to the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

Dated: October 16, 2009

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

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

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MOTION TO WITHDRAW PETITION FOR REVIEW

NOW COMES Petitioner, KCBX TERMINALS COMPANY (“KCBX”), by and through its attorneys, HODGE DWYER & DRIVER, and hereby moves to withdraw its Petition for Review (“Petition”) of the “Construction Permit Grant – Operating Permit Denial – NSPS Source” issued to KCBX by the Illinois Environmental Protection Agency (“Illinois EPA”) on May 23, 2008 (“May 23, 2008 Permit”). In support of this Motion, KCBX states as follows:

1. KCBX operates a bulk material terminal located at 3259 East 100th Street, Chicago, Illinois (Facility ID No. 031600AHI) (“Facility”).
2. On October 14, 2007, KCBX submitted an application to Illinois EPA seeking a joint construction and operating permit (“Joint Permit”) to install two, 125-foot portable conveyors to be operated at the Facility.
3. KCBX supplemented the Joint Permit application with information provided in letters dated February 21, 2008, and March 28, 2008, and KCBX and Illinois EPA took part in several meetings regarding the Joint Permit during the period of time from October 14, 2007, through the date KCBX filed the Petition.

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4. On May 23, 2008, Illinois EPA issued the May 23, 2008 Permit for the Facility.

5. Illinois EPA included conditions in the May 23, 2008 Permit that were not required by the Illinois Environmental Protection Act (“Act”) or regulations promulgated thereunder, and were not necessary to correct, detect, or prevent noncompliance with, or to otherwise accomplish the purposes of, the Act or regulations.

6. In light of this fact, on May 29, 2008, representatives of KCBX discussed the May 23, 2008 Permit conditions with Illinois EPA, and recommended the May 23, 2008 Permit be modified based on several points of clarification.

7. On June 27, 2008, KCBX filed the Petition regarding the May 23, 2008 Permit.

8. After filing the Petition, representatives of KCBX participated in discussions with Illinois EPA regarding the May 23, 2008 Permit. As a result of those discussions, Illinois EPA issued a “Construction Permit – Revised” on October 17, 2008 (“October 17, 2008 Permit”).

9. The October 17, 2008 Permit incorporated substantial revisions, which addressed a majority of the concerns KCBX had with regard to the May 23, 2008 Permit.

10. However, the October 17, 2008 Permit, as stated in its Condition 1.c., is only effective upon the withdrawal of this permit appeal.

11. Therefore, KCBX respectfully asks that the Illinois Pollution Control Board determine this withdrawal to be effective as of the filing date of this Motion.

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WHEREFORE, for the reasons described herein, Petitioner KCBX TERMINALS COMPANY, respectfully asks that the Illinois Pollution Control Board grant this Motion and issue an Order finding KCBX's Petition for Review in this matter withdrawn as of the date of this Motion.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

Dated: October 16, 2009

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

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KCBX:003/Fil/Motion to Withdraw Petition for Review

CERTIFICATE OF SERVICE

I, Katherine D. Hodge, the undersigned, hereby certify that I have served the attached MOTION TO WITHDRAW PETITION FOR REVIEW upon:

John T. Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

via electronic mail on October 16, 2009; and upon:

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

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

by depositing said documents in the United States Mail, postage prepaid, in Springfield, Illinois on October 16, 2009.

/s/Katherine D. Hodge
Katherine D. Hodge