

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

KCBX TERMINALS COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 10-_____
)	(Air Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Mr. John Therriault	Division of Legal Counsel
Assistant Clerk	Illinois Environmental Protection Agency
Illinois Pollution Control Board	1021 North Grand Avenue East
James R. Thompson Center	Post Office Box 19276
100 West Randolph, Suite 11-500	Springfield, Illinois 62794-9276
Chicago, Illinois 60601	
(VIA ELECTRONIC MAIL)	(VIA UNITED STATES MAIL)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an **ENTRY OF APPEARANCE OF KATHERINE D. HODGE, ENTRY OF APPEARANCE OF LAUREN C. LURKINS, PETITION FOR REVIEW and MOTION TO STAY THE EFFECTIVENESS OF CONTESTED PERMIT CONDITIONS**, copies of which are herewith served upon you.

Respectfully submitted,

KCBX TERMINALS COMPANY
Petitioner,

Dated: June 29, 2010

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

CERTIFICATE OF SERVICE

I, Katherine D. Hodge, the undersigned, hereby certify that I have served the attached ENTRY OF APPEARANCE OF KATHERINE D. HODGE, ENTRY OF APPEARANCE OF LAUREN C. LURKINS, PETITION FOR REVIEW and MOTION TO STAY THE EFFECTIVENESS OF CONTESTED PERMIT CONDITIONS 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 June 29, 2010; and upon:

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

by deposition said documents in the United States Mail, postage prepaid, in Springfield, Illinois on June 29, 2010.

/s/ Katherine D. Hodge
Katherine D. Hodge

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v.)	PCB 10-____
)	(Air Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ENTRY OF APPEARANCE OF KATHERINE D. HODGE

NOW COMES Katherine D Hodge, of the law firm of HODGE DWYER & DRIVER, and hereby enters her appearance on behalf of Petitioner, KCBX TERMINALS COMPANY.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

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

Dated: June 29, 2010

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

KCBX:003/Fil/EOA-KDH

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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v.)	PCB 10-____
)	(Air Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ENTRY OF APPEARANCE OF LAUREN C. LURKINS

NOW COMES Lauren C. Lurkins, of the law firm of HODGE DWYER & DRIVER, and hereby enters her appearance on behalf of Petitioner, KCBX TERMINALS COMPANY.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

By: /s/ Lauren C. Lurkins
 Lauren C. Lurkins

Dated: June 29, 2010

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

KCBX:003/Fil/EOA-LCL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

KCBX TERMINALS COMPANY,)	
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Petitioner,)	
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v.)	PCB 10-_____
)	(Air Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

PETITION FOR REVIEW

NOW COMES Petitioner, KCBX TERMINALS COMPANY (“KCBX”), a North Dakota corporation, by and through its attorneys, HODGE DWYER & DRIVER, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (“Act”) (415 ILCS 5/40(a)(1)), 35 Ill. Admin. Code § 105.204 and 35 Ill. Admin. Code § 105.Subpart B, and petitions the Illinois Pollution Control Board (“Board”) for review of the “Construction Permit – Revised” (“Revised Construction Permit”) issued to KCBX by the Illinois Environmental Protection Agency (“Illinois EPA”) on May 25, 2010.

In support of its petition, KCBX states as follows:

1. KCBX operates a bulk solids material terminal located at 3259 East 100th Street, Chicago, Illinois (Facility ID No. 031600AHI) (“Facility”).
2. The Facility currently receives, among other bulk solids, petroleum coke and has an opportunity to receive fluid petroleum coke (“Fluid Coke”), a low moisture material.
3. On October 17, 2008, the Illinois EPA issued a “Construction Permit – Revised” (“2008 Construction Permit”) to KCBX for the installation of two conveyors at

the Facility. The 2008 Construction Permit was issued as a result of discussions between the Illinois EPA and KCBX regarding the air permit appeal before the Board captioned KCBX Terminals Company v. Illinois EPA, PCB 08-103.

4. On November 23, 2009, after consultation with legal representatives of the Illinois EPA, KCBX submitted a "Request for Revisions to the Revised Construction Permit for 2 Conveyors at a Bulk Solid Materials Terminal" ("Request") in order to allow a trial receipt of three railcars of Fluid Coke.

5. On December 9, 2009, the Illinois EPA issued a Notice of Incompleteness ("Notice") related to KCBX's Request.

6. Based on the Illinois EPA's Notice, KCBX understood that the simplest and most expedient means to address the receipt of the Fluid Coke was to apply for and obtain a separate construction permit for the activity.

7. Therefore, on February 3, 2010, KCBX submitted a construction permit application to the Illinois EPA for the receipt and handling of Fluid Coke at the Facility.

8. In its application, KCBX requested an opportunity to review a draft construction permit for the handling of Fluid Coke prior to its issuance.

9. However, on May 25, 2010, the Illinois EPA issued a "revised" version of the construction permit, i.e., the Revised Construction Permit, without allowing KCBX an opportunity to review a draft of the permit prior to such issuance. A copy of the Revised Construction Permit is attached hereto as Exhibit A.

10. Additionally, on June 16, 2010, the Illinois EPA published a public notice of a proposed renewal of the Federally Enforceable State Operating Permit ("FESOP")

for the Facility, which addresses, in part, issues that are also covered by the Revised Construction Permit and in this proceeding. See <http://www.epa.gov/reg5oair/permits/ilonline.html>. KCBX is currently reviewing the proposed renewal FESOP to determine the interplay between it and this proceeding.

11. As set forth below, the Illinois EPA included conditions in the Revised Construction Permit that must be modified in order to effectuate the Illinois EPA's intent, i.e., that KCBX be allowed to "receive" Fluid Coke, as discussed in more detail below, and to clarify that the proposed activity will not cause a violation of the Act or the regulations promulgated thereunder.

12. In light of this fact, representatives of KCBX have discussed the Revised Construction Permit with the Illinois EPA, and have requested that the Revised Construction Permit be modified based on several points of clarification.

13. First, KCBX understands from its discussions with the Illinois EPA after the issuance of the Revised Construction Permit, that the Illinois EPA issued the Revised Construction Permit with the intent of allowing KCBX to receive Fluid Coke that has a moisture content of generally less than 1.3%. See Revised Construction Permit at 11. Moreover, KCBX understands that the requirements set forth in Special Condition 6a. of the Revised Construction Permit will not apply when "receiving" Fluid Coke. See Revised Construction Permit at Special Condition 6a. KCBX also understands that these requirements will apply only to the "handling" of such materials, and the application of water spray and/or blending with higher moisture materials will be considered part of "receiving" the Fluid Coke. Finally, KCBX understands that such "receiving" of Fluid

Coke does not constitute "handling." However, the current language in the Revised Construction Permit must be modified in order to effectuate the Illinois EPA's intent, and to clarify that the proposed activity will not cause a violation of the Act or the regulations promulgated thereunder.

14. Therefore, Special Condition 6a. of the Revised Construction Permit should be revised to state the following, in relevant part:

The moisture content of the bulk material handled by the source shall be at least 1.3% by weight. Receiving and off-loading of bulk material, including the initial application of water spray to the bulk material and/or blending with higher-moisture bulk material, during such receiving and off-loading, shall not constitute "handling" for purposes of compliance with this requirement. The Permittee shall show compliance with this requirement by recording the moisture content of the bulk material received at the source as provided by the supplier of the feed material. If moisture content falls below 3.0% by weight as documented by the supplier, then the Permittee shall:

* * *

15. Second, Special Condition 6a.ii. incorrectly references testing requirements in "Condition 6(b)." Testing requirements are not contained in Special Condition 6.b., but are contained in Special Condition 6.c. instead. Therefore, Special Condition 6.a.ii. should be revised to state the following: "Follow the testing requirements of Condition 6(c)."

16. Third, in continuation of the issue described above with regard to Special Condition 6a., Special Condition 7a. should be revised to distinguish "receiving" from "handling." Specifically, Special Condition 7a. of the Revised Construction Permit should be revised to state the following, in relevant part:

The emissions from and the operation of the operation of the material receiving and material handling operations (material transfer, crushing and screening) shall not exceed the following limits:

* * *

17. Fourth, also in continuation of the issue described above with regard to Special Condition 6a., Special Condition 11a.i. should be revised to distinguish “receiving” from “handling.” Specifically, Special Condition 11a.i. of the Revised Construction Permit should be revised to state the following, in relevant part:

The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:

- i. Records addressing use of good operating practices for the material receiving and material handling operations at this source:

* * *

18. Fifth, for continuity and to accurately reflect the operations of the Facility, Special Condition 11a.iv. should reference material “handled” and not material “processed.” Specifically, Special Condition 11a.iv. of the Revised Construction Permit should be revised to state the following, in relevant part:

Name and total amount of each bulk material (e.g., coal, petroleum coke, etc.) ~~processed~~handled (i.e., crushed, screened and transferred), in tons/month and tons/year; and

19. As set forth above, the Illinois EPA has included conditions in the Revised Construction Permit that must be modified in order to effectuate the Illinois EPA’s intent, and to clarify that the proposed activity will not cause a violation of the Act or the regulations promulgated thereunder.

20. Therefore, the Board should order the Illinois EPA to revise the Revised Construction Permit as detailed above, so as to effectuate the Illinois EPA's intent, and to clarify that the proposed activity will not cause a violation of the Act or the regulations promulgated thereunder.

WHEREFORE, Petitioner KCBX TERMINALS COMPANY petitions the Illinois Pollution Control Board for a hearing on the Illinois Environmental Protection Agency's action to issue the Revised Construction Permit.

Respectfully submitted,

KCBX TERMINALS COMPANY
Petitioner,

Dated: June 29, 2010

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

Katherine D. Hodge
Lauren C. Lurkins
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KCBX:003/Fil/Petition for Review



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19506, SPRINGFIELD, ILLINOIS 62794-9506 - (217) 782-2113

PAT QUINN, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/782-2113

CONSTRUCTION PERMIT -- REVISED

PERMITTEE

KCBX Terminals Company
Attn: Chris Bailey
3259 East 100th Street
Chicago, Illinois 60617

Application No.: 07100090

I.D. No.: 031600AHI

Applicant's Designation: 2CONVEYERS

Date Received: February 16, 2010

Subject: 2 Conveyers at a Bulk Materials Terminal

Date Issued: May 25, 2010

Location: 3259 East 100th Street, Chicago, Cook County, 60617

This permit is hereby granted to the above-designated Permittee to CONSTRUCT emission unit(s) and/or air pollution control equipment consisting of two (2) portable conveyers at a bulk materials terminal, pursuant to the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

- 1a. This permit is issued based on the construction of the two (2) new portable conveyers not constituting a new major source or major modification pursuant to Title I of the Clean Air Act, specifically 35 Ill. Adm. Code Part 203, Major Stationary Sources Construction and Modification and 40 CFR 52.21, Prevention of Significant Deterioration (PSD). The source has requested that the Illinois EPA establish emission limitations and other appropriate terms and conditions in this permit that limit the Particulate Matter less than 10 Microns (PM₁₀) emissions from the new conveyers below the levels that would trigger the applicability of these rules.
- b. Operation of the two (2) portable conveyers at this source is allowed under this construction permit until final action is taken on the application for renewal and revision of the Federally Enforceable State Operating Permit (FESOP) for this source.
- c. This permit is effective only upon the withdrawal of Permit Appeal PCB 2008-103.
- 2a. Pursuant to 35 Ill. Adm. Code 212.123(a), no person shall cause or allow the emission of smoke or other particulate matter, with an opacity greater than 30 percent, into the atmosphere from any emission unit other than those emission units subject to 35 Ill. Adm. Code 212.122.
- b. Pursuant to 35 Ill. Adm. Code 212.123(b), the emission of smoke or other particulate matter from any such emission unit (i.e., any emission unit other than a fuel combustion emission unit) may have an opacity greater than 30 percent but not greater than 60 percent for a

EXHIBIT A

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Page 2

period or periods aggregating 8 minutes in any 60 minute period provided that such opaque emissions permitted during any 60 minute period shall occur from only one such emission unit located within a 305 m (1000 ft) radius from the center point of any other such emission unit owned or operated by such person, and provided further that such opaque emissions permitted from each such emission unit shall be limited to 3 times in any 24 hour period.

- c. Pursuant to 35 Ill. Adm. Code 212.301, no person shall cause or allow the emission of fugitive particulate matter from any process, including any material handling or storage activity, that is visible by an observer looking generally toward the zenith at a point beyond the property line of the emission source.
- d. Pursuant to 35 Ill. Adm. Code 212.314, 35 Ill. Adm. Code 212.301 shall not apply and spraying pursuant to 35 Ill. Adm. Code 212.304 through 212.310 and 35 Ill. Adm. Code 212.312 shall not be required when the wind speed is greater than 40.2 km/hour (25 mph). Determination of wind speed for the purposes of this rule shall be by a one-hour average or hourly recorded value at the nearest official station of the U.S. Weather Bureau or by wind speed instruments operated on the site. In cases where the duration of operations subject to this rule is less than one hour, wind speed may be averaged over the duration of the operations on the basis of on-site wind speed instrument measurements.
- e. Pursuant to 35 Ill. Adm. Code 212.316(f), unless an emission unit has been assigned a particulate matter, PM_{10} , or fugitive particulate matter emissions limitation elsewhere in 35 Ill. Adm. Code 212.316, or in 35 Ill. Adm. Code 212 Subparts R or S, no person shall cause or allow fugitive particulate matter emissions from any emission unit to exceed an opacity of 20 percent.
- f. Pursuant to 35 Ill. Adm. Code 212.321(a), no person shall cause or allow the emission of particulate matter into the atmosphere in any one hour period from any new process emission unit which, either alone or in combination with the emission of particulate matter from all other similar process emission units for which construction or modification commenced on or after April 14, 1972, at a source or premises, exceeds the allowable emission rates specified in 35 Ill. Adm. Code 212.321(c).
- g. Pursuant to 35 Ill. Adm. Code 212.321(b), interpolated and extrapolated values of the data in 35 Ill. Adm. Code 212.321(c) shall be determined by using the equation:

$$E = A(P)^B$$

where

P = Process weight rate; and

E = Allowable emission rate; and,

Page 3

- i. Up to process weight rates of 408 MG/hour (450 T/hour):

	<u>Metric</u>	<u>English</u>
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	1.214	2.54
B	0.534	0.534

- ii. For process weight rate greater than or equal to 408 Mg/hour (450 T/hour):

	<u>Metric</u>	<u>English</u>
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	11.42	24.8
B	0.16	0.16

- h. Pursuant to 35 Ill. Adm. Code 212.700(a), 35 Ill. Adm. Code 212 Subpart U (Additional Control Measures) shall apply to those sources in the areas designated in and subject to 35 Ill. Adm. Code 212.324(a)(1) or 212.423(a) and that have actual annual source-wide emissions of PM₁₀ of at least fifteen (15) tons per year.
3. This permit is issued based on the two portable electric conveyors not being subject to the New Source Performance Standards (NSPS) for Coal Preparation Plants, 40 CFR 60 Subpart Y because the conveyors will not be used to convey coal to machinery at the coal preparation plant.
4. Pursuant to 35 Ill. Adm. Code 212.324(d), the mass emission limits contained in 35 Ill. Adm. Code 212.324(b) shall not apply to those emission units with no visible emissions other than fugitive particulate matter; however, if a stack test is performed, 35 Ill. Adm. Code 212.324(d) is not a defense finding of a violation of the mass emission limits contained in 35 Ill. Adm. Code 212.324(b).
- 5a. Pursuant to 35 Ill. Adm. Code 212.324(f), for any process emission unit subject to 35 Ill. Adm. Code 212.324(a), the owner or operator shall maintain and repair all air pollution control equipment in a manner that assures that the emission limits and standards in 35 Ill. Adm. Code 212.324 shall be met at all times. 35 Ill. Adm. Code 212.324 shall not affect the applicability of 35 Ill. Adm. Code 201.149. Proper maintenance shall include the following minimum requirements:
- i. Visual inspections of air pollution control equipment;
 - ii. Maintenance of an adequate inventory of spare parts; and
 - iii. Expedient repairs, unless the emission unit is shutdown.
- b. Pursuant to 35 Ill. Adm. Code 212.701(a), those sources subject to 35 Ill. Adm. Code 212 Subpart U shall prepare contingency measure plans reflecting the PM₁₀ emission reductions set forth in 35 Ill. Adm. Code

Page 4

212.703. These plans shall become federally enforceable permit conditions. Such plans shall be submitted to the Illinois EPA by November 15, 1994. Notwithstanding the foregoing, sources that become subject to the provisions of 35 Ill. Adm. Code 212 Subpart U after July 1, 1994, shall submit a contingency measure plan to the Illinois EPA for review and approval within ninety (90) days after the date such source or sources became subject to the provisions of 35 Ill. Adm. Code 212 Subpart U or by November 15, 1994, whichever is later. The Illinois EPA shall notify those sources requiring contingency measure plans, based on the Illinois EPA's current information; however, the Illinois EPA's failure to notify any source of its requirement to submit contingency measure plans shall not be a defense to a violation of 35 Ill. Adm. Code 212 Subpart U and shall not relieve the source of its obligation to timely submit a contingency measure plan.

- c. Pursuant to 35 Ill. Adm. Code 212.703(a), all sources subject to 35 Ill. Adm. Code 212 Subpart U shall submit a contingency measure plan. The contingency measure plan shall contain two levels of control measures:
- i. Level I measures are measures that will reduce total actual annual source-wide fugitive emissions of PM_{10} subject to control under 35 Ill. Adm. Code 212.304, 212.305, 212.306, 212.308, 212.316(a) through (e), 212.424 or 212.464 by at least 15%.
 - ii. Level II measures are measures that will reduce total actual annual source-wide fugitive emissions of PM_{10} subject to control under 35 Ill. Adm. Code 212.304, 212.305, 212.306, 212.308, 212.316(a) through (e), 212.424 or 212.464 by at least 25%.
- d. Pursuant to 35 Ill. Adm. Code 212.703(b), a source may comply with 35 Ill. Adm. Code 212 Subpart U through an alternative compliance plan that provides for reductions in emissions equal to the level of reduction of fugitive emissions as required at 35 Ill. Adm. Code 212.703(a) and which has been approved by the Illinois EPA and USEPA as federally enforceable permit conditions. If a source elects to include controls on process emission units, fuel combustion emission units, or other fugitive emissions of PM_{10} not subject to 35 Ill. Adm. Code 212.304, 212.305, 212.306, 212.308, 212.316(a) through (e), 212.424 or 212.464 at the source in its alternative control plan, the plan must include a reasonable schedule for implementation of such controls, not to exceed two (2) years. This implementation schedule is subject to Illinois EPA review and approval.
- e. Pursuant to 35 Ill. Adm. Code 212.704(b), if there is a violation of the ambient air quality standard for PM_{10} as determined in accordance with 40 CFR Part 50, Appendix K, the Illinois EPA shall notify the source or sources the Illinois EPA has identified as likely to be causing or contributing to one or more of the exceedences leading to such violation, and such source or sources shall implement Level I or Level II measures, as determined pursuant to 35 Ill. Adm. Code 212.704(e). The source or sources so identified shall implement such

Page 5

measures corresponding to fugitive emissions within ninety (90) days after receipt of a notification and shall implement such measures corresponding to any non-fugitive emissions according to the approved schedule set forth in such source's alternative control plan. Any source identified as causing or contributing to a violation of the ambient air quality standard for PM₁₀ may appeal any finding of culpability by the Illinois EPA to the Illinois Pollution Control Board pursuant to 35 Ill. Adm. Code 106 Subpart J.

- f. Pursuant to 35 Ill. Adm. Code 212.704(e), the Illinois EPA shall require that sources comply with the Level I or Level II measures of their contingency measure plans, pursuant 35 Ill. Adm. Code 212.704(b), as follows:
 - i. Level I measures shall be required when the design value of a violation of the 24-hour ambient air quality standard, as computed pursuant to 40 CFR 50, Appendix K, is less than or equal to 170 ug/m³.
 - ii. Level II measures shall be required when the design value of a violation of the 24-hour ambient air quality standard, as computed pursuant to 40 CFR 50, Appendix K, exceeds 170 ug/m³.
- 6a. The moisture content of the bulk material handled by the source shall be at least 1.3% by weight. The Permittee shall show compliance with this requirement by recording the moisture content of the bulk material received at the source as provided by the supplier of the feed material. If moisture content falls below 3.0% by weight as documented by the supplier, then the Permittee shall:
 - i. Utilize water sprays on the material handling operations (e.g., material transfer, screening and crushing) associated with bulk materials having a moisture content below 3.0% by weight to reduce particulate matter emissions and to maintain compliance with the applicable visible emissions standards for each affected material handling operation; or
 - ii. Follow the testing requirements of Condition 6(b).
- b. If the Permittee relies on Condition 6(a)(i) to demonstrate compliance with Condition 6(a), the Permittee shall monitor the water spray equipment as follows during non-freezing conditions:
 - i. The water supply to the spray equipment shall be equipped with a master metering device used to determine water usage for the control of particulate matter emissions.
 - ii. Inspections of water spray equipment and operation (such as leaking, maintaining adequate flow, clogging of flow lines, etc.) shall be performed at least once per week when the material handling operations are in operation.

Page 6

c. If the Permittee relies on Condition 6(a)(ii) to demonstrate compliance with Condition 6(a), the Permittee shall measure the moisture content of a representative sample of the bulk material having a moisture content below 3.0% as provided by the supplier, at least once per week, when water spray is not being utilized, using ASTM Procedure D 3302 for coal and ASTM Procedures D 3172 and D 4931 for petroleum coke. Should three consecutive tests at the source show moisture contents of 3.0% or greater by weight, this testing shall no longer be required for the subject bulk material.

7a. The emissions from and the operation of the material handling operations (material transfer, crushing and screening) shall not exceed the following limits:

- i. PM_{10} emission shall not exceed 7.9 tons/month and 79 tons/year.
- ii. PM emissions shall not exceed 16 tons/month and 160 tons/year.
- iii. These limits are based on the maximum amount of material handled and standard emission factors (Table 11.19.2-2, AP-42, Volume I, Fifth Edition, Update 2004, August 2004 and Section 13.2.4, AP-42, Volume I, Fifth Edition, November 2006). PM_{10} and PM emissions shall be calculated and recorded using the equation:

$$E = [(T \times F_m) + (S \times F_s) + (C \times F_c)] / 2000$$

Where:

E = Total PM_{10} or PM emissions, (tons);
 T = Amount of bulk material transferred, (tons);
 $F_m = (k * 0.0032 * N) * [((U/5)^{1.3}) / ((M/2)^{1.4})]$;

Where:

k = 0.35 for PM_{10} ;
 = 0.74 for PM;
 U = mean wind speed, (miles/hour);
 M = material moisture content, (%);
 N = Number of material drop points;
 S = Amount of bulk material Screened, (tons);
 $F_s = 0.0022$ lb PM/ton;
 = 0.00074 lb PM_{10} /ton;
 C = tons of bulk material Crushed, (tons);

Page 7

$$F_c = 0.0012 \text{ lb PM/ton; and}$$
$$= 0.00054 \text{ lb PM}_{10}/\text{ton.}$$

- b. Compliance with the annual limits of this permit shall be determined on a monthly basis from the sum of the data for the current month plus the preceding 11 months (running 12 month total).
- 8a. Pursuant to 35 Ill. Adm. Code 201.282, every emission source or air pollution control equipment shall be subject to the following testing requirements for the purpose of determining the nature and quantities of specified air contaminant emissions and for the purpose of determining ground level and ambient air concentrations of such air contaminants:
- i. Testing by Owner or Operator. The Illinois EPA may require the owner or operator of the emission source or air pollution control equipment to conduct such tests in accordance with procedures adopted by the Illinois EPA, at such reasonable times as may be specified by the Illinois EPA and at the expense of the owner or operator of the emission source or air pollution control equipment. The Illinois EPA may adopt procedures detailing methods of testing and formats for reporting results of testing. Such procedures and revisions thereto, shall not become effective until filed with the Secretary of State, as required by the APA Act. All such tests shall be made by or under the direction of a person qualified by training and/or experience in the field of air pollution testing. The Illinois EPA shall have the right to observe all aspects of such tests.
 - ii. Testing by the Illinois EPA. The Illinois EPA shall have the right to conduct such tests at any time at its own expense. Upon request of the Illinois EPA, the owner or operator of the emission source or air pollution control equipment shall provide, without charge to the Illinois EPA, necessary holes in stacks or ducts and other safe and proper testing facilities, including scaffolding, but excluding instruments and sensing devices, as may be necessary.
- b. Testing required by Condition 9 shall be performed upon a written request from the Illinois EPA by a qualified individual or independent testing service.
9. Pursuant to 35 Ill. Adm. Code 212.110(c), upon a written notification by the Illinois EPA, the owner or operator of a particulate matter emission unit subject to 35 Ill. Adm. Code Part 212 shall conduct the applicable testing for particulate matter emissions, opacity, or visible emissions at such person's own expense, to demonstrate compliance. Such test results shall be submitted to the Illinois EPA within thirty (30) days after conducting the test unless an alternative time for submittal is agreed to by the Illinois EPA.

Page 8

- 10a. Pursuant to 35 Ill. Adm. Code 212.110(e), the owner or operator of an emission unit subject to 35 Ill. Adm. Code Part 212 shall retain records of all tests which are performed. These records shall be retained for at least three (3) years after the date a test is performed.
- b. i. Pursuant to 35 Ill. Adm. Code 212.316(g)(1), the owner or operator of any fugitive particulate matter emission unit subject to 35 Ill. Adm. Code 212.316 shall keep written records of the application of control measures as may be needed for compliance with the opacity limitations of 35 Ill. Adm. Code 212.316 and shall submit to the Illinois EPA an annual report containing a summary of such information.
- ii. Pursuant to 35 Ill. Adm. Code 212.316(g)(2), the records required under 35 Ill. Adm. Code 212.316(g) shall include at least the following:
- A. The name and address of the source;
 - B. The name and address of the owner and/or operator of the source;
 - C. A map or diagram showing the location of all emission units controlled, including the location, identification, length, and width of roadways;
 - D. For application of physical or chemical control agents: the name of the agent, application rate and frequency, and total quantity of agent and, if diluted, percent of concentration, used each day; and
 - E. A log recording incidents when control measures were not used and a statement of explanation.
- iii. Pursuant to 35 Ill. Adm. Code 212.316(g)(3), the records required under 35 Ill. Adm. Code 212.316 shall be kept and maintained for at least three (3) years and shall be available for inspection and copying by Illinois EPA representatives during working hours.
- c. i. Pursuant to 35 Ill. Adm. Code 212.324(g)(1), written records of inventory and documentation of inspections, maintenance, and repairs of all air pollution control equipment shall be kept in accordance with 35 Ill. Adm. Code 212.324(f).
- ii. Pursuant to 35 Ill. Adm. Code 212.324(g)(2), the owner or operator shall document any period during which any process emission unit was in operation when the air pollution control equipment was not in operation or was malfunctioning so as to cause an emissions level in excess of the emissions limitation. These records shall include documentation of causes for pollution control equipment not operating or such malfunction and shall

Page 9

state what corrective actions were taken and what repairs were made.

- iii. Pursuant to 35 Ill. Adm. Code 212.324(g) (3), a written record of the inventory of all spare parts not readily available from local suppliers shall be kept and updated.
 - iv. Pursuant to 35 Ill. Adm. Code 212.324(g) (5), the records required under 35 Ill. Adm. Code 212.324 shall be kept and maintained for at least three (3) years and shall be available for inspection and copying by Illinois EPA representatives during working hours.
- 11a. The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:
- i. Records addressing use of good operating practices for the material handling operations at this source:
 - A. If the Permittee is relying on Conditions 6(a)(i) and 6(b) to demonstrate compliance with Condition 6(a), the Permittee shall maintain operating logs for the water spray equipment, including dates and hours of usage, total amount of water applied each month, malfunctions (type, dates, and measures to correct), dates of rainfall during the preceding 24 hours, and daily observations of bulk material conditions (wet or dry) and/or other controls as may be present (e.g., coverage by snow or ice);
 - B. If the Permittee is relying on the requirements of Conditions 6(a)(ii) and 6(c) to demonstrate compliance with Condition 6(a), the Permittee shall maintain records of all moisture content tests performed including date, time, individual or laboratory performing test, and location of sample (e.g., prior to crushing, stockpiles, etc.); and
 - C. The Permittee shall keep records of the moisture content of bulk materials as provided by the source of the feed material in accordance with Condition 6(c).
 - ii. Records of the moisture content of bulk solid materials as provided by the suppliers of bulk solid materials, unless such records are superseded by moisture analysis from samples collected at the source;
 - iii. Records of moisture analysis from samples collected at the source;
 - iv. Name and total amount of each bulk material (e.g., coal, petroleum coke, etc.) processed (i.e., crushed, screened and transferred), in tons/month and tons/year; and

Page 10

- v. Monthly and annual emissions of PM and PM₁₀ from the material handling operations at this source, with supporting calculations (tons/month and tons/year).

- b. All records and logs required by this permit shall be retained at a readily accessible location at the source for at least five (5) years from the date of entry and shall be made available for inspection and copying by the Illinois EPA or USEPA upon request. Any records retained in an electronic format (e.g., computer storage device) shall be capable of being retrieved and printed on paper during normal source office hours so as to be able to respond to an Illinois EPA or USEPA request for records during the course of a source inspection.

- 12a. Pursuant to 35 Ill. Adm. Code 212.110(d), a person planning to conduct testing for particulate matter emissions to demonstrate compliance shall give written notice to the Illinois EPA of that intent. Such notification shall be given at least thirty (30) days prior to the initiation of the test unless a shorter period is agreed to by the Illinois EPA. Such notification shall state the specific test methods from 35 Ill. Adm. Code 212.110 that will be used.

- b. Pursuant to 35 Ill. Adm. Code 212.316(g)(5), a quarterly report shall be submitted to the Illinois EPA stating the following: the dates any necessary control measures were not implemented, a listing of those control measures, the reasons that the control measures were not implemented, and any corrective actions taken. This information includes, but is not limited to, those dates when controls were not applied based on a belief that application of such control measures would have been unreasonable given prevailing atmospheric conditions, which shall constitute a defense to the requirements of 35 Ill. Adm. Code 212.316. This report shall be submitted to the Illinois EPA thirty (30) calendar days from the end of a quarter. Quarters end March 31, June 30, September 30, and December 31.

- c. i. Pursuant to 35 Ill. Adm. Code 212.324(g)(4), copies of all records required by 35 Ill. Adm. Code 212.324 shall be submitted to the Illinois EPA within ten (10) working days after a written request by the Illinois EPA.

- ii. Pursuant to 35 Ill. Adm. Code 212.324(g)(6), upon written request by the Illinois EPA, a report shall be submitted to the Illinois EPA for any period specified in the request stating the following: the dates during which any process emission unit was in operation when the air pollution control equipment was not in operation or was not operating properly, documentation of causes for pollution control equipment not operating or not operating properly, and a statement of what corrective actions were taken and what repairs were made.

- 12a. If there is an exceedence of or a deviation from the requirements of this permit as determined by the records required by this permit, the Permittee shall submit a report to the Illinois EPA's Compliance

Page 11

Section in Springfield, Illinois within 30 days after the exceedence or deviation. The report shall include the emissions released in accordance with the recordkeeping requirements, a copy of the relevant records, and a description of the exceedences or deviation and efforts to reduce emissions and future occurrences.

- b. Two (2) copies of required reports and notifications shall be sent to:

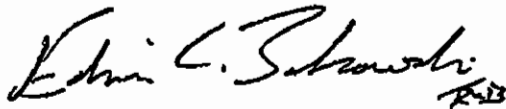
Illinois Environmental Protection Agency
Division of Air Pollution Control
Compliance Section (#40)
P.O. Box 19276
Springfield, Illinois 62794-9276

and one (1) copy shall be sent to the Illinois EPA's regional office at the following address unless otherwise indicated:

Illinois Environmental Protection Agency
Division of Air Pollution Control
9511 West Harrison
Des Plaines, Illinois 60016

It should also be noted that this permit has been revise to modify the two portable conveyers to allow the conveying of material with a moisture content of 1.3% by weight.

If you have any questions on this permit, please call George Kennedy at 217/782-2113.



Edwin C. Bakowski, P.E.
Manager, Permit Section
Division of Air Pollution Control

Date Signed:

5/25/2010

ECB:GMK:jws

cc: Illinois EPA, FOS Region 1



STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY
DIVISION OF AIR POLLUTION CONTROL
P. O. BOX 19508
SPRINGFIELD, ILLINOIS 62794-9508

**STANDARD CONDITIONS FOR CONSTRUCTION/DEVELOPMENT PERMITS
ISSUED BY THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

July 1, 1986

The Illinois Environmental Protection Act (Illinois Revised Statutes, Chapter 111-1/2, Section 1039) authorizes the Environmental Protection Agency to impose conditions on permits which it issues.

The following conditions are applicable unless superseded by special condition(s).

1. Unless this permit has been extended or it has been voided by a newly issued permit, this permit will expire one year from the date of issuance, unless a continuous program of construction or development on this project has started by such time.
2. The construction or development covered by this permit shall be done in compliance with applicable provisions of the Illinois Environmental Protection Act and Regulations adopted by the Illinois Pollution Control Board.
3. There shall be no deviations from the approved plans and specifications unless a written request for modification, along with plans and specifications as required, shall have been submitted to the Agency and a supplemental written permit issued.
4. The permittee shall allow any duly authorized agent of the Agency upon the presentation of credentials, at reasonable times:
 - a. to enter the permittee's property where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit;
 - b. to have access to and to copy any records required to be kept under the terms and conditions of this permit,
 - c. to inspect, including during any hours of operation of equipment constructed or operated under this permit, such equipment and any equipment required to be kept, used, operated, calibrated and maintained under this permit,
 - d. to obtain and remove samples of any discharge or emissions of pollutants, and
 - e. to enter and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring, or recording any activity, discharge, or emission authorized by this permit.
5. The issuance of this permit:
 - a. shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are to be located,
 - b. does not release the permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the proposed facilities,
 - c. does not release the permittee from compliance with other applicable statutes and regulations of the United States, of the State of Illinois, or with applicable local laws, ordinances and regulations,
 - d. does not take into consideration or attest to the structural stability of any units or parts of the project, and

IL 532-0226

APC 166 Rev. 5/89

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- e. in no manner implies or suggests that the Agency (or its officers, agents or employees) assumes any liability, directly or indirectly, for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.
6.
 - a. Unless a joint construction/operation permit has been issued, a permit for operation shall be obtained from the Agency before the equipment covered by this permit is placed into operation.
 - b. For purposes of shakedown and testing, unless otherwise specified by a special permit condition, the equipment covered under this permit may be operated for a period not to exceed thirty (30) days.
 7. The Agency may file a complaint with the Board for modification, suspension or revocation of a permit:
 - a. upon discovery that the permit application contained misrepresentations, misinformation or false statements or that all relevant facts were not disclosed, or
 - b. upon finding that any standard or special conditions have been violated, or
 - c. upon any violations of the Environmental Protection Act or any regulation effective thereunder as a result of the construction or development authorized by this permit.

***** PCB 2010-110 *****

BUREAU OF AIR

For assistance in preparing a permit application contact the Permit Section,

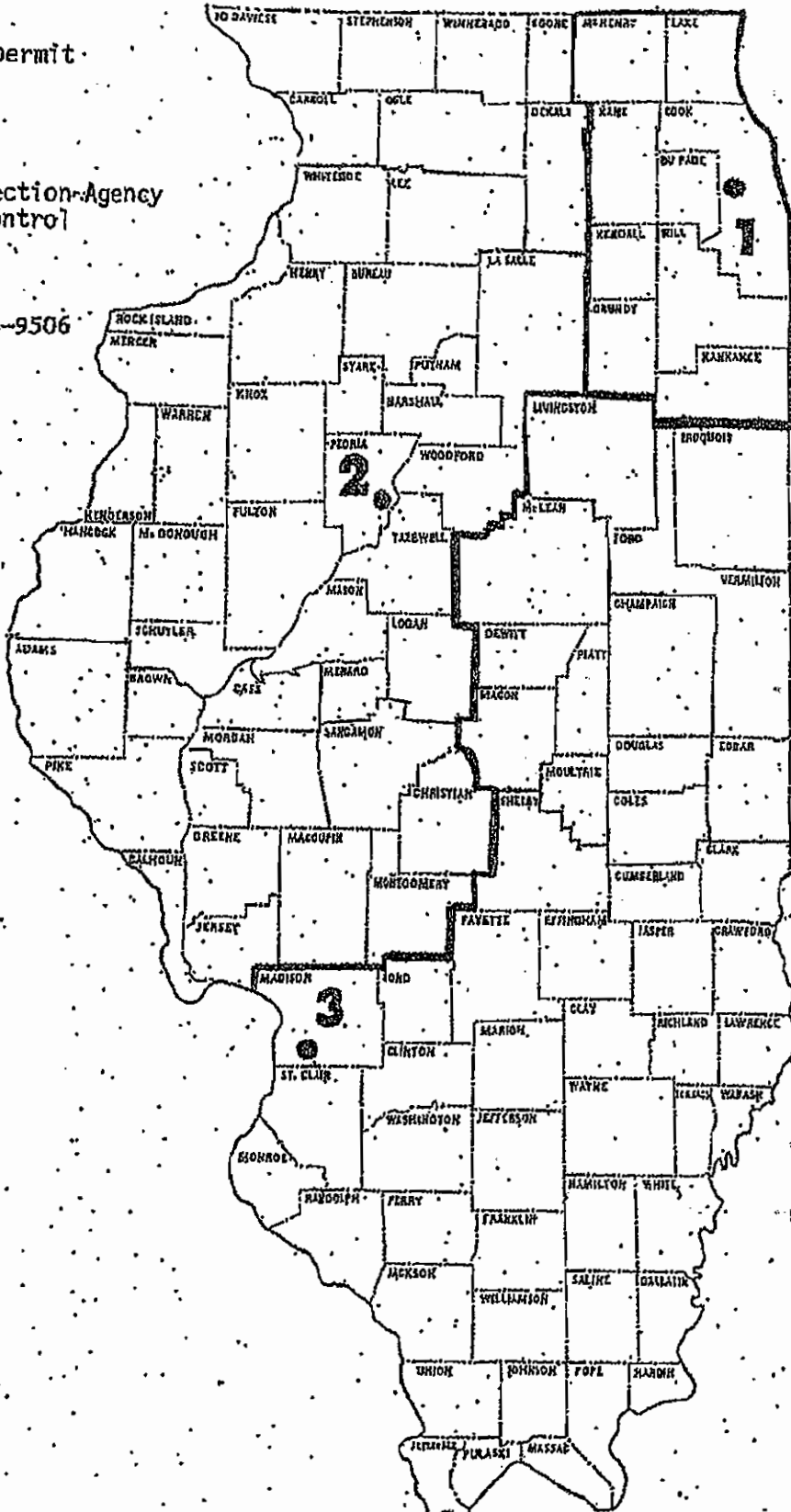
Illinois Environmental Protection Agency
Division of Air Pollution Control
Permit Section
1021 N. Grand Ave E.
P.O. Box 19506
Springfield, Illinois 62794-9506

or a regional office of the Field Operations Section. The regional offices and their areas of responsibility are shown on the map. The addresses and telephone numbers of the regional offices are as follows:

Illinois EPA
Region 1
Bureau of Air, FOS
9511 West Harrison
Des. Plains, Illinois 60016
847/294-4000

Illinois EPA
Region 2
5415 North University
Peoria, Illinois 61614
309/693-5463

Illinois EPA
Region 3
2009 Mall Street
Collinsville, Illinois 62234
618/346-5120



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

KCBX TERMINALS COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 10-_____
)	(Air Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

MOTION TO STAY THE EFFECTIVENESS OF CONTESTED PERMIT CONDITIONS

NOW COMES Petitioner, KCBX TERMINALS COMPANY ("KCBX"), a North Dakota corporation, by and through its attorneys, HODGE DWYER & DRIVER, pursuant to Section 10-65(b) of the Illinois Administrative Procedure Act (5 ILCS 100/10-65(b)) and pursuant to the Illinois Pollution Control Board's ("Board") authority to grant discretionary stays of permit conditions (*see, e.g., Community Landfill Co. and City of Morris v. Illinois EPA*, PCB Nos. 01-48 and 01-49 (Ill.Pol.Control.Bd. Oct. 19, 2000)), and hereby moves the Board to stay the effectiveness of the contested conditions of the "Construction Permit-Revised" ("Revised Construction Permit") at issue in this matter.

In support of this Motion, KCBX states as follows:

1. On May 25, 2010, the Illinois Environmental Protection Agency ("Illinois EPA") issued the Revised Construction Permit (Application No. 07100090) to KCBX, which included conditions that must be modified in order to effectuate the Illinois EPA's intent, and to clarify that the proposed activity will not cause a violation of the Illinois

Environmental Protection Act (“Act”) or the regulations promulgated thereunder. *See* Petition for Review.

2. Today, KCBX filed simultaneously with this Motion a timely Petition for Review (“Petition”) of such permit conditions.

3. The Board may grant a stay of contested permit conditions where a petitioner has requested such a stay. *See, e.g., Midwest Generation, LLC Will County Generating Station v. Illinois EPA*, PCB No. 06-156 (Ill.Pol.Control.Bd. July 20, 2006) (granting a request for a partial stay of construction permit conditions), *North Shore Sanitary District v. Illinois EPA*, PCB No. 03-146 (Ill.Pol.Control.Bd. Mar. 20, 2003) (granting Petitioner’s Motion to Stay Condition 1 pending the outcome of the appeal), *Hartford Working Group v. Illinois EPA*, PCB No. 05-74 (Ill.Pol.Control.Bd. Nov. 18, 2004) (granting Petitioner’s Motion to Stay Effectiveness of Special Condition 2.0 until the Board takes final action in the appeal).

4. A stay of effectiveness of Special Conditions 6a., 6a.ii., 7a., 11a.i., and 11a.iv. of the Revised Construction Permit issued to KCBX on May 25, 2010, is needed to prevent irreparable harm to KCBX. If these conditions are not revised as described in the Petition, KCBX would not be allowed to receive fluid petroleum coke. *See* Petition for Review. Additionally, as stated above, the modified language is necessary in order to effectuate the Illinois EPA’s intent, and to clarify that the proposed activity will not cause a violation of the Act or the regulations promulgated thereunder. *See* Petition for Review. Further, a stay is necessary to protect KCBX’s right to appeal permit conditions. That is, KCBX’s appeal would be rendered meaningless if it must comply with these

provisions while its appeal is pending. Finally, no adequate remedy exists at law, and KCBX has a probability of success on the merits. *See* Petition for Review.

5. The Illinois EPA, the public, and the environment will not be harmed if a stay is granted.

WHEREFORE, Petitioner, KCBX TERMINALS COMPANY, moves the Illinois Pollution Control Board to grant a Stay of Effectiveness of Special Conditions 6a., 6a.ii., 7a., 11a.i., and 11a.iv. of KCBX's May 25, 2010 Revised Construction Permit until the Board's final action in this matter.

Respectfully submitted,

KCBX TERMINALS COMPANY
Petitioner,

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

Dated: June 29, 2010

Katherine D. Hodge
Lauren C. Lurkins
HODGE DWYER ZEMAN
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(217) 523-4900

KCBX:003/Fil/Motion to Stay Effectiveness of Contested Permit Conditions