

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

KCBX TERMINALS COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 11-43
)	(Air Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
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 FOR AN ADDITIONAL 48 DAYS**, a copy of which is herewith served upon you.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

Dated: March 8, 2011

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

Edward W. Dwyer
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 NOTICE OF WAIVER OF 120-DAY DECISION DEADLINE FOR AN ADDITIONAL 48 DAYS 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 March 8, 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

by depositing said documents in the United States Mail, postage prepaid, in Springfield, Illinois on March 8, 2011.

/s/ Katherine D. Hodge
Katherine D. Hodge

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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**NOTICE OF WAIVER OF 120-DAY
DECISION DEADLINE FOR AN ADDITIONAL 48 DAYS**

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 for an additional forty-eight (48) days, or until August 18, 2011. In support of this Notice, KCBX states as follows:

1. On February 1, 2011, KCBX filed with the Board its Petition for Review (“Petition”) of the Federally Enforceable State Operating Permit – Renewal (“Renewed FESOP”) issued to KCBX by the Illinois Environmental Protection Agency (“Illinois EPA”) on December 29, 2010. KCBX also filed a Motion to Confirm Automatic Stay of Effectiveness of Federally Enforceable State Operating Permit or, in the Alternative, to Request Stay of Effectiveness (“Motion to Stay”) simultaneously therewith.

2. On February 17, 2011, the Board accepted the Petition for hearing, but reserved ruling on the Motion to Stay. Board Order, KCBX Terminals Company v. Illinois EPA, PCB No. 11-43 (Ill.Pol.Control.Bd. Feb. 17, 2011).

3. Also on February 17, 2011, Illinois EPA filed a Request for Extension of Time to File Response, requesting until February 28, 2011, to file its Response to KCBX's Motion to Stay. Respondent's Request for Extension of Time to File Response, KCBX Terminals Company v. Illinois EPA, PCB No. 11-43 (Ill.Pol.Control.Bd. Feb. 17, 2011). Additionally, Illinois EPA filed a Request for Extension of Time to File Record, requesting a thirty (30) day extension of the deadline to file the Record, until April 4, 2011. Respondent's Request for Extension of Time to File Record, KCBX Terminals Company v. Illinois EPA, PCB No. 11-43 (Ill.Pol.Control.Bd. Feb. 17, 2011).

4. On February 24, 2011, KCBX filed its Response to Illinois EPA's Request for Extension of Time to File Response and Request for Extension of Time to File Record, noting that it has no objection to either extension requests. Petitioner's Response to Illinois EPA's Requests for Extension of Time, KCBX Terminals Company v. Illinois EPA, PCB No. 11-43 (Ill.Pol.Control.Bd. Feb. 24, 2011). In light of Illinois EPA's Request for Extension to File Record, and KCBX's agreement to the same, KCBX acknowledged that it agreed to a corresponding thirty (30) day extension of the Board's statutory decision deadline until July 1, 2011. Id.

5. Therefore, the current statutory decision deadline for this matter is July 1, 2011.

6. KCBX hereby voluntarily agrees to waive the statutory 120-day decision deadline for an additional forty-eight (48) days, or until August 18, 2011, in order to conduct settlement negotiations in this matter.

7. KCBX does not intend to file any additional waivers of the 120-day decision deadline 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 for an additional forty-eight (48) days for final action on KCBX's appeal of the "Renewed FESOP" issued to it by the Illinois Environmental Protection Agency.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

Dated: March 8, 2011

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

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Katherine D. Hodge
Lauren C. Lurkins
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KCBX:003/Fil/FESOP Permit Appeal PCB 11-43/Waiver of 120-Day Decision Deadline