

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

KCBX TERMINALS COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 10-110
)	PCB 11-43
ILLINOIS ENVIRONMENTAL)	(Permit Appeal - Air)
PROTECTION AGENCY,)	(Consolidated)
)	
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 **PETITIONER'S AMENDED OPINION WITNESS DISCLOSURE**, a copy of which is herewith served upon you.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

Dated: May 19, 2011

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

Katherine D. Hodge
Edward W. Dwyer
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 PETITIONER'S AMENDED OPINION WITNESS DISCLOSURE 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 May 19, 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

Christopher R. Pressnall, Esq.
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Post Office Box 19276 - mail code #21
Springfield, Illinois 62794-9276

by depositing said documents in the United States Mail, postage prepaid, in Springfield, Illinois on May 19, 2011.

/s/ Katherine D. Hodge
Katherine D. Hodge

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PETITIONER'S AMENDED OPINION WITNESS DISCLOSURE

NOW COMES Petitioner, KCBX TERMINALS COMPANY, by its attorneys, HODGE DWYER & DRIVER, and for its Amended Opinion Witness Disclosure, states as follows:

1. On March 15, 2011, Petitioner filed its initial Opinion Witness Disclosure with the Illinois Pollution Control Board ("Board"), pursuant to the March 8, 2011 Hearing Officer Order.

2. Petitioner now provides the following amended list of opinion witnesses:

Robert W. Bernoteit
FESOP/State Permits Unit Manager
Illinois Environmental Protection Agency
Permit Section, Bureau of Air
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Petitioner is unable to state what opinions Mr. Bernoteit may tender at hearing.

Petitioner, however, expects to elicit testimony from Mr. Bernoteit regarding his role as the manager of the Federally Enforceable State Operating Permit ("FESOP")/State Permits Unit at the Illinois Environmental Protection Agency ("Illinois EPA"), generally. This will include his knowledge and experience with Illinois EPA policies and

procedures related to issuing permits in the Bureau of Air. More specifically, Petitioner anticipates that Mr. Bernoteit will testify regarding his supervisory and/or direct role in:

a) the review of submittals from the Petitioner regarding the FESOP permit issued by Illinois EPA to the Petitioner, dated December 29, 2010 (hereinafter "FESOP Permit"), and the construction permit issued by Illinois EPA to the Petitioner, dated May 25, 2010 ("Construction Permit"); b) preparation of responses to the Petitioner regarding submittals related to the FESOP Permit and the Construction Permit; c) communications and/or meetings between Mr. Bernoteit, his staff, and any other Illinois EPA personnel involved in preparing drafts of the FESOP Permit and the final issued FESOP Permit, and drafts of the Construction Permit and the final Construction Permit; d) communications and meetings between Mr. Bernoteit, his staff, Petitioner, and/or its representatives regarding the editing of drafts and the final issued FESOP Permit, and the editing of drafts and the final issued Construction Permit; and e) information relied upon by Illinois EPA in the inclusion or omission of certain special conditions in the FESOP Permit and Construction Permit, as well as Illinois EPA's reasoning related to the same. Testimony is also expected to include relevant discussion of State and federal statutes, e.g. the federal Clean Air Act, Section 39.5 of the Illinois Environmental Protection Act ("Act"), regulations promulgated under such statutes, as well as State and/or Federal guidance and industry publications, related to emission source classification and emission limit calculations in the Illinois EPA Bureau of Air's permitting process generally and regarding the FESOP Permit and the Construction Permit, specifically. Petitioner anticipates reviewing Mr. Bernoteit's education, training, experience, and familiarity with Petitioner's facility and industry.

George M. Kennedy, P.E.
Environmental Protection Engineer
Illinois Environmental Protection Agency
Permit Section, Bureau of Air
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Petitioner will likely seek to utilize the transcript of the April 14, 2011 Evidence Deposition of George M. Kennedy at hearing as Mr. Kennedy is unavailable for hearing. Petitioner expects to focus on the deposition testimony from Mr. Kennedy regarding his background, training and experience in drafting permits, and his duties and responsibilities in the FESOP/State Permits Unit at the Illinois EPA. More specifically, Petitioner expects to focus on Mr. Kennedy's deposition testimony regarding his role in:

- a) the review of submittals from the Petitioner regarding the FESOP Permit issued by Illinois EPA to the Petitioner, dated December 29, 2010, and the Construction Permit issued by Illinois EPA to the Petitioner, dated May 25, 2010;
- b) preparation of responses to the Petitioner regarding submittals related to the FESOP Permit and the Construction Permit;
- c) communications and/or meetings between Mr. Kennedy and management in the FESOP/State Permits Unit and any other Illinois EPA personnel involved in preparing drafts of the FESOP Permit and the final issued FESOP Permit, and drafts of the Construction Permit and the final Construction Permit;
- d) communications and meetings between Mr. Kennedy, other members of the FESOP/State Permits Unit and/or other Illinois EPA personnel, as well as Petitioner and/or its representatives, regarding the editing of drafts and the final issued FESOP Permit, and the editing of drafts and the final issued Construction Permit; and
- e) information relied upon by Illinois EPA in the inclusion or omission of certain special conditions in the FESOP Permit or the

Construction Permit, as well as Illinois EPA's reasoning related to the same. Petitioner also expects to focus on Mr. Kennedy's deposition testimony regarding State and federal statutes, e.g. the federal Clean Air Act, Section 39.5 of the Act, regulations promulgated under such statutes, as well as State and/or Federal guidance and industry publications, related to emission source classification and emission limit calculations in the Illinois EPA Bureau of Air's permitting process generally, and more specifically regarding the FESOP Permit issued to the Petitioner.

Terry Steinert
Environmental Compliance Manager
Koch Mineral Services LLC
4111 East 37th Street North
Wichita, Kansas 67220

Petitioner expects to elicit testimony from Mr. Steinert with regard to the following topics: a) Mr. Steinert's job description and responsibilities with regard to the Petitioner's facility; b) the operations of Petitioner's facility in Chicago, Illinois, which is at issue in this matter; c) the preparation of submittals from the Petitioner to Illinois EPA regarding the FESOP Permit and the Construction Permit; d) the review of information from Illinois EPA regarding the FESOP Permit and the Construction Permit; e) the history of communications and/or meetings between Petitioner and Illinois EPA regarding the FESOP Permit and the Construction Permit; f) with regard to authentication of any documents, knowledge or lack of knowledge on the part of the Petitioner as to matters raised during the testimony of Illinois EPA employees; and g) in rebuttal, as to any matters raised during Illinois EPA's case in chief. Testimony is also expected to include relevant discussion of State and federal statutes, e.g. the federal Clean Air Act, Section 39.5 of the Act, regulations promulgated under such statutes, as well as State

and/or Federal guidance and industrial publications, related to emission source classification and emission limit calculations.

WHEREFORE, Petitioner, KCBX TERMINALS COMPANY, makes its amended opinion witness disclosure as set forth above.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

Dated: May 19, 2011

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

Katherine D. Hodge
Edward W. Dwyer
Lauren C. Lurkins
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Post Office Box 5776
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KCBX:003/Fil/FESOP Appeal/Discovery/Amended Opinion Witness Disclosure