

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

KCBX TERMINALS COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 14-110
)	(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 **PETITIONER'S WITNESS DISCLOSURE**, copies of which are herewith served upon you.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

Dated: March 28, 2014

By: /s/ Edward W. Dwyer
Edward W. Dwyer

Katherine D. Hodge
Edward W. Dwyer
Matthew C. Read
HODGE DWYER & DRIVER
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

CERTIFICATE OF SERVICE

I, Edward W. Dwyer, the undersigned, hereby certify that I have served the attached PETITIONER'S 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 March 28, 2014 and upon:

Mr. Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

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

by depositing said documents in the United States Mail, postage prepaid, in Springfield, Illinois on March 28, 2014 and upon:

Kathryn A. Pamentor, Esq.
Christopher J. Grant, Esq.
Assistant Attorney General
Office of the Attorney General
69 West Washington Street, Suite 1800
Chicago, Illinois 60602

via facsimile and by depositing said document in the United States Mail, postage prepaid, in Springfield, Illinois on March 28, 2014.

/s/ Edward W. Dwyer
Edward W. Dwyer

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

PETITIONER'S WITNESS DISCLOSURE

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

Petitioner's Witness List

Mike Dragovich
Permit Analyst
Bureau of Air
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. Dragovich may tender at hearing. Petitioner expects to elicit testimony from Mr. Dragovich regarding his background, training and experience in drafting permits, and his duties and responsibilities in the Bureau of Air ("BOA") Permits Unit at the Illinois Environmental Protection Agency ("Illinois EPA"). More specifically, Petitioner expects to focus on Mr. Dragovich's knowledge and involvement: a) generally about the process of reviewing permit applications, the review of submittals from the Petitioner beginning with the Request for Revision to Revised Construction Permit Application for Permit No. 07050082 (hereinafter "Request for Revision") dated July 20, 2013 filed by the Petitioner and continuing through the subsequent Permit Denial issued by Illinois EPA to the Petitioner, dated January 17, 2014; b) meetings, discussions and communications between and among Mr. Dragovich and KCBX personnel, management in the Bureau of Air ("BOA") Permit Units, any other Illinois EPA personnel, and/or anyone else regarding reviewing the Request for Revision, preparing a draft permit and the Permit Denial; c) communications, discussions and meetings between Mr. Dragovich, other members of

the BOA Permits Units, other Illinois EPA personnel, and/or anyone else, including Petitioner and/or its representatives, regarding Petitioner's permit application, the need for any additional information, preparation of any draft permit(s), the editing of draft permit(s) and the preparation of the information contained in the Permit Denial; and d) information reviewed and/or relied upon by Illinois EPA in making its decision to issue the Permit Denial, 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, the Illinois Environmental Protection Act (hereafter 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 BOA's permitting process generally, and more specifically regarding the Denial of Permit issued to the Petitioner. Petitioner anticipates reviewing Mr. Dragovich's education, training, experience, and familiarity with Petitioner's Facility and industry.

Bob Bernoteit

Air Permit Section, Manager (acting), during permit application period, until approximately 12/10/13
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 acting manager of the Air Permits Section at the Illinois EPA, generally. This will include his knowledge and experience with Illinois EPA policies and procedures related to issuing permits in the BOA. More specifically, Petitioner anticipates that Mr. Bernoteit's testimony will relate to his supervisory and/or direct role in: a) the review of submittals from the Petitioner regarding the Request for Revision submitted to Illinois EPA by the Petitioner and the January 17, 2014 Permit Denial; b) preparation of responses to the Petitioner regarding submittals related to the Request for Revision; c) communications and meetings between Mr. Bernoteit, other members of the BOA Permits Units, other Illinois EPA personnel, and/or anyone else, including Petitioner and/or its representatives, regarding Petitioner's permit application, the need for any additional information, his review of any draft permit(s), the editing of any draft permit(s), and the preparation of the information contained in the Permit Denial; and d) information reviewed and/or relied upon by Illinois EPA in making its decision to issue the Permit Denial, 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, 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 BOA's permitting process generally and regarding the Application and Permit Denial, specifically. Petitioner anticipates reviewing Mr. Bernoteit's education, training, experience, and familiarity with Petitioner's Facility and industry.

Ray Pilapil

Air Permits Manager (acting) during permit application period on and after approximately 12/10/2013

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. Pilapil may tender at hearing. Petitioner, however, expects to elicit testimony from Mr. Pilapil regarding his role as the acting manager of the Air Permits Section at the Illinois EPA, generally. This will include his knowledge and experience with Illinois EPA policies and procedures related to reviewing and issuing permits in the BOA. More specifically, Petitioner anticipates that Mr. Pilapil's testimony will relate to his supervisory and/or direct role in: a) the review of submittals to Illinois EPA from the Petitioner regarding the Request for Revision and the January 17, 2014 Permit Denial; b) preparation of responses to the Petitioner regarding submittals related to the Request for Revision; c) communications and meetings between Mr. Pilapil, other members of the BOA Permits Units, other Illinois EPA personnel, and/or anyone else, regarding Petitioner's permit application, the need for any additional information, preparation of any draft permit(s), the editing of drafts, and the preparation and issuance of the December 10, 2013 letter to Michael Estadt, KCBX (hereinafter referred to as the "Wells Letter"); d) communications and meetings between Mr. Pilapil, other members of the BOA Permits Units, other Illinois EPA personnel, and/or anyone else, regarding the review of the initial and second responses from counsel for KCBX to the Wells Letter; e) communications and meetings between Mr. Pilapil, other members of the BOA Permits Units, other Illinois EPA personnel, and/or anyone else regarding the need for any additional information from Petitioner regarding the Request for Revision; f) his review of any draft permit(s), the editing of any draft permit(s), and the preparation of the information contained in the Permit Denial; and g) information reviewed and/or relied upon by Illinois EPA in making its decision to issue the Permit Denial, as well as Illinois EPA's reasoning related to the same. Testimony may also include relevant discussion of State and federal statutes, e.g. the federal Clean Air Act, 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 BOA's permitting process generally and regarding the Application and Permit Denial, specifically. Petitioner anticipates reviewing Mr. Pilapil's education, training, experience, and familiarity with Petitioner's Facility and industry.

Michael Reed

CAAPP 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. Reed may tender at hearing. Petitioner, however, expects to elicit testimony from Mr. Reed regarding his role as the acting CAAPP Unit Manager in the BOA at the Illinois EPA, generally. This will include his knowledge and experience with Illinois EPA policies and procedures related to issuing permits in the BOA that involve the CAAPP, FESOP and other permit programs. More specifically, Petitioner anticipates that Mr. Reed's testimony will relate to what role, if any, he had in: a) the review of submittals from the Petitioner regarding the Request for Revision submitted to Illinois EPA by the Petitioner and the January 17, 2014 Permit Denial; b) preparation of responses to the Petitioner regarding submittals related to the Request for Revision; c) communications and meetings between Mr. Reed, other members of the BOA Permits Units, other Illinois EPA personnel, and or anyone else, including Petitioner and/or its representatives, regarding Petitioner's permit application, the need for any additional information, his review of any draft permit(s), the editing of any draft permit(s), and the preparation of the information contained in the Permit Denial; and d) information reviewed and/or relied upon by Illinois EPA in making its decision to issue the Permit Denial, 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, 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 BOA's permitting process generally and regarding the Application and Permit Denial, specifically. Petitioner anticipates reviewing Mr. Reed's education, training, experience, and familiarity with Petitioner's Facility and industry.

Joseph Kotas

Inspector
Field Operations Section
Illinois Environmental Protection Agency
Des Plaines Regional Office
9511 Harrison Street
Des Plaines, IL 60016

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

however, expects to elicit testimony from Mr. Kotas regarding his role in undertaking multiple inspections of Petitioner's Facility on the following dates: Air Inspector 9/11/2013, 9/13/2013, 11/6/2013, and 11/19/2013. This will include his communications with BOA staff regarding the four inspections, the purpose for each inspection and his observations and statements in the reports memorializing his inspections. In addition, we anticipate his testimony may address his involvement, if any, in the review of submittals from the Petitioner regarding the Request for Revision and the January 17, 2014 Permit Denial. We anticipate his testimony may include relevant discussion of BOA policies and procedures for facility inspections, any required practices or test methods utilized to evaluate compliance during inspections, State and federal statutes, e.g. the federal Clean Air Act, 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 BOA's permitting process. Petitioner anticipates reviewing Mr. Kotas's education, training, experience, and familiarity with Petitioner's Facility and industry.

Valeriy Brodsky

Manager of FESOP Unit (acting) during permit application period until approximately 12/10/2013

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. Brodsky may tender at hearing. Petitioner, however, expects to elicit testimony from Mr. Brodsky regarding his role as the acting manager of the FESOP Unit, Permits Section BOA at the Illinois EPA, generally. This will include his knowledge and experience with Illinois EPA policies and procedures related to issuing permits in the BOA. More specifically, Petitioner anticipates that Mr. Brodsky's testimony will relate to his supervisory and/or direct role in: a) the review of submittals from the Petitioner regarding the Request for Revision, and the January 17, 2014 Permit Denial; b) preparation of responses to the Petitioner regarding submittals related to the Request for Revision; c) communications and meetings between Mr. Brodsky, other members of the BOA Permits Units, other Illinois EPA personnel, and/or anyone else, including Petitioner and/or its representatives, regarding Petitioner's permit application, the need for any additional information, his review of any draft permit(s), the editing of any draft permit(s) and his role, if any, in the preparation of the information contained in the Permit Denial; and d) information reviewed and/or relied upon by Illinois EPA in making its decision to issue the Permit Denial, as well as Illinois EPA's reasoning related to the same. Testimony may also include relevant discussion of State and federal statutes, e.g. the federal Clean Air Act, 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 BOA's permitting process generally and regarding the Application and Permit Denial, specifically. Petitioner anticipates reviewing Mr. Brodsky's education, training, experience, and familiarity with Petitioner's Facility and industry.

Brad Frost

Office of Community Relations, attended public meeting on
11/14/2013

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. Frost may tender at hearing. Petitioner, however, expects to elicit testimony from Mr. Frost regarding his knowledge and involvement in: a) public meeting(s) held related to the KCBX facility and any communications with individuals contacting the Illinois EPA regarding the Facility and/or its Request for Revision prior to January 17, 2014; b) receiving, reviewing, redacting and/or providing citizen complaint forms referenced in the Wells Letter and the Permit Denial to other Illinois EPA personnel, including Messrs. Dragovich, Bernoteit, Pilapil and any other personnel involved in the drafting and issuing of the Wells Letter and the Permit Denial. We anticipate his testimony may include relevant discussion of Office of Community Relations policies and procedures regarding: citizen complaints; public meetings; interaction between his office and the Illinois EPA BOA's permitting process. Petitioner anticipates reviewing Mr. Frost's education, training, experience, and familiarity with Petitioner's Facility and industry.

Thomas J. Reuter

FOIA Officer (acting)
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. Reuter may tender at hearing. Petitioner, however, expects to elicit testimony from Mr. Reuter regarding his knowledge and involvement in: a) management of permit files including the file for Permit No. 07050082 prior to January 17, 2014; b) the receiving, reviewing, redacting and/or providing copies of the citizen complaint forms referenced in the Wells Letter and the Permit Denial to Messrs. Dragovich, Bernoteit, Pilapil, and any other personnel involved

in the drafting and issuing of the Wells Letter and the Permit Denial. We anticipate his testimony may include relevant discussion of policies and procedures and responsibilities of the FOIA Officer at Illinois EPA, including but not limited to management of BOA permit files and handling of citizen complaints and the interaction between the FOIA Officer, Office of Public Information and the Illinois EPA BOA's permitting process. Petitioner anticipates reviewing Mr. Reuter's education, training, experience, and whether he has any familiarity with Petitioner's Facility and industry.

Terry Steinert

Southwest Region Environmental 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 past/current 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 Request for Revision submitted to Illinois EPA by the Petitioner; d) the previous permit applications and permits for the Facility and the North Facility; e) the history of communications and/or meetings between Petitioner and Illinois EPA regarding the Request for Revision, in particular his communications with Mike Dragovich; f) the January 17, 2014 Permit Denial; g) the review of information from Illinois EPA regarding the Request for Revision, the existing permits and supporting application for the Facility; h) 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 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, 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.

Michael Estadt

Operations Manager
KCBX Terminals Chicago South
10730 Burley Avenue
Chicago, Illinois 60617

Petitioner expects to elicit testimony from Mr. Estadt with regard to the following topics: a) Mr. Estadt's job description and past/current 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 Request for Revision submitted to Illinois EPA by the Petitioner; d) the existing permits and the supporting applications for the Facility; e) his involvement in communications and/or meetings between Petitioner and Illinois EPA regarding the Request for Revision; f) Inspections by Illinois EPA inspectors in the Fall of 2013; h) and in rebuttal, as to any matters raised during Illinois EPA's case in chief.

Opinion Witnesses

Dave Kolaz, M.S. P.E. (former Chief Bureau of Air, Illinois EPA)

Petitioner expects to elicit testimony from Mr. Kolaz with regard to the following topics: a) Mr. Kolaz's experience and knowledge regarding permit processing and review protocols as well as the considerations germane to decisions to grant or deny a permit in the BOA at Illinois EPA; b) with regard to the Petitioner's South Facility (located at 10730 South Burley Avenue, Chicago, Illinois), his review of the Request for Revision of Permit No. 07050082 at issue in this matter; c) the relevance and significance of the reference in the Request for Revision of Permit No. 07050082 to the previous permit applications and permits for the North Facility (at 3259 East 100th Street, Chicago, Illinois) and the South Facility; d) his review of the Record filed by the State in this permit appeal; e) his review of the Petition and Exhibits attached thereto filed by the Petitioner; and f) his review of the "Wells Letter" dated December 10, 2013, the Petitioner's Responses to the Wells Letter dated December 18, 2013 and January 13, 2014, and h) his review of the January 17, 2014 Permit Denial and specific denial bases set forth therein. Petitioner reserves the right to recall Mr. Kolaz in rebuttal, as to any matters raised during Illinois EPA's case in chief. Mr. Kolaz's testimony may also include relevant discussion of State and federal statutes, e.g. the federal Clean Air Act, the Illinois Environmental Protection Act, regulations promulgated under such statutes, as well as State and/or Federal guidance and industrial publications, related to the operation and control of particulate matter emission sources.

Petitioner expects that Mr. Kolaz will tender the following opinions:

1. References in the Request for Revision to information contained in the now active Permit No. 07050082 and its supporting application, is reasonable and sufficient for providing the appropriate data and information related to the ten portable conveyors, one box hopper and one stacker and should be considered in reviewing the Request for Revision and rendering a decision to grant or deny the permit.
2. The field staff observations, as documented by inspection reports in the record, do not provide information that supports the conclusion that the proposed future construction activity may violate 35 Ill. Adm. Code Section 212.301 and should not be used by the Illinois EPA as a basis to deny the permit application.

3. The Illinois EPA should not rely upon past citizen pollution complaints to support a finding that a future construction project may violate Section 212.301. In addition, past citizen complaints do not contain information necessary to assess future compliance with Section 212.301 by the addition of the ten portable conveyors, one box hopper and one stacker at the Facility.

4. The Request for Revision submitted to Illinois EPA by the Petitioner, including references to the existing Permit No. 07050082 and the supporting application, information regarding equipment identification numbers provided by e-mail dated September 3, 2013, contained sufficient information: 1) demonstrating that granting the Permit would not violate Section 9 or 35 Ill. Adm. Code Sections 201.160(a), 212.301, or 212.321; and 2) satisfy the requirements of 35 Ill. Adm. Code Sections 201.152.

The bases for Mr. Kolaz's opinions are:

- Education, training and experience as a Illinois registered professional engineer, generally;
- Extensive former experience as the Chief of the Bureau of Air, Manager of the Compliance & Systems Management Section, Manager Air Monitoring Section, and Permit Analysis Engineer all at the Illinois EPA;
- Familiarity with the Illinois Pollution Control Board's Air Regulations, including in particular, Parts 201 and 212;
- Experience as a private consultant in air permitting and air quality issues;
- Review of Petitioner's Request for Revision and other applications and permits for the North Facility and the South Facility;
- Familiarity with the North Facility and the South Facility and the equipment sought to be permitted;
- Review of the Record, Petitioner's Petition and the Exhibits attached thereto; and
- Review of the Wells Letter, the Petitioner's December 18, 2013 and January 13, 2014 letters in response to the Wells Letter, and the Permit Denial.

Mr. Kolaz's CV is attached as Exhibit 1.

Terry Steinert

Southwest Region Environmental 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 past/current 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 Request for Revision submitted to Illinois EPA by the Petitioner; d) the previous permit applications and permits for the Facility and the North Facility; e) the history of communications and/or meetings between Petitioner and Illinois EPA regarding the Request for Revision, in particular his communications with Mike Dragovich; f) the January 17, 2014 Permit Denial; g) the review of information from Illinois EPA regarding the Request for Revision, the existing permits and supporting application for the Facility; h) 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 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, 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.

Petitioner expects that Mr. Steinert will tender the following opinions:

1. The Request for Revision submitted to Illinois EPA by the Petitioner, including references to the existing Permit No. 07050082 and the supporting application, including information regarding equipment identification numbers provided by e-mail dated September 3, 2013, contained sufficient information: 1) demonstrating that granting the Permit would not violate Section 9 or 35 Ill. Adm. Code Sections 201.160(a), 212.301, or 212.321; and 2) to satisfy the requirements of 35 Ill. Adm. Code Sections 201.152.

The bases for Mr. Steinert's opinion are:

- Education, training and experience as an environmental professional;
- Former Position as Environmental Compliance Manager for KCBX
- Familiarity with the Facility and the equipment sought to be permitted;
- Involvement in preparing and submitting the Request for Revision;
- His familiarity with the existing permits for the Facility issued to the prior owner, DTE;
- Review of the Record, Petitioner's Petition and the Exhibits attached thereto,
- Review of the Wells Letter and the Permit Denial.

Mr. Steinert's CV is attached as Exhibit 2.

WHEREFORE, Petitioner, KCBX TERMINALS COMPANY, makes its witness disclosures as set forth above.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

Dated: March 28, 2014

By: /s/Edward W. Dwyer
One of Its Attorneys

Katherine D. Hodge
Edward W. Dwyer
Matthew C. Read
HODGE DWYER & DRIVER
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

KCBX:004/Fil Permit Appeal/Witness Opinion Disclosure – 3.28.14

DAVID J. KOLAZ, M.S., P.E.

EDUCATION

B.S. Aeronautical and Astronautical Engineering, University of Illinois, 1971
M.S. Engineering, specialty in Thermal and Environmental Engineering, Southern Illinois University, 1984

EMPLOYMENT HISTORY

2006-Present Conestoga-Rovers & Associates, Springfield, IL
2000-04 Chief, Bureau of Air, Illinois EPA
1994-00 Manager, Compliance & Systems Management Section, Illinois EPA
1990-94 Manager, Air Systems Management Section, Illinois EPA
1977-90 Manager, Air Monitoring Section, Illinois EPA
1974-77 Supervisor, Air Data Unit for the Air Monitoring Section, Illinois EPA
1973-74 Permit Analysis Engineer, Illinois EPA
1971-73 Variance Analysis Engineer, Illinois EPA

PROFESSIONAL REGISTRATIONS/AFFILIATIONS

Registered Professional Engineer: Illinois

PROFILE OF PROFESSIONAL ACTIVITIES

- Prepared, defended, and administered an ~\$85 million dollar annual operating budget and managed a staff of ~340 employees.
- Developed and implemented the programs, policies, and processes necessary to secure and maintain USEPA and legislative support for the Illinois EPA air pollution program.
- Communicated with various interest groups to better understand their agendas and to discuss the goals and priorities of the air pollution control program.
- Prepared necessary legislative initiatives, proposed rule changes, and developed policies and procedures necessary to accomplish air pollution control program objectives.
- Formulated comprehensive strategies sufficient to accomplish program goals and objectives and to guide the general work of managers and administrators engaged in implementing the statewide air pollution control program.
- Briefed the Agency Director, Governor's Office staff, and other key government and community leaders on various aspects of the air pollution control plan and related topics.
- Chaired a diverse workgroup of Bureau of Air and Illinois EPA legal staff to direct the Illinois EPA's statewide air compliance and enforcement program including determining the most appropriate action to take to resolve case specific air pollution violations.
- Co-Chaired a workgroup responsible for establishing the policies and procedures and conducting the outreach needed for the implementation of Illinois' first emission trading program and the first program in the nation to trade volatile organic material.

-
- Authored an Enforcement Response Plan approved by USEPA that took an innovative approach distinctly different from other such plans previously approved by USEPA.
 - Obtained USEPA approval of a Memorandum of Agreement that delineates air enforcement roles and responsibilities, formally defines a partnership relationship that minimizes USEPA oversight, and provides the Illinois EPA a voice in USEPA's compliance and enforcement program in Illinois.
 - Led the Illinois EPA's multi-media Compliance Management Panel in the successful implementation of the extensive revisions to the enforcement provisions of the Illinois Environmental Protection Act.
 - Chaired the eight Great Lakes States inventory workgroup that compiled the first complete inventory of air toxic pollutants of interest to the Great Lakes ecosystem.
 - Led the successful efforts to develop and promulgate an Annual Emissions Reporting rule impacting over 8,000 Illinois businesses.
 - Led the team that negotiated the first Title V permit fee that provides over 50 percent of the Division of Air Pollution Control's program funding.
 - Initiated the development of a strategic plan to integrate all of the Division's environmental databases into a single data system while providing for the system to be expanded Illinois EPA-wide at a later time.
 - Began the implementation of the Division's integrated comprehensive environmental data management system (ICEMAN) with the development of the industry emissions reporting and fee billing modules.
 - Established the Illinois EPA's first computerized air quality modeling capability.
 - Provided testimony before the Illinois Pollution Control Board regarding the results of various air quality data analyses and modeling studies.
 - Modernized the ambient air monitoring program replacing wet chemical methods with solid-state electronic instruments capable of immediate sampling, analysis, and transmittal of measurement results through a telemetry system.
 - Expanded the State-wide ambient monitoring network to emphasize ozone and particulate measurements as well as the analysis of air toxic pollutants.
 - Directed the design and installation of a real-time telemetry system capable of immediate access to ambient measurement results as well as the remote assessment of instrument performance and the unattended initiation of instrument calibration and diagnostics.
 - Initiated the Agency's first steps in the use of personal computers to meet office business requirements.
 - Received a Special Recognition Award from USEPA for "establishing one of the most outstanding state air monitoring programs in the country".
 - Helped establish a routine protocol to improve the timeliness and efficiency for issuing incinerator permits.
 - Developed and implemented a computerized tracking system to monitor the terms and conditions of approved variance petitions.
 - Wrote a computer program to model the atmospheric dispersion of air contaminants to use as a tool in analyzing the environmental impact of variance requests.
 - Assisted an international manufacturing facility obtain air permits that provide operational flexibility sufficient to allow the company to respond to changing market conditions.
 - Provided a comprehensive analysis of the hazardous emissions profile of an ethanol production facility that demonstrated to the satisfaction of a state regulatory agency that had previously issued a violation notice that emissions had not violated state standards.

DAVID J. KOLAZ

- Assisted a petroleum sector facility obtain an innovative permit to produce a refinery cracker feed stock from used oil.
- Provided guidance and assistance to a joint venture to obtain an air permit to produce pipeline quality "natural" gas from coal.
- Provided a technical analysis of air monitoring data for a major airport expansion to show that air quality standards were not being violated and help refine protocols that used air monitoring measurements to ensure air quality continued to be protected.
- Provided litigation support for a coal handling facility that included analyzing the factual and technical basis of claims and critiques of plaintiff's expert witness analyses. The effort resulted in the client receiving a summary judgment in its favor.

PUBLICATIONS AND PRESENTATIONS

- Author of World Book Encyclopedia definitions for soot, smoke, smog.
- D.J. Kolaz and R.L. Swinford, "How to Remove the Influence of Meteorology from the Chicago Area Ozone Trend", 90-97.5, presented at the 83rd Annual Meeting of the Air & Waste Management Association, Pittsburgh, PA, June 1990.
- D.J. Kolaz and R.L. Swinford, "Ozone Air Quality: "How Does Chicago Rate?", 88-19.4, presented at the 81st Annual Meeting of the Air Pollution Control Association, Dallas, TX, June 1988.

TERRY L. STEINERT, CHMM, REM

HOME ADDRESS:

1815 N. Peckham Circle
Wichita, KS 67230
(316) 613-2383
tdmhsteinert@cox.net

BUSINESS ADDRESS:

4711 E. 37th Street North
Wichita, KS 67220
(316) 828-7847

EDUCATION:

Master of Science Degree-Environmental Science, Water Resources Emphasis
Oklahoma State University, Stillwater, Oklahoma **Graduation Date:** July, 1985

Bachelor of Science Degree, cum laude-Watershed Science
Utah State University, Logan, Utah **Graduation Date:** June, 1983

PROFESSIONAL REGISTRATION:

Certified Hazardous Materials Manager – Master Level No. 12192 - The Institute of Hazardous
Materials Management
Registered Environmental Manager REM 9793 - National Registry of Environmental
Professionals
Registered Professional Hydrologist 94-H-1056 (inactive) - American Institute of Hydrology

PROFESSIONAL EXPERIENCE:

POSITION: SW Region Environmental Manager **INDUSTRY:** Bulk Commodities &
EMPLOYER: Koch Minerals, LLC Specialty Chemicals
DATES: Feb 2014 – Present

Manage environmental affairs for 7 locations in 3 states, including permitting, regulatory
interpretations, Agency rulemakings, Agency negotiations, interactions with in-house
and outside Counsel, project evaluations.
Develop and implement environmental governance structure and implement environmental
management systems at all sites.
Lead environmental due diligence for business and property acquisitions and divestitures.
Obtain permits for green field facility construction in TX.
Lead Quality Assurance reviewer for submittals to environmental agencies.
Lead for environmental self-assessments / gap analyses.
Develop and implement annual strategic environmental plan.
Maintain environmental records retention system.
Draft and maintain emissions inventories, SWPP Plans, SPCC Plans, and Fugitive Emission
Plans.
Complete enterprise TSCA Chemical Data Reporting (formerly IUR) and Green House Gas
reporting.

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EXPERIENCE (Continued):

POSITION: Environmental Compliance Manager **INDUSTRY:** Bulk Commodities
EMPLOYER: Koch Carbon, LLC **DATES:** Oct 2004 – Feb 2014

Manage environmental affairs for 12 locations in 8 states, including permitting, regulatory interpretations, Agency rulemakings, Agency negotiations, interactions with in-house and outside Counsel, project evaluations.

Develop and implement environmental governance structure and implement environmental management systems at all sites.

Lead environmental due diligence for business and property acquisitions and divestitures.

Obtain permits for facility expansions in CA, IL, WI, and WV; green field construction in TX; and hazardous wastewater treatment system in CA.

Reduced air emission intensity by 56% and waste disposal intensity by 84% from Y2004 baseline.

Reduced consulting budget by 60% from 2004.

Lead Quality Assurance reviewer for submittals to environmental agencies.

Lead for environmental self-assessments / gap analyses.

Develop and implement annual strategic environmental plan.

Migrate compliance documents to secure electronic system and manage retention function.

Update emissions inventories, SWPP Plans, SPCC Plans, and Fugitive Emission Plans.

Complete enterprise TSCA Chemical Data Reporting (formerly IUR) and Green House Gas reporting.

POSITION: Sr. Environmental Analyst **INDUSTRY:** Electric Utility
EMPLOYER: Exelon **DATES:** Mar 2000 – Oct 2004

Lead technical contact with environmental agencies.

Direct permitting for wastewater, air, and dredging at seven generating stations.

Oversee generating station regulatory report submittals.

Lead Auditor for RCRA, TSCA (PCB) and underground storage tanks.

Lead Business Unit resource for developing and implementing ISO 14001-based Environmental Management System at 11 facilities.

Develop suite of 87 program, process, procedure, and reference materials as the EMS core.

Develop and execute business plans for implementing corporate environmental initiatives.

Coordinate environmental data management.

Direct corporate environmental training and coordinate standard environmental training.

Manage Environmental Report preparation for NRC re-licensing of two nuclear power plants under NEPA.

POSITION: Environmental Superintendent **INDUSTRY:** Polyester fiber and
EMPLOYER: Wellman, Inc. - Palmetto Plant food grade PET resin
DATES: June 1994 – March 2000 manufacturing

Supervise two environmental engineers

Direct all environmental permitting (wastewater, air, solid waste) activities.

Direct preparation of all reports and compliance activities including water use, wastewater DMRs, SARA 311, 312 and 313, air emissions and Leak Detection and Repair, biosolids land application, groundwater monitoring, and hazardous waste disposal.

Direct groundwater remediation program in jurisdictional wetlands with 30 extraction wells.

Direct stormwater, Oil Pollution Act, industrial hygiene, and radiation safety compliance.

Specify need for capital and expense projects for environmental compliance.

Coordinate environmental activities with corporate staff.

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Conduct an eligibility investigation for the declaration of a State Scenic River.
Draft a model Drought Ordinance for local governments in SC.
Teach a water conservation class at an Outdoor Education Workshop for high school and elementary school teachers.

OTHER EXPERIENCE:

Research Assistant, Oklahoma St. Univ. Dept. of Forestry, Stillwater, OK. Jul 1983 – Jun 1985
Hydrologic Technician, US Forest Service, Boise, ID. Jun 1982 – Sep 1982
Hydrologic Technician, US Bureau of Land Management, Cedar City, UT. Jun 1981 – Sep 1981
Zoo Keeper, Willow Park Zoo, Logan, UT. Jun 1980 – May 1981
Machine Operator, Miller Manufacturing, Stratton, NE. Jun 1979 – Sep 1979

QUALIFICATIONS:

- Supervisory experience
- Experience using several computer programs including Excel, Word, Access, Power Point, ISCST, SCREEN, MODFLOW, Surfer.
- Applications oriented with sound fundamental understanding of statistical procedures.
- Experience developing new data applications and analysis techniques.
- Familiar with participating in work teams.
- Can work independently.
- Attended short courses in Environmental Dispute Resolution, New Source Review, ISCST, air dispersion modeling, RCRA compliance, MODFLOW.

ACTIVITIES:

- Air & Waste Management Association – Member
- Water Environment Federation - Member
- Alliance of Hazardous Materials Professionals – Member
- Thrivent Financial – Northeast Sedgwick County Chapter Financial Director
- Phi Kappa Phi National Honor Society, Utah State University Chapter - Life Member
- Christ Lutheran Church, Pastoral Selection Committee – Member
- St. Timothy Lutheran Church, Men's Retreat – Co-Director
- Cross and Crown Lutheran Church Council – Past President
- Former Sports Official for College Football (1997-2002), High School Football (1987-2000) and High School Basketball (1986 - 2000)

PRESENTATIONS:

Environmental Regulation in the Secondary Copper Industry:

- Canada Centre for Mineral and Energy Technology, Spring Conference, April 14-15, 1993, Salt Lake City, UT

A Low Streamflow Frequency Program for South Carolina:

- South Carolina Water Resources Conference, September 20, 1990, Columbia, SC
- Conserv 90, The National Conference and Exposition Offering Water Supply Solutions for the 1990s, August 12-16, 1990, Phoenix, AZ

South Carolina and the Drought of 1986:

- SC Chapter of the American Water Resources Association. August 14, 1986. Columbia

PUBLICATIONS:

Monrad, J. R. and T. L. Steinert, 1990-91. **Work Plan for RCRA Facility Investigation/ Remedial Investigation, Savannah River Site** (prepared for the US Department of Energy) WSRC RP-91-87, 631-5G Burning Rubble Pit, March 1991, 114 p.
WSRC RP-91-80, 631-1G and 631-3G Burning Rubble Pits, March 1991, 120 p.
WSRC RP-90-497, Tank 16 Radioactive Waste Storage Facility, February 1991, 136 p.
WSRC RP-1139, Silverton Road Waste Site, November, 1990, 112 p.
WSRC RP-1104, Burma Road Rubble Pit, October, 1990, 112 p.

Steinert, T. L., 1990. **A Low Streamflow Frequency Program for South Carolina**. In Proceedings of Conserv 90, the National Conference and Exposition Offering Water Supply Solutions for the 1990s, August 12-16, Phoenix, AZ. p. 713-717

Atkins, J. B., A. W. Badr, P. S. League, K. E. Powell, and T. L. Steinert, 1990. **Water Supply Assessment and Feasibility Study of a County Water Supply System -- Laurens County, South Carolina**. SC Water Resources Commission Report No. 125, Columbia. 115 p.

Steinert, T. L., 1989. **Magnitude and Frequency of Low Streamflows in South Carolina**. SC Water Resources Commission Report No. 166, Columbia. 178 p.

Steinert, T. L., 1987. **South Carolina Scenic Rivers Program: Whitewater River and Thompson River Eligibility Investigation**. SC Water Resources Commission Administrative Report AR22, Columbia. 59 p.

Steinert, T. L., 1985. **Thermal Characteristics of Three Smallmouth Bass Streams of Southeastern Oklahoma**. MS Thesis, Oklahoma State University, Stillwater. 199 p.

Wigington, P. J., Jr., T. L. Steinert, and O. E. Maughan, 1985. **Stream Temperature Considerations of Southern Forest Management**. Proceedings of the Mid-South Symposium on Forestry and Water Quality, May 8-10, Little Rock, AR. p. 66-73.