

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 MOTION FOR LEAVE TO FILE AMENDMENT TO ITS MOTION TO SUPPLEMENT THE RECORD**, a copy of which is herewith served upon you.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

Dated: April 11, 2014

By: /s/ Matthew C. Read
Matthew C. Read

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, Matthew C. Read, the undersigned, hereby certify that I have served the attached PETITIONER'S MOTION FOR LEAVE TO FILE AMENDMENT TO ITS MOTION TO SUPPLEMENT THE RECORD 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 April 11, 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 April 11, 2014 and upon:

Kathryn A. Pamenter, 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 April 11, 2014.

/s/ Matthew C. Read
Matthew C. Read

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

KCBX TERMINALS COMPANY,)	
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Petitioner,)	
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v.)	PCB 14-110
)	(Air Permit Appeal)
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PROTECTION AGENCY,)	
)	
Respondent.)	

**PETITIONER'S MOTION FOR LEAVE TO FILE
AMENDMENT TO ITS MOTION TO SUPPLEMENT THE RECORD**

NOW COMES Petitioner, KCBX TERMINALS COMPANY ("KCBX"), a North Dakota corporation, by and through its attorneys, HODGE DWYER & DRIVER ("HD&D"), and hereby files its Motion for Leave to File Amendment to Its Motion to Supplement the Record before the Illinois Pollution Control Board ("Board"), initially filed with the Board on April 7, 2014. In support, KCBX states as follows:

1. On January 17, 2014, Illinois Environmental Protection Agency ("Illinois EPA") issued a Permit Denial letter to KCBX in response to KCBX's Request for Revision.
2. On February 21, 2014, KCBX initiated this proceeding by filing with the Board its Petition for Review ("Petition") regarding the Permit Denial.
3. On March 24, 2014, Illinois EPA filed the Administrative Record with the Board ("Record") in this permit appeal.
4. On April 7, 2014, KCBX filed its Motion to Supplement the Record. In its Motion, KCBX references Illinois EPA's Privilege Log. *See* Motion to Supplement the Record, ¶¶ 17, 23, 27, 28.

5. On April 9, 2014, KCBX determined that the Privilege Log referenced above had not been filed with the Board as part of the Record in this matter.

6. KCBX now seeks leave to file an amendment to its Motion to Supplement the Record with a copy of the Illinois EPA's Privilege Log and transmittal letter, attached hereto as Exhibit M.

WHEREFORE Petitioner, KCBX TERMINALS COMPANY, for the above stated reasons, respectfully prays that the Hearing Officer enter an Order granting this Motion for Leave to File Amendment to Its Motion to Supplement the Record, and that the Hearing Officer award KCBX TERMINALS COMPANY all other relief just and proper in the premises.

Respectfully submitted,

KCBX TERMINALS COMPANY,
Petitioner,

Dated: April 11, 2014

By: /s/ Matthew C. Read
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

Exhibit M



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

March 24, 2014

Via Federal Express

Katherine D. Hodge
Edward W. Dwyer
Matthew C. Read
Hodge Dwyer & Driver
3150 Roland Avenue
Springfield, IL 62705-62703

Re: KCBX Terminals Company v. Illinois Environmental Protection Agency
(PCB No. 14-110)

Dear Kathy, Edward and Matt:

Enclosed please a copy of the Illinois Environmental Protection Agency's privilege log in the above-referenced permit appeal.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathryn A. Pamerter". The signature is stylized and written in cursive.

Kathryn A. Pamerter
Assistant Attorney General
Environmental Bureau
69 West Washington, 18th Floor
Chicago, Illinois 60602
(312) 814-0608

Encls.

cc: Christopher J. Grant

**KCBX TERMINALS COMPANY V. ILLINOIS EPA
PRIVILEGE LOG OF ILLINOIS EPA**

Name of Author	Name(s) of Recipients	Date of Document	Description of Document	Bates Number Range
C. Pressnall	M. Dragovich, V. Brodsky	9.19.13	Email re FESOP application	P000001
M. Dragovich	C. Pressnall, V. Brodsky, B. Bernoteit, R. Layman, J. Armitage	9.19.13	Email re FESOP application	P000001
M. Dragovich	R. Layman, V. Brodsky, B. Bernoteit	10.2.13	Email re draft revised construction permit	P000002-P000022
M. Dragovich	C. Pressnall, B. Bernoteit, R. Layman	10.10.13	Email re draft permit	P000023
C. Pressnall	M. Dragovich, B. Bernoteit, R. Layman, J. Armitage	10.10.13	Email re draft permit	P000023
C. Pressnall	M. Dragovich, B. Bernoteit, R. Layman	10.16.13	Email re waiver status	P000024
B. Bernoteit	C. Pressnall, J. Armitage, J. Ross, V. Brodsky, M. Dragovich	10.18.13	Email re waiver status	P000025
C. Pressnall	B. Bernoteit, J. Armitage, J. Ross, V. Brodsky, M. Dragovich	10.18.13	Email re waiver status	P000025
B. Frost	C. Pressnall, K. Page, K. Neibergall, V. Brodsky, M. Dragovich, S. Williams	11.5.13	Email re draft factsheet	P000026
C. Pressnall	B. Frost, K. Page, K. Neibergall, V. Brodsky, M. Dragovich, S. Williams, J. Armitage	11.6.13	Email re draft factsheet	P000026-P000028
B. Bernoteit	J. Armitage, C. Pressnall, B. Frost, V. Brodsky, M. Dragovich	11.14.13	Email re DTE permit application and KCBX April 2013 permit application	P000029
B. Bernoteit	J. Morgan, C. Pressnall, M. Dragovich	12.6.13	Email re draft wells letter	P000031, P000032, P000033-P000038
J. Morgan	B. Bernoteit, C. Pressnall, M. Dragovich	12.9.13	Email re draft wells letter	P000032
J. Morgan	J. Armitage	12.10.13	Email re draft wells letter	P000030

**KCBX TERMINALS COMPANY V. ILLINOIS EPA
PRIVILEGE LOG OF ILLINOIS EPA**

B. Bernoteit	J. Armitage, J. Morgan	12.10.13	Email re draft wells letter	P000030
J. Armitage	B. Bernoteit, J. Morgan	12.10.13	Emails re draft wells letter	P000030
B. Bernoteit	J. Morgan, C. Pressnall, M. Dragovich	12.10.13	Email re draft wells letter	P000032
J. Morgan	C. Pressnall, R. Pilapil	1.5.14	FOIA Exemption Reference Sheet re email	P000039
J. Morgan	R. Pilapil, C. Pressnall, J. Armitage, B. Bernoteit	1.15.14	Email re waiver status and 12.10.13 Letter	P000041, P000043-P000044
R. Pilapil	J. Morgan, J. Armitage, B. Bernoteit, C. Pressnall, J. Ross, M. Dragovich	1.15.14	Email re waiver status and response to permit application	P000040, P000043
B. Bernoteit	R. Pilapil, J. Morgan, J. Armitage, C. Pressnall, J. Ross, M. Dragovich	1.16.14	Email re response to permit application	P000040, P000043
J. Morgan	B. Bernoteit, R. Pilapil, J. Armitage, C. Pressnall, J. Ross, M. Dragovich	1.16.14	Email re waiver status	P000040
C. Pressnall	B. Bernoteit, R. Pilapil, J. Armitage, J. Morgan, J. Ross, M. Dragovich	1.16.14	Email re comments to draft denial letter	P000042
J. Armitage	C. Pressnall, B. Bernoteit, R. Pilapil, J. Morgan, J. Ross, M. Dragovich	1.16.14	Email re draft denial letter	P000042
B. Bernoteit	J. Armitage, C. Pressnall, R. Pilapil, J. Morgan, J. Ross, M. Dragovich	1.17.14	Email re draft denial letter	P000042
J. Morgan	B. Bernoteit, C. Pressnall	1.17.14	Email re draft denial letter	P000042

KCBX TERMINALS COMPANY V. ILLINOIS EPA
PRIVILEGE LOG OF ILLINOIS EPA

attorney-client
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attorney-client
attorney-client
attorney-client; predecisional deliberative process
attorney-client; predecisional deliberative process
attorney-client; predecisional deliberative process
attorney-client
attorney-client; predecisional deliberative process
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KCBX TERMINALS COMPANY V. ILLINOIS EPA
PRIVILEGE LOG OF ILLINOIS EPA

FOIA Exemption Reference Sheets		1.17.14	Re 10.18.13 and 12.10.13 emails	P000045-P000046
M. Dragovich		9.5.13	Draft Permit Calculation Sheet	P000047-P000052

attorney-client
predecisional deliberative
process

KCBX TERMINALS COMPANY V. ILLINOIS EPA
PRIVILEGE LOG OF ILLINOIS EPA