

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CHICAGO COKE CO., INC., an Illinois corporation,)	
)	
Petitioner,)	
)	
v.)	PCB 10-75
)	(Permit Appeal--Air)
)	
THE ILLINOIS ENVIROMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	

NOTICE OF FILING

To: Andrew B. Armstrong	Bradley P. Halloran, Hearing Officer
Assistant Attorney	Illinois Pollution Control Board
General Environmental Bureau	James R. Thompson Center
69 West Washington Street	100 West Randolph Street
18 th Floor	Suite 11-500
Chicago, Illinois 60602	Chicago, Illinois 60601

PLEASE TAKE NOTICE that on this 6th day of July 2010, the following was filed electronically with the Illinois Pollution Control Board, which is attached and herewith served upon you: **Petitioner's Response to Motion for Leave to File Reply and Motion to File a Surreply.**

CHICAGO COKE CO., INC.

By: s/Elizabeth S. Harvey
One of its attorneys

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CERTIFICATE OF SERVICE

I, the undersigned non-attorney, state that I served a copy of the foregoing to counsel of record via U.S. Mail at 330 North Wabash Avenue, Chicago, IL 60611, at or before 5:00 p.m. on July 6, 2010.


Jeanette Podlin

[x] Under penalties as provided by law pursuant to 735 ILCS 5/1-109, I certify that the statements set forth herein are true and correct.

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RESPONSE TO MOTION FOR LEAVE TO FILE REPLY AND
MOTION TO FILE A SURREPLY

Petitioner, CHICAGO COKE, INC. ("petitioner"), by its attorneys Swanson, Martin & Bell, LLP, responds to respondent ILLINOIS ENVIRONMENTAL PROTECTION AGENCY's ("IEPA") motion for leave to file a reply. Petitioner also moves for leave to file a surreply, if necessary.

1. On June 30, 2010, IEPA filed a motion for leave to file a reply to petitioner's response in opposition to IEPA's motion to dismiss. Petitioner received that motion for leave to file a reply on July 2, 2010.

2. IEPA claims it needs to reply in order to respond to petitioner's alleged mischaracterizations of IEPA's arguments. Petitioner denies it has mischaracterized any of IEPA's arguments.

3. However, petitioner does not object to IEPA's request for leave to file a reply, if petitioner is allowed to file a surreply to the reply. Because IEPA asserts that petitioner has mischaracterized arguments, which petitioner denies, petitioner may need to file a surreply in order to respond to IEPA's assertions.

4. Without an opportunity to file a surreply, petitioner will be prejudiced because IEPA's allegations will go without response. It is impossible for petitioner to have anticipated whatever claims IEPA may make in its reply. A surreply may be necessary to allow petitioner to dispute IEPA's claims.

5. Thus, if IEPA's motion to reply is granted, petitioner moves the Board to allow petitioner to file a surreply. In order to allow for definite deadlines for the reply and surreply, if the Board grants IEPA's motion, petitioner suggests that IEPA's reply be due on July 14, 2010, and petitioner's surreply be due on July 28, 2010.

WHEREFORE, if the Board grants IEPA's motion for leave to file a reply, petitioner moves to be allowed to file a surreply, and for such other relief as Board finds appropriate.

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