

IN THE MATTER OF:)
) No. 2014-020
ILLINOIS POLLUTION CONTROL)
BOARD EMERGENCY MEETING)

REPORT OF THE PROCEEDINGS held in the above entitled cause before Chairman Deanna Glosser, called by the Illinois Pollution Control Board, taken by Steven Brickey, CSR, for the State of Illinois, 100 West Randolph Street, Chicago, Illinois, on the 23rd day of January, 2014, commencing at the hour of 11:00 a.m.

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A P P E A R A N C E S

MS. DEANNA GLOSSER, Chairman
MR. JERRY O'LEARY, Board Member
MS. JENNIFER BURKE, Board Member
MS. CARRIE ZALEWSKI, Board Member
MR. JOHN THERRIAULT, Clerk

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1 MS. GLOSSER: We will allow members
2 of the public to address the Board at this time
3 concerning items that appear on today's agenda.
4 If you wish to speak, please state your name and
5 who you represent for the court reporter. We ask
6 that you keep your remarks brief so everyone has a
7 chance to speak. Is there anyone who wishes to
8 speak today who is signed up on the sheet? Will
9 you come forward?

10 MR. WOLF: Good morning. My name is
11 Tom Wolf, executive director of the Energy Council
12 at the Illinois Chamber of Commerce. Thank you
13 for the opportunity to comment on this important
14 issue, Case 2014-020.

15 Today in the interest of
16 efficiency, I'm representing not only the voice of
17 the Illinois Chamber and its members, but also the
18 Illinois Manufacturer's Association, the Chemistry
19 Industry Council of Illinois, the Illinois
20 Petroleum Council, the Illinois Coal Association
21 and the Illinois Environmental Regulatory Group
22 and all their members.

23 Also in the interest of
24 efficiency, I'm not going to recite our comments
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1 or the comments of our agency brethren, which I'm
2 sure you have already read, but instead I'm going
3 to sum up the situation and decision before you by
4 making two points and one plea.

5 Point number one there is no
6 emergency. Section 27(c) of the Illinois
7 Environmental Protection Act clearly and
8 unequivocally states the conditions that must
9 exist for emergency rules to be promulgated.
10 There is no doubt in our minds that the IEPA
11 request before you fails to meet any of those
12 standards. Petroleum coke is a non-toxic,
13 non-hazardous and certainly is not an imminent
14 health threat.

15 Coal has been stored in Illinois
16 for decades. It has stringent regulations
17 pertaining to air and water protection. For both
18 materials, there are existing fugitive dust
19 regulations that have been a successful part of
20 IEPA's permitting program. There is no disaster,
21 there is no severe public health emergency, there
22 has been no new scientific study showing why
23 petcoke or coal should be stored differently
24 immediately. There is no imminent threat to the
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1 public interest, safety or welfare. There was a
2 dust incident on Chicago's southside in August of
3 last year and because of that incident the city is
4 looking at new regulations and the Attorney
5 General's Office and other groups have begun to
6 look at possible legislation or regulatory
7 changes. Neither of these groups has declared an
8 emergency. This is simply regulatory overreach.

9 Point number two, haste makes
10 waste and bad public policy. Why? Because
11 emergency rules by definition don't give anyone
12 the opportunity to look at the value of the
13 regulations nor the potential unintended
14 consequences. After reading the proposed
15 emergency regulations, it doesn't take long to
16 figure out the potential risk. Members have filed
17 information with you about deadlines that couldn't
18 be met if they tried either because it's
19 physically impossible, weather wouldn't allow it
20 or permits can't be done that quickly. All this
21 would do is put companies in the unenviable
22 situation of either risking noncompliance and
23 fines or shutting down.

24 No one knows the cost associated
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1 with this nor the number of facilities that would
2 be affected. There hasn't been time to figure it
3 out. If our members don't know it, certainly the
4 IEPA doesn't know it. If this were an actual
5 public health emergency, the cost might not
6 matter, but I go back to point number one where is
7 the emergency that rationalizes this action?

8 So my plea is this. Just say
9 no. Just say no to emergency regulations that are
10 in response to a false emergency. Just say no to
11 regulations that were written with input from
12 environmental NGO's, but with no input from
13 industry groups. Just say no to regulations that
14 have been available to review for only four
15 business days and include no perspective on how it
16 could affect the bottom line of companies across
17 the state that have been following regulations
18 that are already on the books. Just say no to
19 forcing businesses to choose between noncompliance
20 because of a possible deadline or shutting down.
21 Just say no to usurping the regular rulemaking or
22 legislative process which we believe should only
23 be done in extreme cases which clearly this is
24 not.

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1 In conclusion, if the Agency has
2 concerns about current regulations of petcoke and
3 coal storage and believe changes should be made,
4 then let's go through the rulemaking process and
5 review the ideas and resolve a very solvable issue
6 with the benefits of perspective, scientific data,
7 time, reason, research and the opportunity for
8 public input. The people of Illinois deserve
9 nothing less. Thank you for your time and your
10 attention.

11 MS. GLOSSER: Thank you, Mr. Wolf.
12 Do we have a second person wanting to speak?

13 MR. REINT: Good morning. My name
14 is Jake Reint. I'm a spokesperson for KCBX
15 Terminals in Chicago. On behalf of my company,
16 thank you for the opportunity to comment today on
17 the proposed emergency rulemaking for petroleum
18 coke and bulk coal materials. In addition to my
19 comments today, we have filed detailed written
20 testimony that we hope the Board will take into
21 consideration before ruling on this very important
22 matter.

23 KCBX strongly disagrees with the
24 characterization that there is an emergency
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1 situation warranting the use of the state's
2 authority to impose regulations that may be
3 impossible to implement on businesses such as ours
4 that pose no proven health risk. Our company has
5 a long history in Illinois. We've handled bulk
6 materials including coal and petroleum coke on
7 Chicago's southeast side for more than 20 years.

8 A year ago we acquired a second
9 bulk materials facility from DTE and immediately
10 started to make significant improvements including
11 the addition of a new dust suppression system.
12 The new system has been in place since November
13 which was after when the summer windstorm caused a
14 dust event in the area.

15 Since then we have worked with
16 an independent environmental expert to design and
17 direct the testing of surfaces and soil in the
18 neighborhoods near our facility. Sixty-nine
19 samples from various public areas were collected
20 in late November and early December. These
21 samples show no unusual levels of dust particles
22 that could be associated with petcoke or coal.
23 The data supporting this analysis has been
24 included in our written testimony. Also included
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1 in our testimony is a copy of a recent report by
2 the Congressional Research Service which finds
3 that emissions of airborne particulate matter from
4 petcoke pose a low human health risk.

5 We are also in the process of
6 working with the US EPA to install air monitors
7 which will provide additional scientific data to
8 better assess any potential impacts from the
9 products we handle at our facility. KCBX has
10 always worked hard to maintain a safe and
11 compliant operation. We want to work with the
12 state and city to address the concerns of our
13 neighbors. As we've stated previously, this
14 includes a willingness to build a structure to
15 cover materials we handle at our sites.

16 As a company, we are fully
17 committed to complying with the law. However,
18 these emergency rules as proposed makes compliance
19 unachievable and they have the potential to force
20 the closure of our business and other businesses
21 across Illinois without justification or
22 consideration for all the people that depend on
23 the jobs these businesses create.

24 KCBX has the utmost respect for
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1 our neighbors and we are committed to doing the
2 right thing. We also have 40 employees of our own
3 whose families depend on these jobs. We're going
4 to make every effort to stay in business and work
5 with each appropriate jurisdiction to ensure our
6 operations remain in compliance and continue
7 contributing to the local economy. We strongly
8 urge the Board to deny Illinois EPA's motion for
9 emergency rulemaking and instead we ask you to
10 allow the traditional rulemaking process to
11 proceed.

12 We appreciate the Board's
13 consideration of these comments and our written
14 testimony. Thank you very much.

15 MS. GLOSSER: Thank you. Do we have
16 another person on the list? We have another one.

17 MS. CASSEL: Good morning,
18 chairwoman, members of the Board. My name is
19 Jennifer Cassel and I'm an attorney with the
20 Environmental Law and Policy Center. I want to
21 thank the Board for the opportunity as well to
22 comment this morning. We want you to know that we
23 are strongly in agreement and in support of both
24 the governor's and the Illinois Environmental
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1 Protection Agency's recognition of this problem as
2 the emergency that it, in fact, is.

3 As you all know, the rules
4 require rules -- emergency rules may be
5 promulgated when the state finds that a situation
6 constitutes a threat to the public interest,
7 safety or welfare as undoubtedly is the case with
8 the petcoke situation that we're seeing on the
9 southeast side of Chicago and with the growing
10 amounts of petcoke that are being produced and
11 will be produced by both our refineries within the
12 state as well as the BP refinery immediately
13 adjacent to the state.

14 As the governor has said, we
15 need to make sure that every neighborhood in the
16 State of Illinois is protected from the hazard of
17 petroleum coke. We need to make sure the health
18 and safety of people come first. No site of
19 Illinois should be a dumping ground. Petcoke
20 while there are not that many studies to show all
21 of its health impacts we know that it is a form of
22 particulate matter which has been unequivocally
23 shown to have serious and severe health impacts at
24 various different sizes both PM-10 and PM-2.5 and
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1 smaller particles. Undoubtedly the blackened
2 indoor air filters that our residents are
3 experiencing on the southeast side of Chicago as
4 well as the incidents such as that that happened
5 to be captured on camera in August where tons of
6 this black soot flew into a baseball game that
7 some young children were playing and, mind you,
8 that August incident was not isolated. That just
9 happened to be one that was captured on camera.
10 It is not a one-time event. We appreciate the
11 governor and the IEPA's presentation of this and
12 recognition of this as an emergency.

13 Second point and I'll be brief.
14 However, the rules as drafted do not address it as
15 the emergency that it is. IEPA recognizes in its
16 filing that the only way to adequately control the
17 emissions of petcoke, coal and other fugitives is
18 by enclosure and while we're pleased to hear that
19 KCBX is willing to include enclosure, the rules
20 themselves do not, in fact, require that right
21 away nor do they require that no operations go
22 forward unless and until enclosure is completed.
23 That is the only way that these rules will
24 actually address the emergency properly as it will
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1 actually protect the communities of the southeast
2 side and also of other areas in Illinois where
3 petcoke has increasingly become a problem.

4 Therefore, while we encourage
5 you to adopt emergency rules, we ask that you
6 adopt one which bans all operations of coke and
7 coal bulk facilities unless and until enclosure is
8 complete. Thank you very much.

9 MS. GLOSSER: Thank you, Ms. Cassel.
10 Is there anyone else that wishes to make remarks
11 before the Board? Seeing none, this concludes the
12 time the Board has set aside to allow the public
13 to address the Board. We will now proceed with
14 the items on our agenda.

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1 STATE OF ILLINOIS)
 2) SS.
 3 COUNTY OF COOK)
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5 I, Steven Brickey, Certified Shorthand
 6 Reporter, do hereby certify that I reported in
 7 shorthand the proceedings had at the trial
 8 aforesaid, and that the foregoing is a true,
 9 complete and correct transcript of the proceedings
 10 of said trial as appears from my stenographic
 11 notes so taken and transcribed under my personal
 12 direction.

13 Witness my official signature in and for
 14 Cook County, Illinois, on this _____ day of
 15 _____, A.D., 2014.

16
 17
 18
 19
 20 _____
 21 STEVEN BRICKEY, CSR
 22 8 West Monroe Street
 23 Suite 2007
 24 Chicago, Illinois 60603
 Phone: (312) 419-9292
 CSR No. 084-004675

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