

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In re:)	
)	
BP America Production Company,)	Appeal No. CAA 10-04
Florida River Compression Facility,)	
)	
Permit No. V-SU-0022-05.00)	
)	

**PETITIONER’S OPPOSITION TO MOTION FOR LEAVE
TO FILE AMICUS CURIAE BRIEF IN OPPOSITION**

WildEarth Guardians (hereafter “Guardians”) hereby opposes the American Petroleum Institutes (“API’s”) motion for leave to file an amicus curiae brief in opposition to Petitioner’s Notice of Appeal in the above-captioned matter.

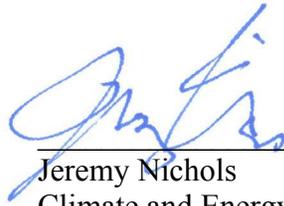
On February 24, 2011, API filed with the Environmental Appeals Board a motion for leave to file an amicus curiae brief in opposition to Guardians’ Petition for Review and a proposed amicus curiae brief (Docs. 11 and 11.01). API’s motion and proposed brief are premature.

In support of its motion, API cites 40 C.F.R. § 124.19(c). Although regulations at 40 C.F.R. § 124 are not directly applicable to appeals of Title V Permits filed pursuant to 40 C.F.R. § 71.11(l), they are instructive in this matter. *See In re Peabody Western Coal Co.*, 12 E.A.D. 22, 33. Importantly, 40 C.F.R. § 124.19(c) provides that amicus briefs are invited only after a petition for review has been granted and only after public notice has been provided so as to allow other interested parties to file such briefs. In this case, the EAB has not granted review, nor has notice of a grant of review been provided so as to allow other interested parties to also file

amicus briefs. It would not only be premature to grant API's motion, it would be prejudicial to other parties wishing to participate in this proceeding as "friends of the court."

Guardians therefore opposes API's current motion for leave to file an amicus curiae brief in this matter and opposes filing of their proposed amicus curiae brief. We request that the EAB either deny API's current motion or withhold judgment on API's motion until resolution of Guardians' Petition for Review.

Respectfully submitted this 1st day of March 2011



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CERTIFICATE OF SERVICE

I certify that on March 1, 2011, I served this Opposition to Motion for Leave to File Amicus Curiae Brief in Opposition by electronic mail and First Class Mail, as appropriate, upon the following parties:

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