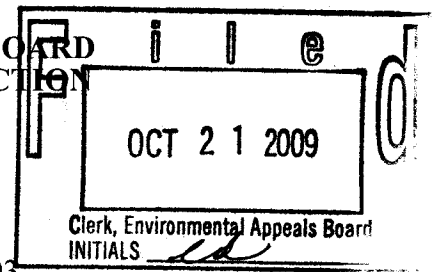


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:

MGP Ingredients of Illinois, Inc.

Permit No. 07030058

PSD Appeal No. 09-03

**ORDER ESTABLISHING FILING DEADLINES FOR CERTIFIED INDEX
OF ADMINISTRATIVE RECORD AND ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY'S RESPONSE BRIEF**

By motion dated August 19, 2009, Illinois Environmental Protection Agency ("IEPA") requested a sixty (60) day extension, until October 20, 2009, in which to file its response to Sierra Club's petition in the above-captioned matter. Motion for Extension of Time to File Response ("Motion") at 2-3. The Clerk of the Environmental Appeals Board ("Board") had instructed IEPA to file a response seeking summary disposition, if any, and relevant portions of the administrative record no later than August 4, 2009. Should IEPA not file a response seeking summary disposition, the Clerk instructed, IEPA's response to the merits of the petition, relevant portions of the administrative record, and a certified index of the entire administrative record was to be filed no later than August 19, 2009. Letter from Eurika Durr, Clerk of the Environmental Appeals Board, U.S. EPA to Douglas P. Scott, Director, IEPA (July 23, 2009). In support of the request for extension of time, IEPA stated:

On August 6, 2009, [IEPA] notified [the Illinois Attorney General's Office ("AGO")] of [the above-captioned] proceeding and requested that the Illinois [AGO] appoint one of [IEPA's] attorneys as a Special Assistant Attorney General to handle the case. In the alternative, [IEPA] requested that the AGO represent [IEPA] in this proceeding.

[] To date, the representational issue for this appeal has not been resolved.

[] Notwithstanding the representational issues, the substance of the [p]etition also makes meeting today's deadline for reply impossible. The IEPA has concluded that a summary disposition of the appeal, in its entirety, is not appropriate. Moreover, the issues raised by the [p]etition, including both that of carbon dioxide regulation and cost-effectiveness, will cover extensive ground and that considerable work in preparing a response will be required, irrespective of the outcome of the representational issue.

* * * *

[] The grant of this extension of the filing date will allow for additional time in which [IEPA] and the AGO can resolve the issue of legal representation and ensure that the [r]esponse fully addresses all of the technical issues raised by [Sierra Club] in [its] appeal.

Motion at 2.

On September 10, 2009, Sierra Club stated that it had "been in contact with counsel for IEPA regarding IEPA's filing of a response as well as [Sierra Club's] request to supplement its Petition." Letter from David C. Bender, McGillivray, Westerberg & Bender LLC, Attorneys for Sierra Club, to Eurika Durr, Clerk of the Environmental Appeals Board, U.S. EPA, at 1 (Sept. 10, 2009) ("Sierra Club Letter"); *see also* Petition for Review and Request for Oral Argument at 4-6 (requesting leave to supplement petition). Sierra Club further stated,

The parties have agreed to jointly propose a schedule to the Board, but are waiting for IEPA to provide a complete response to Sierra Club's Freedom of Information Act request seeking the permit record. Until the record is assembled and provided to the Board and Petitioner, the parties are unable to prepare and submit their additional filings to the Board. Once Petitioner is provided with a copy of the record, the parties will submit a proposed schedule for the Board's consideration.

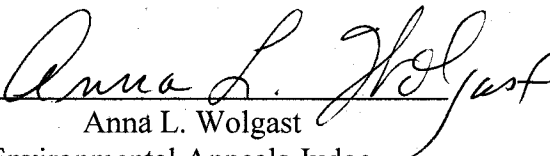
Sierra Club Letter at 1-2.

To date, the Board has not received a response from IEPA, the certified index of the administrative record from IEPA, or a proposed briefing schedule from the parties. In light of IEPA's representations, the Board directs IEPA to file¹ the certified index of the administrative record on or before **Wednesday, October 28, 2009**, and IEPA's response on or before **Thursday, November 12, 2009**.

So ordered.

Dated:

October 21, 2009 ENVIRONMENTAL APPEALS BOARD

By: 
Anna L. Wolgast
Environmental Appeals Judge

¹ Documents are "filed" with the Board on the date they are *received*.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Establishing Filing Deadlines for Certified Index of Administrative Record and Illinois Environmental Protection Agency's Response Brief in the matter of *MGP Ingredients of Illinois, Inc.*, PSD Appeal No. 09-03, were sent to the following persons in the manner indicated:

By U.S. First Class Mail and Facsimile:

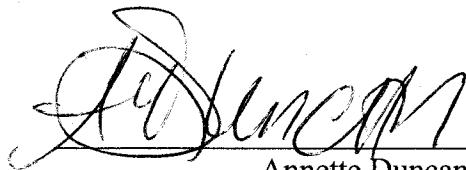
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Date: OCT 21 2009



Annette Duncan
Secretary