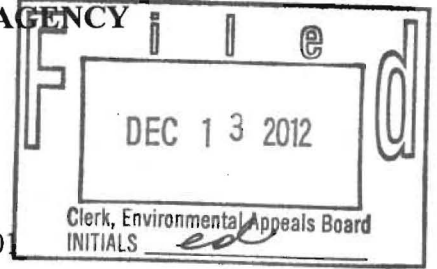


**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, DC**



\_\_\_\_\_)  
In re: \_\_\_\_\_)  
Peabody Western Coal Co. \_\_\_\_\_)  
Permit No. NN-OP-08-010 \_\_\_\_\_)  
\_\_\_\_\_)

CAA Appeal No. 12-01

**ORDER GRANTING PEABODY’S MOTION FOR LEAVE TO FILE RESPONSE TO  
JOINT MOTION OF EPA AND NNEPA FOR SUMMARY DISPOSITION AND  
SETTING FILING DEADLINE**

On November 27, 2012, the Navajo Nation Environmental Protection Agency (“NNEPA”) and the U.S. Environmental Protection Agency, Office of General Counsel, and Region 9 (collectively, “EPA”) filed a joint motion for summary disposition in the above-captioned matter. By motion dated November 27, 2012, Peabody Western Coal Co. (“Peabody”) sought leave to file a response to the NNEPA/EPA joint motion. Peabody Motion for Leave to File a Response (“Motion”). In support of its motion for leave, Peabody states that “the subject motion for summary disposition will be raising procedural matters for the first time in this proceeding.” Motion at 5.

Peabody states that NNEPA does not object to either Peabody’s request to file a response to the motion for summary disposition or the requested filing deadline. *Id.* at 6. Peabody further states that as of the date of its motion for leave, counsel for EPA had not yet replied to Peabody’s inquiry regarding EPA’s position on the motion for leave. *Id.*

After duly considering the matter, the Environmental Appeals Board grants Peabody leave to file a response to the motion for summary disposition. Peabody’s response must not

present matters that do not relate to NNEPA and EPA's joint motion for summary disposition and must be filed on or before December 14, 2012.

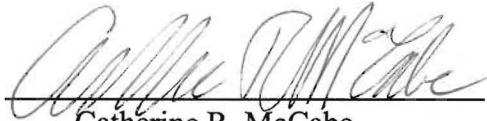
So ordered.

Dated:

12/13/12

ENVIRONMENTAL APPEALS BOARD

By:



Catherine R. McCabe  
Environmental Appeals Judge

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Granting, in Part, Joint Motion of EPA and NNEPA for Extension of Time to File Response to Peabody's Petition for Review** in *In re Peabody Western Coal Co.*, CAA Appeal No. 12-01, were sent to the following persons in the manner indicated:

**By U.S. First Class Mail:**

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Washington, DC 20005

John R. Cline  
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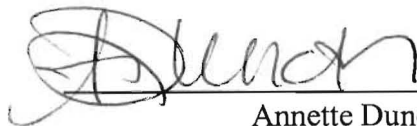
**By EPA Interoffice Mail:**

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Office of General Counsel  
U.S. Environmental Protection Agency  
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Date: DEC 13 2012



Annette Duncan  
Secretary