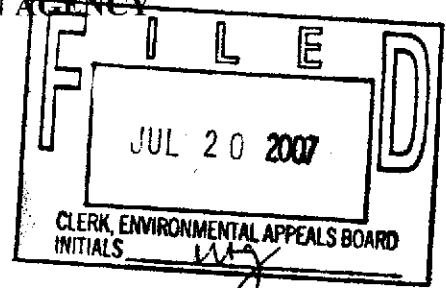


**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**



\_\_\_\_\_) )  
In re: ) )  
Christian County Generation, LLC ) )  
Permit No. 021060ABC ) )  
\_\_\_\_\_)

PSD Appeal No. 07-01

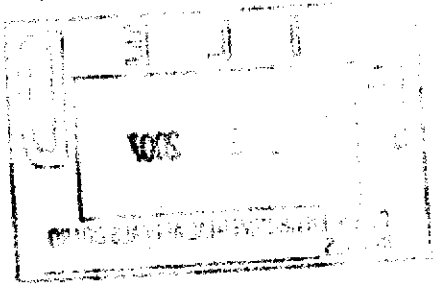
**ORDER REQUESTING THAT EPA'S OFFICES OF  
AIR AND RADIATION AND GENERAL COUNSEL FILE A BRIEF**

By this Order, the Environmental Appeals Board requests that U.S. Environmental Protection Agency's Office of Air and Radiation ("OAR") and Office of General Counsel ("OGC") jointly file a brief addressing issues related to the above-captioned matter. These issues arise in the context of a Clean Air Act prevention of significant deterioration ("PSD") permit decision, Permit No. 021060ACB (the "Permit"), issued by the Illinois Environmental Protection Agency ("IEPA").<sup>1</sup> The Board believes that OAR's and OGC's views on this matter may assist the Board's resolution of this case.

This proceeding was commenced by Sierra Club's petition requesting that the Board review IEPA's decision to issue the Permit. In the petition, Sierra Club raises two issues: 1)

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<sup>1</sup> IEPA administers the Clean Air Act PSD program in Illinois pursuant to a delegation of authority from U.S. EPA Region 5. See 40 C.F.R. §§ 52.21(u), 52.719-.744; see also *Delegation of Authority to State Agencies*, 46 Fed. Reg. 9580 (Jan. 29, 1981). Because IEPA acts as EPA's delegate in Illinois, IEPA's PSD permits are considered EPA-issued permits, and appeals of the permit decisions are heard by the Board pursuant to 40 C.F.R. § 124.19. See 40 C.F.R. § 124.41; see also *In re Prairie State Generating Co.*, PSD Appeal No. 05-05, slip op. at 5 n.1 (EAB Aug. 24, 2006), 13 E.A.D. \_\_\_; *In re Kendall New Century Dev.*, 11 E.A.D. 40, 42 n.1 (EAB 2003).



Sierra Club argues that the Permit must be remanded because it lacks a requisite carbon dioxide (“CO<sub>2</sub>”) emissions limit based on best available control technology (“BACT”), Petition at 3-13; and 2) Sierra Club argues that IEPA failed to consider the collateral impacts of CO<sub>2</sub> in its BACT analysis, Petition at 13-15. Consistent with the Board’s practice in PSD permitting matters, the Board has requested that IEPA provide a response addressing the merits of Sierra Club’s petition no later than August 24, 2007. Letter from Eurika Durr, Clerk of the Board, to Douglas P. Scott, Director, IEPA (July 11, 2007).

After a preliminary examination of Sierra Club’s petition, the Board believes that briefing from OAR and OGC would be helpful in this case, and the Board hereby requests that, on or before Friday, August 24, 2007, OAR and OGC jointly file a brief addressing the two issues identified in Sierra Club’s petition.<sup>2</sup>

So ordered.

Dated: 7/20/07

ENVIRONMENTAL APPEALS BOARD

By: 

Edward E. Reich,  
Environmental Appeals Judge

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<sup>2</sup> This request does not reflect any determination by the Board at this time as to any substantive or procedural issues concerning the appeal.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Requesting that EPA's Offices of Air and Radiation and General Counsel File a Brief, were sent to the following persons in the manner indicated:

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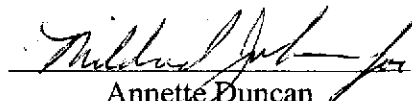
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Dated: JUL 20 2007

  
Annette Duncan  
Secretary