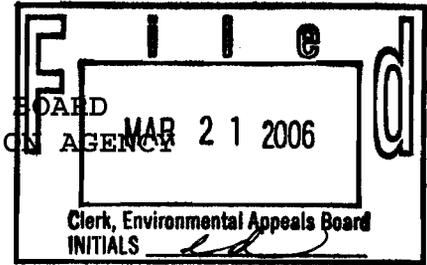


BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.



\_\_\_\_\_)  
In re: )  
Prairie State Generation )  
Company, LLC )  
\_\_\_\_\_)

PSD Appeal No. 05-05

ORDER GRANTING PETITIONERS' REQUEST TO FILE A BRIEF

Before the Environmental Appeals Board at this time is a motion filed by the Petitioners in the above-captioned matter requesting leave to file a brief responding to the Brief of the EPA Office of Air and Radiation and Region 5, which was filed on March 7, 2006 (the "OAR Brief"). Oppositions to Petitioners' request have been filed by (1) the permit applicant, Prairie State, (2) the permit issuer, IEPA, and (3) a group calling itself the Public Power Participants.

Briefly, Petitioners state two grounds for their request: 1) the OAR Brief raises arguments that are "wholly novel to these proceedings;" and 2) the positions taken in the OAR Brief have broad-ranging significance. All of the opposition filings dispute Petitioners' contention regarding whether the arguments are "wholly novel" and they emphasize the need to avoid delay.

Upon consideration, the Board has determined to grant Petitioners an opportunity to file on or before March 31, 2006, a

response limited to the matters discussed in OAR's Brief. In so ruling, the Board does not accept Petitioners' argument that the OAR Brief raised issues "wholly novel" to this proceeding; nor does the Board fully credit the opposition contention that the issues have clearly been fully argued. Petitioners' opportunity to file a response is limited to ten days from the date of this order in recognition of the Board's policy to avoid delay in PSD proceedings.

So ordered this 21<sup>st</sup> day of March 2006.

ENVIRONMENTAL APPEALS BOARD

By: Anna Wolgast  
Anna Wolgast  
Environmental Appeals Judge

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Order Granting Petitioners' Request to File a Brief, PSD Appeal No. 05-05, were sent to the following persons in the manner indicated:

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

Bruce Nilles, Esq.  
Sierra Club  
214 N. Henry Street,  
Suite 203  
Madison, WI 53703  
telephone: (609) 257-4994  
facsimile: (608) 257-3513

Kathy Andria  
American Bottom Conservancy  
614 N. 7<sup>th</sup> Street  
East St. Louis, IL 62201-1372  
telephone: (618) 875-9960  
facsimile: (618) 271-0835

Robb H. Layman, Esq.  
Assistant Counsel  
Illinois EPA  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276  
telephone: (217) 524-9137  
facsimile: (217) 782-9807

Brian Urbaszewski  
American Lung Association  
1440 W. Washington Blvd.  
Chicago, IL 60607  
telephone: (312) 628-0245  
facsimile: (312) 243-3954

Ann B. Weeks, Esq.  
Clean Air Task Force  
18 Tremont Street  
Suite 530  
Boston, MA 02108  
telephone: (617) 624-0234  
facsimile: (617) 624-0230

Verena Owen  
Lake County Conserv. Alliance  
421 Ravine Drive  
Winthrop Harbor, IL 60096  
telephone: (847) 872-1707  
facsimile: (847) 872-1759

Kevin Finto, Esq.  
Hunton & Williams  
Riverfront Plaza East Tower  
951 East Byrd Street  
Richmond, VA 23219  
telephone: (804) 788-8568  
facsimile: (804) 788-8218

Scott M. Turner, Esq.  
Nixon Peabody LLP  
401 9<sup>th</sup> Street, N.W.  
Suite 900  
Washington, DC 20004  
telephone: (585) 263-1612  
facsimile: (585) 263-1600

**By Facsimile and Interoffice Mail:**

Richard Ossias  
Associate General Counsel  
Office of General Counsel  
(MC-2344A)  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001  
telephone: (202) 564-7606  
facsimile: (202) 564-5603

**By Facsimile and EPA Pouch Mail:**

Bertram C. Frey, Acting Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region V  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3507  
telephone: (312) 886-1308  
facsimile: (312) 886-0747

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

John Blair  
Valley Watch  
800 Adams Ave.  
Evansville, IN 47713

Kathleen Logan-Smith  
Health & Environmental Justice  
P.O. Box 2038  
St. Louis, MO 63158

Date:           MAR 21 2006          

  
\_\_\_\_\_  
Annette Durcan  
Secretary