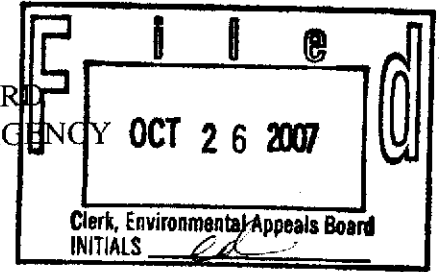


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



)
)
In re: ConocoPhillips Co.)

PSD Appeal No. 07-02

)
)
Permit No. 06050052)

)

ORDER

On August 22, 2007, American Bottom Conservancy and the Sierra Club (“Petitioners”) petitioned the Environmental Appeals Board (“Board”) for review of the Prevention of Significant Deterioration (“PSD”) approval set forth in Permit No. 06050052, which the Illinois Environmental Protection Agency (“IEPA”) issued to ConocoPhillips Company (“ConocoPhillips”) on July 19, 2007. To assist the Board in deciding whether the matters raised by Petitioners should be reviewed, the Board requested that IEPA submit a response to the Petition by September 11, 2007, if that response would seek summary disposition, and by September 26, 2007, for any response not seeking summary disposition. *See* Board’s Letter to Donald P. Scott, Illinois Environmental Protection Agency, Requesting Response to Petition for Review (Aug. 24, 2007).

On September 26, 2007, IEPA submitted a Partial Response to Petition that responds to two procedural issues raised in the petition, and a Motion for Extension of Time to File Response that sought an additional fifty days (until November 15, 2007) to respond to all remaining issues in the Petition. Also on September 26, 2007, the Board received from ConocoPhillips a Motion to Participate, which was granted, and a motion to expedite these proceedings. The Board noted its practice to assign PSD permit appeals the highest priority in its docket, as well as its

obligation to give appropriate consideration to the issues presented to it for resolution, and granted in part IEPA's Motion for Extension of Time to File Response. Ultimately, the Board allowed the IEPA until October 29, 2007, to file any additional response to the Petition.

On October 26, 2007, one business day prior to the due date for IEPA's remaining response, the Board received from counsel for IEPA, via First Class Mail, a second Motion for Extension of time, seeking an additional eight days to complete its response.¹ In support of her motion, counsel declares that, notwithstanding her efforts to complete the response, she will be unable to meet the October 29, 2007 deadline. Counsel further asserts that an additional eight days will ensure that IEPA's response will fully address all of the technical issues raised by the Petitioners in their appeal. Counsel does not indicate, however, whether the motion is opposed. Nor does Counsel acknowledge or make any assertions as to any hardship or prejudice that may result to the permittees, who have been granted the ability to participate in this proceeding and have sought an expedited decision in this case.²

As indicated in the EAB Practice Manual, the EAB expects "motions for extensions of time[] to state whether the opposing party concurs or objects to granting the request set forth in the motion." EAB Practice Manual at 38. The EAB further expects such motions be filed sufficiently in advance of the due date as to allow other parties reasonable opportunity to respond and to allow the EAB reasonable opportunity to issue an order."³ *Id.*

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

² Counsel does state that an extension of time will not result in any hardship or prejudice to the Petitioners, who oppose the permit.

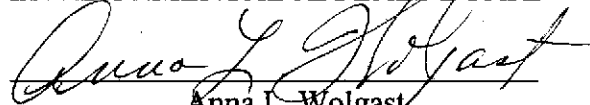
³ In this instance, it appears that all service of this motion was by U.S. Mail; thus it is
(continued...)

Nevertheless, in the interest of obtaining a complete response to the petition from the permitting agency in order for the Board to give appropriate consideration to the issues presented to it for resolution, the Board will grant Counsel for IEPA an additional 4 business days to file a response, or until **Friday, November 2, 2007**. No other extensions of time to file IEPA's response to the petition will be granted. Moreover, the Board directs each party's attention to the Board's Practice Manual, which can be found at: <http://www.epa.gov/eab/pmanual.pdf> for information on Board filing procedures and policies. Additionally, the Board notes that documents may be submitted electronically via the Board's website: www.epa.gov/eab.⁴

So ordered.

Dated: October 24, 2007

ENVIRONMENTAL APPEALS BOARD



Anna L. Wolgast

Environmental Appeals Judge

³(...continued)

unknown to the Board whether the motion will have even been received by opposing counsel prior to the IEPA's October 29th deadline.

⁴ Instructions on registration and document submission are available by using the "Electronic Submission" link on the Board's website. Please note that, at the present time, electronic submissions will not be considered a substitute for filing an original document with the Clerk of the Board. The Clerk of the Board still must actually receive the original document by the document's due date in order for it to be timely filed. However, Agency offices and private parties that use this system for submitting electronic copies will be excused from the requirement to submit multiple paper copies with their original filing.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order, PSD Appeal No. 07-02, were sent to the following persons in the manner indicated.

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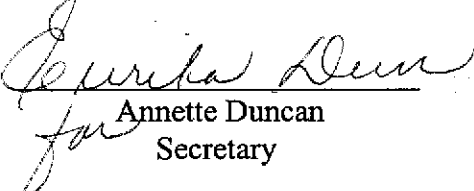
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Dated: 10/26/2007


Annette Duncan
Secretary