

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

IN THE MATTER OF:)
)
MGP INGREDIENTS OF ILLINOIS, INC.) PSD APPEAL NO. 09-03
PERMIT NUMBER 07030058)

**MOTION FOR EXTENSION OF TIME TO FILE CERTIFIED
INDEX OF THE ADMINISTRATIVE RECORD AND RESPONSE**

NOW COMES the Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), by and through its attorneys, and moves the ENVIRONMENTAL APPEALS BOARD (“Board”) for an extension of time to file the certified index of the administrative record in conjunction with the Petition for Review (hereinafter “Petition”) filed by the Petitioner SIERRA CLUB (“Sierra Club”), in the above-captioned matter. In support thereof, the Respondent states:

1. Sierra Club filed its Petition with the Board on or about July 21, 2009, seeking review of a June 22, 2009, Prevention of Significant Deterioration (“PSD”) program permit determination by the Illinois EPA involving MGP Ingredients of Illinois, Inc. (“MGP”).
2. The Clerk of the Board sent a copy of the Petition, together with a cover letter detailing instructions for responding to the appeal to the Illinois EPA on July 23, 2009. The Illinois EPA received the materials on or about July 28, 2009.
3. By the instructions contained in the Board’s cover letter, the Illinois EPA was requested to file a formal Response to the Petition, including any relevant excerpts from the administrative record. Any response seeking summary disposition was to be filed no later than August 4, 2009. In the absence of summary disposition, a formal response was due by August

19, 2009.

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

5. The representational issue was recently resolved and the AGO informed the Illinois EPA that the AGO would be handling this appeal.

6. The AGO was served with a copy of the Board's October 21, 2009 Order establishing filing deadlines for the administrative record and Illinois EPA's Response. A copy of this order was promptly provided to the Illinois EPA.

7. On October 23, 2009, Illinois EPA informed the AGO that it was having both technical and staffing difficulties in preparing the administrative record.


8. The AGO is extremely mindful of the Board's desire to manage its docket and timely adjudicate its appeals pending before it. However, due to the volume of materials comprising the record and the difficulties preparing copies of the record for the parties, as well as the certified index, additional time is needed. Additionally, Respondent will consult with Petitioner on its need to file a supplemental brief in support of its Petition and an appropriate time frame for doing so.

WHEREFORE, the Illinois EPA respectfully requests that the Board grant this Motion for Extension of Time to File the Certified Index of the Administrative Record with the Board no later than Friday

November 20, 2009.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Gerald T. Karr
Senior Assistant Attorney General
Environmental Bureau
69 West Washington Street
Suite 1800
Chicago, Illinois 60602
(312) 814-3369

DATED: October 28, 2009