

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

IN RE: )  
)  
CITY OF SPRINGFIELD ) APPEAL NO.: PSD 06-07  
APPLICATION NO.: 0411005D )  
I.D. NO.: 167120AAO )

**PETITIONER’S RESPONSE TO  
MOTIONS SEEKING SUMMARY DISPOSITION**

Both the IEPA and the City of Springfield have filed responses seeking summary disposition of Maulding’s Petition for Review. Even though all parties seem to agree that the so-called conditional permit conditions were rendered moot by the mere filing of Maulding’s Petition for Review, substantial issues of public policy remain to be reviewed.

This Board should not condone the decision of the IEPA to include clearly improper conditions in a Permit. IEPA included conditions plainly outside the regulatory process because of an agreement between the Permittee and the Sierra Club. The City, in its Statement of Uncontested Facts, characterizes this as a “voluntary” agreement when it is in truth anything but voluntary.

The City entered that agreement only because the Sierra Club threatened to hijack this permit process, holding the City’s permit hostage for so long as possible. The City agreed to pay the ransom rather than suffer the delays threatened by the Sierra Club.

The IEPA notes that this Board’s jurisdiction is limited to “the review of permit conditions that implement the federal PSD program.” That is precisely the point. The IEPA, in its permit issued to the City, strayed far beyond “permit conditions that implement the federal PSD program.” Advertising requirements and internship programs have no place as PSD permit conditions.

The Petition for Review is not a cry for review of the political decision for the Springfield City Council. It is a request for review of the actions of the IEPA incorporating that agreement into this permit process. It is about the IEPA letting the permit process be co-opted by the Sierra Club, who found a public utility silly enough to spend itself \$100 million into a project prior to the issuance of a permit.

The IEPA claims the record supports the imposition of the advertising and internship programs (Motion, page 21, Exhibits G, K, and E).

“However, these additional requirements are reasonably related to the emissions and the air quality and environmental impacts of the proposed project and the City’s activities and may be appropriately included in this permit.”

In other words, they are related because we say they are related. The record contains no factual basis for the conclusion.

The IEPA focuses on decisions which support the ability of a permittee to voluntarily undertake certain commitments. Again, there is a marked difference between a permittee voluntarily assuming obligations on the one hand, and the IEPA and this Board allowing a regulatory permitting process to be co-opted by the Sierra Club.

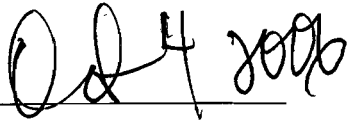
Maulding’s Petition states a serious public policy concern to be addressed by this Board in a full proceeding. The point of public policy is this: To what extent are USEPA and IEPA going to allow the permit process to be used as a bargaining tool by special interests, in this or future proceedings? Petitioner respectfully suggests that Summary Disposition of this Petition for Review will only allow the Sierra Club to once again force agreement from the City. The City will once more be put in the position of paying the ransom to free its permit from this Review Process. This Board should make clear that no party will be allowed to make improper use of the Permit Process.

Petitioner suggests the Motion for Summary Disposition be denied.

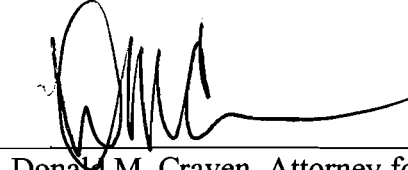
Respectfully submitted,

DAVID MAULDING, Petitioner

Dated:

 02/4/2006

By:



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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served on:

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by placing the same in an envelope clearly addressed, with postage fully prepaid, and by placing said envelope in a U.S. Mailbox on October 4, 2006.



A handwritten signature in black ink, appearing to read 'E. Leifel', is written over a horizontal line.