



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

ENVIRONMENTAL APPEALS BOARD

JAN 14 2010

Mr. Stephen B. Etsitty
Office of the Executive Director
Navajo Nation Environmental Protection Agency
Post Office Box 339
Window Rock, AZ 86515

Re: Peabody Western Coal Company
Permit Number: NN-OP 08-010
Appeal Number: CAA 10-01

Dear Mr. Etsitty:

This is to advise you that the Environmental Appeals Board received on January 7, 2010, a petition filed by John R. Cline, Attorney, John R. Cline, PLLC, on behalf of Peabody Western Coal Company, asking the Board to review a permit determination issued by the Navajo Nation Environmental Protection Agency, in this case .

A copy of the petition and exhibits can be found on the Board's website at http://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/f22b4b245fab46c6852570e6004df1bd/5e09f67502b6f46a852576aa005884ac!OpenDocument. If you have any difficulty accessing this document, please let me know.

To assist the Environmental Appeals Board in deciding whether the matters raised by petitioner should be reviewed, please have your staff prepare a response that addresses the petitioner's contentions and whether petitioner has satisfied the requirements for obtaining review under 40 C.F.R. §71.11. Include relevant portions of the administrative record with the response, together with a certified index of the entire administrative record. Please file an original (signed in blue ink) and two copies of these materials no later than March 1, 2010, and send a copy of the response and the certified index to petitioner with a certificate of service

showing the date and method of service.¹

All documents, including the materials due March 1, 2010, must reference the appeal number. **IMPORTANT:** In addition, any envelope or other packaging containing documents sent to the Environmental Appeals Board's mailing address or hand-delivery address, as prescribed below, must bear a complete and accurate return address in the upper left hand corner. The envelope or packaging must also clearly state the case name and appeal number in the lower left hand corner.

All documents that are sent through the U.S. Postal Service, Express Mail, hand-delivered, via courier must include the name of the organization, address, facsimile number, telephone number, and an email address, if available².

Documents that are sent through the U.S. Postal Service (except by Express Mail) **MUST** be addressed to the Environmental Appeals Board's mailing address which is:

U.S. Environmental Protection Agency
Clerk of the Board
Environmental Appeals Board 1103B
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Documents that are sent to the Environmental Appeals Board's hand-delivery address (below) through the U.S. Postal Service (except by Express Mail) will be returned to the sender and shall not be considered as filed.

¹The Environmental Appeals Board has an innovative system that allows parties to submit copies of documents, including exhibits, electronically in PDF. 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 received 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.

²Mail sent to the Environmental Protection Agency via the U.S. Postal Service may be delayed by a random sterilization procedure applied to mail delivered to the federal government. Parties are encouraged to utilize the Board's e-filing system or non-U.S. Postal Service carriers and the Board's hand-delivery address when filing pleadings with the Board. Additional information regarding mail delivery to the Board is available on the Environmental Appeals Board website (www.epa.gov/eab) at the Clerk of the Board or Frequently Asked Questions.

Documents that are hand-carried in person, delivered via courier, mailed by Express Mail, or delivered by a non-U.S. Postal Service carrier (e.g., Federal Express or UPS) MUST be delivered to:

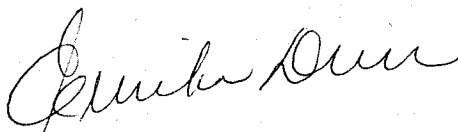
U.S. Environmental Protection Agency
Clerk of the Board
Environmental Appeals Board
1341 G Street, N.W. Suite 600
Washington, D.C. 20005

Documents that are hand-carried may be delivered to the Clerk of the Board from 8:30 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m., Monday through Friday (excluding federal holidays).

A copy of this letter is being sent to the petitioner as notification of these filing requirements.

Thank you for your attention to these matters.

Sincerely,



Eurika Durr
Clerk of the Board

cc: John R. Cline, PLLC
Attorney at Law
P.O. Box 15476
Richmond, VA 23227

Nancy J. Marvel, Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105