

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

IN THE MATTER OF:)
CHRISTIAN COUNTY GENERATION, LLC)
APPLICATION NUMBER: 05040027) **PSD APPEAL: PSD 12-01**
PSD PERMIT NUMBER: 02106ACB)

**CHRISTIAN COUNTY GENERATION, LLC's
MOTION TO EXCLUDE
NATURAL RESOURCES DEFENSE COUNCIL'S AND SIERRA CLUB'S
PETITION FOR REVIEW AND REQUEST FOR ORAL ARGUMENT**

Christian County Generation, LLC (“Christian County”) respectfully requests the Environmental Appeals Board (the “Board”) to exclude the May 30, 2012 Petition for Review and Request for Oral Argument (the “Petition”) filed by the Natural Resources Defense Council and Sierra Club (“Petitioners”). The Illinois Environmental Protection Agency (“IEPA”) issued Christian County a Prevention of Significant Deterioration (“PSD”) Permit (the “Permit”) for the construction of the Taylorville Energy Center on April 30, 2012. Petitions for review of PSD permits are subject to 40 C.F.R. § 124.19 and to the Board’s April 19, 2011 Order Governing Petitions for Review of Clean Air Act New Source Review Permits (“Standing Order”). The Petition is not in compliance with the Standing Order and, therefore, should be excluded and the appeal dismissed with prejudice as a petition satisfying the requirements of the Board was not filed within 30 days of the issuance of the permit as required by 40 C.F.R. § 124.19(a). Counsel for Christian County was unable to determine the positions of Petitioners and the IEPA regarding this motion after making a reasonable effort under the circumstances to do so.

Pursuant to the Standing Order, petitions for review of PSD permits may not exceed 14,000 words or 30 pages without advance leave from the Board to file a longer petition. Standing Order at 2. A request for leave must demonstrate a compelling and documented need

to exceed the word or page limitation. *Id.* The Petition also is to include a statement of compliance with the word limitation. *Id.* Contrary to the Standing Order, the Petition submitted by Petitioners in this matter is 87 pages long and does not include a statement of compliance. There also is no evidence that Petitioners sought or were granted leave by the Board to exceed the word or page limitation as required by the Standing Order.¹ The June 4, 2012 letter from the Clerk of the Board to IEPA with copy to Christian County, however, explicitly references the Standing Order and imposes its requirements on their response to the Petition.²

For the foregoing reasons, Christian County respectfully requests the Board to exclude the Petition filed by Petitioners on May 30, 2012 and deny review of the Permit.

Respectfully submitted,

/S/

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Dated this 11th day of June, 2012

¹ Phone conversation between David Gunn, Hunton & Williams, and the Clerk of the Board on May 31, 2012 confirming receipt of the petition and no other pleadings or motion accompanied the petition. Moreover, the docket available on the Board's web page for this matter does not include such a request or an order from the Board granting leave to exceed the length requirements.

² If the Board allows the Petition in its current non-compliant form, Christian County requests the Board to reconsider the deadline and page limits for responses set forth in the Board's June 4 letter to IEPA and Christian County.

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of June, 2012, copies of the foregoing Motion of Christian County Generation, LLC to Exclude Natural Resources Defense Council's and Sierra Club's Petition for Review and Request for Oral Argument were served by email and first class mail, postage prepaid to:

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