

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

In the Matter of: )

Peabody Western Coal Company )  
Permit No. NN-OP 08-010 )

Appeal No. CAA 10-01

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U.S. ENVIRONMENTAL PROTECTION AGENCY

**JOINT MOTION FOR EXTENSION OF TIME TO FILE RESPONSE**

Pursuant to Sections III.D.7(b) and IV.C.1 of the Environmental Appeals Board (“EAB”) Practice Manual, Respondent Navajo Nation Environmental Protection Agency (“Navajo Nation EPA”) respectfully moves for a 30-day extension of time in which to file its response to the Petition for Review filed by Peabody Western Coal Company (“PWCC”) in the above-captioned matter. Petitioner PWCC joins the Navajo Nation EPA in this motion. In support thereof, the parties state as follows:

1. On January 7, 2010, the EAB received PWCC’s petition for review in this matter.
2. On January 14, 2010, the EAB mailed a letter to the Navajo Nation EPA directing the Navajo Nation EPA to file a response by March 1, 2010.
3. The parties, including the U.S. Environmental Protection Agency (“USEPA”), have scheduled a conference call for February 23, 2010 to address this matter and discuss its possible resolution.
4. The January 14, 2010 EAB letter directing the Navajo Nation EPA to respond to the petition was sent to the Navajo Nation EPA Executive Director’s office. Attorneys for the

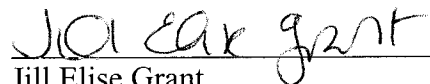
Navajo Nation EPA were not made aware of the letter or the March 1, 2010 response due date until the evening of February 17, 2010.

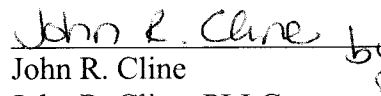
5. In light of the possibility of settlement of this appeal and due to scheduling logistics and the short time frame for preparing the administrative record and the response (considering when Respondent's attorneys learned of the response due date), Respondent Navajo Nation EPA and Petitioner PWCC join in requesting a 30-day extension of the due date for the Navajo Nation EPA's response, which would make the response due on March 31, 2010.

6. The USEPA has an interest in this appeal because the appeal concerns a federally delegated Clean Air Act Title V operating permit, issued pursuant to 40 C.F.R. Part 71. The USEPA concurs in this joint motion for an extension of time.

WHEREFORE, Respondent Navajo Nation EPA and Petitioner PWCC, with the concurrence of USEPA, respectfully request a 30-day extension until March 31, 2010 for the Navajo Nation EPA to file its response to the Petition for Review.

Respectfully submitted this 18th day of February 2010.

  
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Jill Elise Grant  
NORDHAUS LAW FIRM, LLP  
1401 K Street, NW, Suite 801  
Washington, DC 20005  
202-530-1270 (tel)  
202-530-1920 (fax)  
jgrant@nordhauslaw.com

  
\_\_\_\_\_  
John R. Cline  
John R. Cline, PLLC  
P.O. Box 15476  
Richmond, VA 23227  
804-746-4501 (direct & fax)  
john@johnclinelaw.com

## CERTIFICATE OF SERVICE

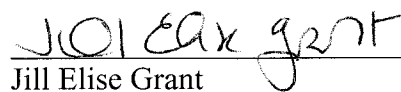
I HEREBY CERTIFY that a copy of this Joint Motion for Extension of Time to File Response was served via first class mail, postage prepaid, on this 18<sup>th</sup> day of February, 2010, upon:

John R. Cline  
John R. Cline, PLLC  
P.O. Box 15476  
Richmond, VA 23227

Peter S. Glaser  
Troutman Sanders LLP  
401 9<sup>th</sup> Street, NW, Suite 1000  
Washington DC 20004-2134

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

Anthony Aguirre  
Asst. Attorney General  
Navajo Nation Department of Justice  
P.O. Box 2010  
Window Rock, AZ 86515

  
\_\_\_\_\_  
Jill Elise Grant