



## SUGGESTION OF LATE FILING

Now comes David Maulding, and respectfully suggests to this Board that the Petition for Review filed by the Sierra Club was filed late, and should be stricken by this Board. Mr. Maulding timely filed his Petition for Review on September 8, 2006. The Sierra Club Petition was filed on September 12, one day after the 30 day time period expired.

The Petition for Review filed by the Sierra Club appears to have been filed out of the time frame established by Section 124.19 (40 CFR 124.19). That section contemplates that any Petition to Review shall be filed within 30 days of the final permit decision. The 30 day period within which a person may request review begins with the service of notice of the Regional Administration's action.

The Permit in this case was issued on August 10, 2006, and section 124.20(a) (40 CFR 124.20(a)) states that the 30 day time period begins on the day after the act or event. The 30 day time period in this case began on August 11, 2006. Thirty days from that date was September 10, a Sunday, which would then roll over to Monday, September 11.

The Sierra Club Petition for Review was filed on September 12, 2006, past the September 11 deadline, and this Board should dismiss the Petition as untimely, or in the alternative should recognize that because the Sierra Club Petition was filed late, this Board is without jurisdiction to process that Petition for Review.

The Sierra Club will no doubt argue that Section 124.20(d) adds a three day grace period to the period for filing the Petition for Review. However, the facts of this case do not meet the requirements to allow the three day notice period to be extended to this filing.

Section 124.20(d) provides:

“Whenever any part or interested person has the right or is required to act within a prescribed period after the service of notice or other paper upon him or her by mail, 3 days shall be added to the prescribed time.”

This time period began to run from the issuance of a permit by IEPA. The service of notice of the action of the Regional Administrator was mailed to the City of Springfield, not to the Sierra Club. The first page of the permit, announcing the issuance of the permit, is attached hereto. (The entire permit is in this record, attached to Mr. Maulding’s Petition for Review). Nowhere on the notice from IEPA does it appear that the notice was mailed to the Sierra Club.

The three day grace period applies, by its own terms, only when the time period begins with service of notice on the interested party. Taking out the superfluous language, that section reads: When an interested party is required to act within a prescribed period after the service of notice upon him or her by mail, add three days. This 30 day notice began on August 11, 2006, the day after the service of notice of issuance of the permit by mail, upon the City of Springfield.

The grace period does not apply, and the Petition for Review from the Sierra Club was not filed in a timely fashion, and should be stricken.

Respectfully submitted,

DAVID MAULDING, Petitioner

A handwritten signature in black ink, appearing to read "Donald M. Craven", written over a horizontal line.

Donald M. Craven, Attorney for Petitioner

Donald M. Craven  
Registration #6180492  
Donald M. Craven, P.C.  
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1005 North Seventh Street  
Springfield, IL 62702  
217/544-1777  
217/544-0713 (Facsimile)  
[don@cravenlawoffice.com](mailto:don@cravenlawoffice.com)

**CERTIFICATE OF SERVICE**

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

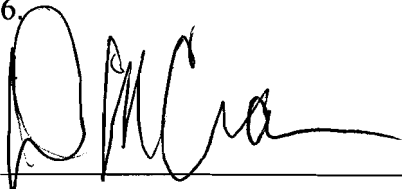
S. David Farris, CIH, CSP  
Environmental Health and Safety Manager  
City of Springfield  
Municipal Center Complex  
800 Monroe Street  
Springfield, IL 62757

Bruce Nilles  
Sierra Club  
122 W. Washington Ave., Suite 830  
Madison, WI 53703

Donald E. Sutton, P. E.  
Manager, Permit Section  
Division of Air Pollution Control, MC-11  
Environmental Protection Agency  
1021 North Grand Avenue, East  
Springfield, IL 62702

Jenifer Johnson  
City of Springfield  
Office of Corporation Counsel  
Municipal Center East, Suite 313  
800 East Monroe Street  
Springfield, IL 62701

by placing the same in an envelope clearly addressed, with postage fully prepaid, and by placing said envelope in a U.S. Mailbox on September 15, 2006.

  
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217/782-2113

CONSTRUCTION PERMIT - PSD APPROVAL  
NSPS EMISSION UNITS

PERMITTEE

City of Springfield  
Attn: S. David Farris, CIH, CSP  
Environmental Health and Safety Manager  
Municipal Center Complex  
800 Monroe Street  
Springfield, Illinois 62757

Application No.: 04110050

I.D. No.: 167120AAO

Applicant's Designation: BLR4

Date Received: November 18, 2004

Subject: Dallman Unit 4

Date Issued: August 10, 2006

Location: City Water Light & Power (CWLP), 3100 Stevenson Drive, Springfield

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission sources and air pollution control equipment consisting of the Dallman Unit 4 project, including a pulverized coal fired boiler with low NO<sub>x</sub> combustion technology, selective catalytic reduction system, scrubber, fabric filter and wet electrostatic precipitator, associated material handling equipment, cooling tower and ancillary equipment, as described in the above referenced application. This Permit is granted based upon and subject to the findings and conditions that follow.

In conjunction with this permit, approval is given with respect to the federal regulations for Prevention of Significant Deterioration of Air Quality (PSD) for this project, as described in the application, in that the Illinois Environmental Protection Agency (Illinois EPA) finds that the application fulfills all applicable requirements of 40 CFR 52.21. This approval is issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the federal regulations promulgated thereunder at 40 CFR 52.21 for Prevention of Significant Deterioration of Air Quality (PSD), and a Delegation of Authority agreement between the United States Environmental Protection Agency (USEPA) and the Illinois EPA for the administration of the PSD Program. This approval becomes effective in accordance with the provisions of 40 CFR 124.15 and may be appealed in accordance with provisions of 40 CFR 124.19. This approval is based upon the findings that follow. This approval is subject to the following conditions. This approval is also subject to the general requirement that the project be developed and operated consistent with the specifications and data included in the application and any significant departure from the terms expressed in the application, if not otherwise authorized by this permit, must receive prior written authorization from the Illinois EPA.

If you have any questions on this permit, please call Shashi Shah at 217/782-2113 (TDD 217/782-9143).

Donald E. Sutton, P.E.  
Manager, Permit Section  
Division of Air Pollution Control

DES:SRS:psj

cc: Region 2  
USEPA Region V