

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

2009 JUL 14 PM 12:25
ENVIRONMENTAL APPEALS BOARD

_____)
In re:)
)
PRESIDIUM ENERGY. LC)
(Lautner # B3-31 SWD)) Permit Number: MI-089-2D-0004
) Appeal Number: UIC 09-01 and
_____) UIC 09-02

MOTION FOR EXTENSION OF TIME

Respondent, Director of Water Division, Region 5, requests that the Environmental Appeals Board ("EAB") grant a 30-day extension of time to file its response to Notice of Appeal filed on behalf of Terry and Linda Novak in the above captioned matter.

Respondent seeks this additional time because and states as follows:

1. That the Petitioners filed a Notice of Permit Appeal on May 18, 2009.

2. That the EAB sent a letter to the Respondent on May 29, 2009, requesting a Response to the Notice of Appeal by July 14, 2009. The letter was not recieved by the Regional Counsel's Office.

3. That after investigation by the Regional Counsel's administrative staff, it was discovered that the document was never logged into the Regional Counsel's office and therefore not received.

4. That only after a meeting with the case engineer on July 8, 2009, did the undersigned Counsel discover that the engineer had in his possession a copy of the above referenced letter dated May 29, 2009, addressed to Bob Kaplan.

5. That this matter was just assigned to the undersigned on July 7, 2009.

6. Because of the complex nature of the matter at hand, more time is needed to obtain all of the documents necessary to provide a full and adequate response.

7. Respondent's counsel believes that a 30-day extension will allow Respondent to provide an adequate response to the Notice of Permit Appeal and will not prejudice the Petitioners.

8. For the reasons set forth above, Respondent respectfully requests that its Motion for Extension of Time to respond to the Notice of Permit Appeal be granted and that the EAB extend the deadline for the filing to August 14, 2009.

Respectfully,



Joseph Williams
Associate Regional Counsel
312-886-6631

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AFFIDAVIT OF ROBERT KAPLAN

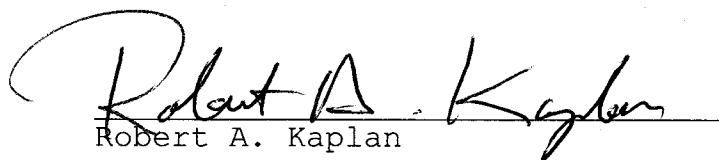
I, Robert A. Kaplan, declare as follows:

1. I am employed by the U.S. Environmental Protection Agency in Region 5 in Chicago, Illinois. I am employed as the Regional Counsel.

2. The letter from the Environmental Appeals Board dated May 29, 2009, addressed to me was never received by me. After careful investigation I could find no record that the letter had been delivered to my office.

3. I declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury that the foregoing is true and correct.

Executed on July 10, 2009.



Robert A. Kaplan
Regional Counsel
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

PRESIDIUM ENERGY, LC
Appeal Numbers UIC 09-01
UIC 09-02

CERTIFICATE OF MAILING AND SERVICE


I hereby certify that today I mailed for filing the original and five copies of a Motion for Extension of Time, an Affidavit of Robert Kaplan, and this Certificate of Mailing and Service via Federal Express to the Clerk of the Board, Environmental Appeals Board, addressed as follows:

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board (MC 1103B)
Colorado Building
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

Today, I also sent via Federal Express one copy of each of the documents submitted above to:

Terry & Linda Novak
8353 E. Boca Vista
Traverse City, MI 49684

Dated: 15 July, 2009


Donald E. Ayres
Paralegal Specialist MM2-4
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Agency, Region 5
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(312) 353-6719