



McGILLIVRAY  
WESTERBERG  
& BENDER LLC

September 10, 2009

ELECTRONIC FILING

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

Re: *In re MGP Ingredients of Illinois, Inc.*  
PSD Appeal 09-03  
Illinois PSD Permit No. 179060AAD

Ms. Durr,

Petitioner, Sierra Club, received a copy of the Illinois Environmental Protection Agency's (IEPA) Appearance, Motion for Leave of Time to File Response, and Motion for Leave to File Motion for Extension of Time Instantly, dated August 19, 2009. This letter is to inform the Board that Petitioner intends to respond, but is waiting for certain information from IEPA.

I have been in contact with counsel for IEPA regarding IEPA's filing of a response as well as Petitioner's request to supplement its Petition. The parties have agreed to jointly propose a schedule to the Board, but are waiting for IEPA to provide a complete response to Sierra Club's Freedom of Information Act request seeking the permit record. *See* Pet. Ex. 6. Until the record is assembled and provided to the Board and Petitioner<sup>1</sup>, the parties are unable to prepare and

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<sup>1</sup> The Board's July 23, 2009, letter to Douglas Scott, Director IEPA, also requested that a copy of the "relevant portions of the administrative record, together with a certified index of the entire administrative record" by August 19, 2009. The record and certified index have not yet been provided to either the Board or to Petitioner.

submit their additional filings to the Board. Once Petitioner is provided with a copy of the record, the Parties will submit a proposed schedule for the Board's consideration.

If anything further is required, please advise. Thank you for your attention to this matter.

MCGILLIVRAY WESTERBERG & BENDER LLC



David C. Bender

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cc: (via U.S. Mail)

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