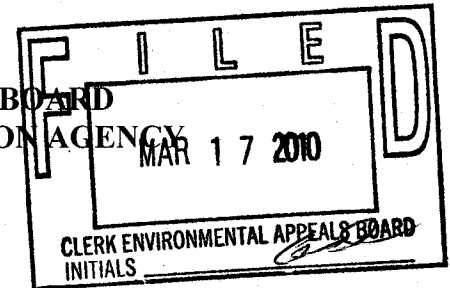


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)
)
Power Holdings of Illinois, LLC) PSD Appeal No. 09-04
)
Permit No. 081801AAF)
)

**ORDER GRANTING MOTION TO FILE REPLY
AND SETTING DEADLINE FOR FILING SUR-REPLIES**

On November 25, 2009, the Sierra Club filed a petition with the Environmental Appeals Board ("Board") seeking review of a Prevention of Significant Deterioration ("PSD") Permit issued by the Illinois Environmental Protection Agency ("IEPA") to Power Holdings of Illinois ("PHIL"). Petition for Review (Nov. 25, 2009). With permission from the Board, PHIL filed a response to the Petition on February 26, 2010. Permittee's Response to Petition for Review (Feb. 26, 2010). IEPA filed a response to the Petition on March 4, 2010. Response to Petition for Review (Mar. 4, 2010).

By Motion filed with the Board on March 10, 2010, the Sierra Club seeks leave to file a reply to the responses filed by PHIL and the IEPA. Motion of Petitioner for Leave to File Reply ("Motion") (Mar. 10, 2010). According to the Motion, "[t]he responses misapprehend or mischaracterize the basis for the petition, incorrectly argue the Sierra Club failed to preserve issues for review, and introduce new evidence regarding, *inter alia*, Administrator Jackson's recent statements regarding greenhouse gas regulation." *Id.* at 2. The Motion requests until

April 5, 2010, to file the reply. The Motion states further that the IEPA does not object to this request.

By submission filed with the Board on March 15, 2010, PHIL objects to the Motion. *See* Permittee's Response to Petitioner's Motion for Leave to Reply (Mar. 15, 2010) ("PHIL's Response"). According to PHIL's Response, the Board should deny the Motion because petitioner fails to demonstrate that a reply is necessary, fails to raise any legitimate grounds supporting the Motion, and inappropriately seeks to re-brief the case. *Id.* at 1-6. PHIL states further that granting the Motion would be prejudicial to the permittee. *Id.* at 6. Should the Board decide to grant the Motion, PHIL requests that it be given an opportunity to file a sur-reply. *Id.* at 6-7.

Upon consideration, the Motion is granted. The Board believes that such additional briefing may be helpful in its consideration of the issues and, as such, may ultimately expedite a final decision. The Sierra Club has until April 5, 2010, to file its reply.¹ PHIL will then have until April 20, 2010, to file a sur-reply. In addition, should IEPA wish to file a sur-reply, it must do so by April 20, 2010. No further briefing will be permitted in this matter except as the Board may request.

So ordered.

Dated: 3/17/10

ENVIRONMENTAL APPEALS BOARD

By: 

Edward E. Reich
Environmental Appeals Judge

¹ Documents are "filed" with the Board on the date they are *received*.

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Order Granting Motion to File Reply and Setting Deadline for Filing Sur-Replies in the matter of Power Holdings of Illinois, LLC, PSD Appeal No. 09-04, were sent to the following persons in the manner indicated:

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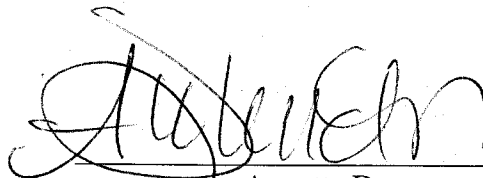
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Annette Duncan
Secretary