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

2006 OCT -5 PM 1: 27

ENVIR. APPEALS BOARD

IN THE MATTER OF:)	APPEAL NUMBER: PSD 06-07
CITY OF SPRINGFIELD)	APPLICATION NUMBER: 04110050
)	PSD PERMIT NUMBER: 16712OAAO

SIERRA CLUB'S MOTION FOR LEAVE TO INTERVENE

Pursuant to 40 C.F.R. § 22.11(a) and the Environmental Appeals Board Practice Manual Section II.H.2, the Sierra Club hereby moves for leave to intervene and to respond to Mr. David Maulding's petition for review. If permitted to intervene the Sierra Club also plans to file a brief in support of the City of Springfield (Permittee) motion for summary disposition on the grounds that Mr. Maulding's petition for review is moot. *See City of Springfield's Response Seeking Summary Disposition and Motion for Summary Disposition*, dated September 28, 2006.

This proceeding began with Mr. Maulding filing a petition for review of the decision by the Illinois Environmental Protection Agency to issue the Permittee a PSD permit to construct a 250 megawatt coal-fired power plant. The final PSD permit includes several provisions that were incorporated at the request of the Permittee and reflect an agreement between the Permittee and the Sierra Club. These permit conditions included enforceable commitments by the Permittee to achieve lower emissions of several regulated pollutants consistent with its vendor guarantees, to undertake significant investments in wind energy and energy efficiency, and to cut the City's carbon dioxide emissions by twenty-five percent by 2012. Each of these permit conditions were designed to protect and to restore air quality, and at the same time combat global

warming. However, Mr. Maulding's filing of a petition for review voided those landmark permit conditions. *See* Permit Condition 1.6.c ("If the issuance of this permit is appealed ...the above requirements [incorporating the Sierra Club/Permittee agreement] ... shall not be effective.").

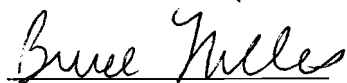
The Sierra Club meets each of the three intervention criteria enumerated in 40 C.F.R. § 22.11(a). First, Sierra Club has a strong "interest relating to the cause of action." *Id.* The Sierra Club's interest in this proceeding is demonstrated by its decision to also file a petition for review of the same permit challenged by Mr. Maulding. *See* PSD Appeal Number 06-08 filed on September 12, 2006. Moreover, Sierra Club has an interest in the Board's disposition of Mr. Maulding's appeal because Sierra Club is involved in similar coal plant PSD permit proceedings in other states, including Missouri, Kentucky and Wisconsin, and the Board's ruling can be expected to be cited authoritatively in those proceedings.

Second, any decision by the Board addressing Mr. Maulding's appeal "may as a practical matter impair [Sierra Club's] ability to protect [its] interests." 40 C.F.R. § 22.11(b). For example, Mr. Maulding raises questions about, *inter alia*, the authority of IEPA to include in a PSD permit a requirement to purchase wind power as an air pollution mitigation measure. *See Maulding Petition for Review* at 9. Sierra Club in its petition for review in the parallel appeal proceeding takes the opposite legal position, namely that the IEPA is required to include in a coal plant PSD permit cost-effective air pollution mitigation measures, including investments in wind energy. *See Sierra Club Petition for Review* at 23-24.

Third, the Sierra Club's interest in this proceeding "is not adequately represented by [the] existing parties." 40 C.F.R. § 22.11(a). As manifested by its decision to file a petition for review of the same PSD permit the Sierra Club interests necessarily differ from the interests of the issuer of the permit (the IEPA) and the Permittee (the City of Springfield). Mr. Maulding does not adequately represent the interests of the Sierra Club as demonstrated by his decision to file an appeal and void the agreement between Sierra Club and the Permittee.

For these reasons, Sierra Club respectfully requests that the Board grant it leave to intervene in this proceeding and that the Board serve all correspondence in this matter upon the Sierra Club's undersigned counsel.

Dated October 4, 2006



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CERTIFICATE OF SERVICE

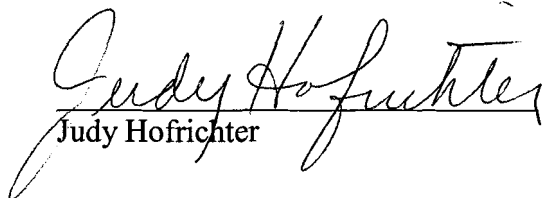
I hereby certify that on the 4th day of October, 2006, service of a true and complete copy of the **Sierra Club's Motion For Leave To Intervene** was made upon the following parties:

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