



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

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FAX COVER SHEET

To: \_\_\_\_\_

Phone: 252-233-0121

From: \_\_\_\_\_

Phone: \_\_\_\_\_

Date: \_\_\_\_\_

Number of pages attached: \_\_\_\_\_

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

IN THE MATTER OF:

MGP INGREDIENTS OF ILLINOIS, INC.  
PERMIT NUMBER 07030058

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)  
)

PSD APPEAL NO. 09-03

**NOTICE**

To:

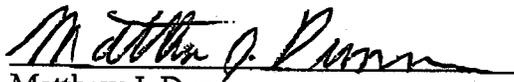
Eurika Durr,  
Clerk of the Board  
Environmental Appeals Board  
U.S. Environmental Protection Agency  
1341 G Street, N.W. Suite 600  
Washington, D.C. 20005

Robert Kaplan  
Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency,  
Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604-3507

David C. Bender  
McGillivray Westerberg & Bender LLC  
305 S. Paterson Street  
Madison, Wisconsin 53703

PLEASE TAKE NOTICE that I have today filed with the Clerk of the Environmental Appeals Board an original (1) and five (5) copies of an **APPEARANCE**, a **MOTION FOR EXTENSION OF TIME TO FILE RESPONSE** and a **MOTION FOR LEAVE TO FILE MOTION FOR EXTENSION OF TIME INSTANTER** of the Respondent, **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**, a copy of which is herewith served upon you.

Respectfully submitted by,



Matthew J. Durr  
Assistant Attorney General

Dated: August 19, 2009  
Illinois Attorney General's Office  
100 West Randolph St.  
12 th Floor  
Chicago, Illinois 60601  
(312)814-2521

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

IN THE MATTER OF: )  
 )  
MGP INGREDIENTS OF ILLINOIS, INC. ) PSD APPEAL NO. 09-03  
PERMIT NUMBER 07030058 )

**APPEARANCE**

NOW COMES Matthew J. Dunn, an Assistant Attorney General for the State of Illinois and enters this appearance on behalf of the Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, in the above-captioned matter.

Respectfully submitted,

  
By: Matthew J. Dunn  
Assistant Attorney General

Dated: August 19, 2009  
Illinois Attorney General's Office  
100 West Randolph St.  
12th Floor  
Chicago, Illinois 60601  
(312)814-2521

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

IN THE MATTER OF: )  
 )  
MGP INGREDIENTS OF ILLINOIS, INC. ) PSD APPEAL NO. 09-03  
PERMIT NUMBER 07030058 )

**MOTION FOR EXTENSION OF TIME  
TO FILE RESPONSE**

NOW COMES the Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA"), by and through its attorneys, and moves the ENVIRONMENTAL APPEALS BOARD ("Board") for an extension of the time to file a Response to the Petition for Review (hereinafter "Petition") filed by the Petitioner, SIERRA CLUB ("Sierra Club"), in the above-captioned matter. In support thereof, the Respondent states:

1. Petitioner filed its Petition with the Board on or about July 21, 2009, seeking a review of a June 22, 2009, Prevention of Significant Deterioration ("PSD") program permit determination by the Illinois EPA involving MGP Ingredients of Illinois, Inc. ("MGP").

2. The Clerk of the Board sent a copy of the Petition, together with a cover letter detailing instructions for responding to the appeal, to the Illinois EPA on July 23, 2009. The Illinois EPA received the materials on or about July 28, 2009.

3. By the instructions contained in the Board's cover letter, the Illinois EPA was requested to file a formal Response to the Petition, including any relevant excerpts from the administrative record. Any response seeking summary disposition was to be filed no later than August 4, 2009. In the absence of summary disposition, a formal response was due by August 19, 2009.

4. On August 6, 2009, the Illinois EPA notified this Office of this proceeding and requested that the Illinois Attorney General's Office ("AGO") appoint one of its attorneys as a Special Assistant Attorney General to handle the case. In the alternative, the Illinois EPA requested that the AGO represent the Illinois EPA in this proceeding.

5. To date, the representational issue for this appeal has not been resolved.

6. Notwithstanding the representational issues, the substance of the Petition also makes meeting today's deadline for reply impossible. The IEPA has concluded that a summary disposition of the appeal, in its entirety, is not appropriate. Moreover, the issues raised by the Petition, including both that of carbon dioxide regulation and cost-effectiveness, will cover extensive ground and that considerable work in preparing a response will be required, irrespective of the outcome of the representational issue.

7. In order to allow for a fully coordinated and considered reply to this Petition, the Illinois EPA requests an extension of time of approximately 60 days in which to file responsive materials with the Board.

8. The grant of this extension of the filing date will allow for additional time in which the Illinois EPA and the AGO can resolve the issue of legal representation and ensure that the Response fully addresses all of the technical issues raised by the Petitioners in their appeal. In addition, an extension of this time period will not result in any hardship or prejudice to the Petitioners.

WHEREFORE, the Illinois EPA respectfully requests that the Board grant this Motion for Extension of Time to File Response to thereby allow the filing of the Response to be served with the Board no later than Tuesday, October 20, 2009.

Respectfully submitted by,

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY,



By: Matthew J. Dunn  
Assistant Attorney General

Dated: August 19, 2009  
Illinois Attorney General's Office  
100 West Randolph St.  
12th Floor  
Chicago, Illinois 60601  
(312)814-2521

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

IN THE MATTER OF: )  
 )  
MGP INGREDIENTS OF ILLINOIS, INC. ) PSD APPEAL NO. 09-03  
PERMIT NUMBER 07030058 )

**MOTION FOR LEAVE TO FILE MOTION FOR  
EXTENSION OF TIME INSTANTER**

NOW COMES the Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA"), by and through its attorneys, and moves the ENVIRONMENTAL APPEALS BOARD ("Board") for leave to file the accompanying Motion for Extension of Time to File Response in the above-captioned matter. In support thereof, the Respondent states:

1. On August 6, 2009, the Illinois EPA notified this Office of this proceeding and requested that the Illinois Attorney General's Office ("AGO") appoint one of its attorneys as a Special Assistant Attorney General to handle the case. In the alternative, the Illinois EPA requested that the AGO represent the Illinois EPA in this proceeding.
2. To date, the representational issue for this appeal has not been resolved.
3. Notwithstanding the representational issues, the substance of the Petition also makes meeting today's deadline for reply impossible. The IEPA has concluded that a summary disposition of the appeal, in its entirety, is not appropriate. Moreover, the issues raised by the Petition, including both that of carbon dioxide regulation and cost-effectiveness, will cover extensive ground and that considerable work in preparing a response will be required, irrespective of the outcome of the representational issue.

4. In order to allow for a fully coordinated and considered reply to this Petition, the Illinois EPA requests an extension of time of approximately 60 days in which to file responsive materials with the Board.

5. The grant of this extension of the filing date will allow for additional time in which the Illinois EPA and the AGO can resolve the issue of legal representation and ensure that the Response fully addresses all of the technical issues raised by the Petitioners in their appeal. In addition, an extension of this time period will not result in any hardship or prejudice to the Petitioners.

WHEREFORE, the Illinois EPA respectfully requests that the Board grant leave to file the accompanying Motion for Extension of Time to File Response to thereby allow the filing of the Response to be served with the Board no later than Tuesday, October 20, 2009.

Respectfully submitted by,

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY,

  
By: Matthew J. Dunn  
Assistant Attorney General

Dated: August 19, 2009  
Illinois Attorney General's Office  
100 West Randolph St.  
12th Floor  
Chicago, Illinois 60601  
(312)814-2521

**CERTIFICATE OF SERVICE**

I hereby certify that on the 19th day of August, 2009, I did send, by express mail for next-day delivery, one (1) original and five (5) copies of the following instruments entitled **LIMITED APPEARANCE, a MOTION FOR EXTENSION OF TIME TO FILE RESPONSE and a MOTION FOR LEAVE TO FILE EXTENSION OF TIME INSTANTER** to:

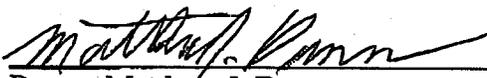
Eurika Durr,  
Environmental Appeals Board  
U.S. Environmental Protection Agency  
1341 G Street N.W. Suite 600  
Washington, D.C. 20005

and a true and correct copy of the same foregoing instruments, by First Class Mail with postage thereon fully paid and deposited into the possession of the United States Postal Service, to:

Robert Kaplan  
Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency,  
Region 5  
Chicago, Illinois 60604-3507

David C. Bender  
McGillivray Westerberg & Bender LLC  
305 S. Paterson Street  
Madison, Wisconsin 53703

A copy of the mailed documents was also faxed to the Clerk of the Board on this same date.

  
By: Matthew J. Dunn  
Assistant Attorney General