



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 17 2006

OFFICE OF  
GENERAL COUNSEL

Ms. Eurika Durr  
Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
1341 G Street NW, Suite 600  
Washington, DC 20005

Re: Prairie State Generation Company, LLC, PSD Appeal No. 05-05

Dear Ms. Durr:

Enclosed for filing with the Environmental Appeals Board in the above-captioned matter is an original and five copies of OGC and Region V's Request for Extension of Time to File Response to Board's December 12, 2005 Order. Copies of this document have been served upon the Petitioners, Respondent, and Intervenor in accordance with the enclosed Certificate of Service.

Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in cursive script that reads "Brian L. Doster".

Brian L. Doster  
U.S. EPA, Air and Radiation Law Office  
(202) 564-1932

Enclosures

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

In re:	)	
	)	
Prairie State Generation	)	PSD Appeal No. 05-05
Company, LLC	)	
	)	
	)	

**REQUEST FOR EXTENSION OF TIME**  
**TO FILE RESPONSE TO BOARD'S DECEMBER 12, 2005 ORDER**

The Office of General Counsel (OGC) and Region V of the Environmental Protection Agency request an additional 60 days to respond to the Environmental Appeals Board's December 12, 2005 Order Requesting EPA's Office of General Counsel and EPA's Region V to File a Brief in the above-captioned matter. This case involves an appeal of a Prevention of Significant Deterioration (PSD) Permit issued by the Illinois Environmental Protection Agency (IEPA) under the Clean Air Act to the Prairie State Generation Company to construct a 1500 MW coal-fired power plant at the mouth of a coal mine. In support of this request, OGC and Region V state the following:

1. In its December 12, 2005 Order, the Board requested that OGC and Region V file a brief addressing several questions raised by Petitioners' arguments that IEPA improperly excluded several pollution control alternatives, including combustion of low-sulfur coal, from the analysis of Best Available Control Technology (BACT) for the proposed facility. In summary, the Board asked OGC and Region V to address the following three issues by January 20: (1) whether IEPA's conclusion that low-sulfur coal is not a potentially applicable control alternative for the proposed facility correctly

applies the statutory definition of BACT and EPA guidance expressing reluctance to require redefining the basic design of the proposed source; (2) the statutory and regulatory basis for EPA's historical views regarding redefining the source; and (3) Petitioners' reliance on EPA briefs in other cases that argued EPA has broad authority to consider and a duty to respond to public comments suggesting alternatives to the proposed facility.

2. The Board's order asks OGC and Region V to address legal and policy questions of nationwide significance that are currently under review in the Office of Air and Radiation, in consultation with OGC and the Regional Offices. OGC and Region V staff are working with the Office of Air Quality Planning and Standards to develop a response that fully reflects the position of EPA. However, the Agency has not yet completed the development of its position, and will need additional time to do so before OGC and Region V will be able to provide a substantive response to the Board's December 12 order. The completion of this process has also been affected to some extent by the limited availability of EPA staff during the intervening holiday period.

3. Based on discussions to date, OGC and Region V anticipate that they will need an additional 60 days to complete intra-agency deliberations and develop EPA's position. The Board's granting of this extension of the filing date will ensure that the response filed by OGC and Region V will be fully informed by the potential ramifications it has for the PSD program and the energy policy of the United States.

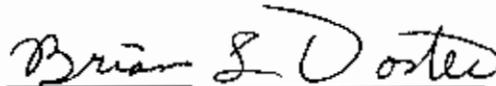
4. Prior to filing this motion, counsel for OGC contacted counsel for Petitioners, counsel for Respondent IEPA, and counsel for Intervenor Prairie State to determine their positions with respect to this extension request. Petitioners take no

position as to this request, and Respondent IEPA does not oppose this request. However, Intervenor opposes this request.

WHEREFORE, OGC and Region V respectfully request that the Board grant this Request for Extension of Time to File Response to the Board's December 12, 2005 Order and thereby allow the filing of the Response no later than March 21, 2006.

January 17, 2006.

Respectfully submitted,



Elliott Zenick

Brian L. Doster

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## CERTIFICATE OF SERVICE

I hereby certify that copies of this Request for Extension of Time to File Response to Board's December 12, 2005 Order were served on the following persons in the manner indicated below:

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A handwritten signature in cursive script that reads "Brian L. Doster". The signature is written in dark ink and is positioned above a horizontal line.

Brian L. Doster