

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BOARD OF TRUSTEES OF)
 EASTERN ILLINOIS UNIVERSITY,)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

PCB 04-110
 (CAAPP Permit Appeal)

NOTICE OF FILING

TO: Mr. John Therriault
 Clerk of the Board
 Illinois Pollution Control Board
 100 West Randolph Street
 Suite 11-500
 Chicago, Illinois 60601
(VIA ELECTRONIC MAIL)

Carol Webb, Esq.
 Hearing Officer
 Illinois Pollution Control Board
 1021 North Grand Avenue East
 Post Office Box 19274
 Springfield, Illinois 62794-9274
(VIA FIRST CLASS MAIL)

(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an **ENTRY OF APPEARANCE OF JOSHUA J. HOUSER** and **PETITIONER'S RESPONSES TO THE ILLINOIS POLLUTION CONTROL BOARD'S REQUESTS FOR ADDITIONAL INFORMATION**, a copy of which is herewith served upon you.

Respectfully submitted,

BOARD OF TRUSTEES OF
 EASTERN ILLINOIS UNIVERSITY,
 Petitioner,

Dated: February 18, 2016

By: /s/ Katherine D. Hodge
 Its Attorneys

Katherine D. Hodge
 Joshua J. Houser
 HEPLERBROOM, LLC
 3150 Roland Avenue
 Springfield, Illinois 62703
 Katherine.Hodge@heplerbroom.com
 Joshua.Houser@heplerbroom.com
 (217) 523-4900

CERTIFICATE OF SERVICE

I, Katherine D. Hodge, the undersigned, certify that I have served the attached ENTRY OF APPEARANCE OF JOSHUA J. HOUSER and PETITIONER'S RESPONSES TO THE ILLINOIS POLLUTION CONTROL BOARD'S REQUESTS FOR ADDITIONAL INFORMATION upon:

Mr. John Therriault
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

via electronic mail on February 18, 2016; and upon:

Carol Webb, Esq.
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Post Office Box 19274
Springfield, Illinois 62794-9274

Sally A. Carter, Esq.
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

by depositing said documents in the United States Mail in Springfield, Illinois, postage prepaid, on February 18, 2016.

/s/ Katherine D. Hodge
Katherine D. Hodge

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BOARD OF TRUSTEES OF)	
EASTERN ILLINOIS UNIVERSITY,)	
)	
Petitioner,)	
)	
v.)	PCB 04-110
)	(CAAPP Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ENTRY OF APPEARANCE OF JOSHUA J. HOUSER

NOW COMES Joshua J. Houser, of the law firm of HEPLERBROOM, LLC, and hereby enters his appearance on behalf of Petitioner, BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY, in the above-referenced matter.

Respectfully submitted,

BOARD OF TRUSTEES OF EASTERN
ILLINOIS UNIVERSITY,
Petitioner,

By: /s/ Joshua J. Houser
Joshua J. Houser

Dated: February 18, 2016

Joshua J. Houser
HEPLERBROOM, LLC
3150 Roland Avenue
Springfield, Illinois 62703
Joshua.Houser@heplerbroom.com
(217) 523-4900

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BOARD OF TRUSTEES OF EASTERN)	
ILLINOIS UNIVERSITY,)	
)	
Petitioner,)	
)	
v.)	PCB 4-110
)	(Permit Appeal – Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

PETITIONER’S RESPONSES TO THE ILLINOIS POLLUTION CONTROL BOARD’S REQUESTS FOR ADDITIONAL INFORMATION

NOW COMES Petitioner, BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY (“Eastern”), and provides the following responses to the Illinois Pollution Control Board’s (“Board”) requests for additional information included in the Board’s January 21, 2016, Order entered in this matter, as follows.

Eastern is committed to addressing the Board’s requests for additional information regarding the status of this proceeding. Eastern also acknowledges the Board’s role in adjudicatory matters and the importance of maintaining an orderly docket. Eastern notes for the Board that, since the filing of its petition in this proceeding, Eastern and the Illinois Environmental Protection Agency (“Illinois EPA”) have been working toward resolving the issues involved in the appeal of Eastern’s Clean Air Act Permitting Program (“CAAPP”) permit at issue in this proceeding. In particular, a primary issue involved in this appeal involved the then-existing steam plant used for heating and cooling buildings on Eastern’s campus in Charleston, Illinois. In an effort to retire the coal-fired boilers at the steam plant and replace that steam plant’s generating capacity while also significantly reducing emissions, Eastern planned the construction of its Renewable Energy Center (“REC”). Eastern also advised Illinois EPA

that, after the construction of the REC was completed, Eastern would apply for a Federally Enforceable State Operating Permit (“FESOP”). The construction of the REC and planned FESOP application are related to, and directly impact, Eastern’s CAAPP permit at issue in this proceeding. As more fully discussed below, Eastern is still working on resolving pending issues with the REC, and the results of those decisions will determine what the next steps will be related to whether Eastern will be submitting an application for a FESOP or a CAAPP permit.

In the mid-2000s, Eastern began evaluating the feasibility of replacing its coal steam plant and determined that replacement of the coal facility, with its environmental impacts, was not the best option for the University. After reviewing feasibility studies, Eastern opted to construct a new biomass-burning facility, the REC. On November 6, 2009, Illinois EPA issued Construction Permit No. 09070002 for the construction of the REC. Construction on the REC began in 2009, and the new facility officially opened in October 2011. The University’s coal-fired boilers ceased operation in December 2010. After the REC was constructed, Eastern began performance testing. Based on initial testing results, Eastern applied for a revision to the REC construction permit, which Illinois EPA issued on April 11, 2014.

During testing of the REC, Eastern had also identified specific issues involving carbon monoxide (“CO”) emissions during startup/shakedown operations. To address these issues, Eastern began preparing an application for an adjusted standard from the state CO standard for submittal to the Board. In support of its application, Eastern conducted extensive performance testing and emissions data collection for the REC during startup/shakedown operations. Based on the data obtained, and due to the unique nature of the REC and the new gasifier-boiler technology involved, Eastern began working with the REC’s vendor to address concerns related to CO emissions and other non-emissions related issues so that startup/shakedown of the REC

could be completed. The gasifier/boilers at the REC have been operating under a very limited schedule, as the systems remain in shakedown mode.

Unfortunately, progress toward a resolution with the REC vendor has not proceeded as expeditiously as desired. In an effort to resolve certain continuing issues, Eastern commenced litigation against the REC vendor in October 2015 and the matter is pending in federal court. *See Bd. of Trs. of E. Ill. Univ. v. Honeywell Int'l, Inc.*, Case No. 2:15-cv-2278 (C.D. Ill. 2015). Then, on December 15, 2015, during a periodic readiness test of one of the gasifier/boilers, a system upset event occurred, resulting in a fire. The fire caused significant damage to equipment and resulted in a setback in resolving the issues with the REC vendor. *See Fire at Eastern Illinois Energy Center to Be Investigated*, Daily Herald (Dec. 19, 2015) (*available at* <http://www.dailyherald.com/article/20151219/news/312199968/>) (last visited Feb. 18, 2016).

Importantly, as noted above, although Eastern's progress toward resolution of the REC issues is now occurring in litigation separate and distinct from this proceeding, the outcome of that litigation will directly impact the resolution of the appealed CAAPP permit. Thus, the issues involved with the REC and associated litigation must be resolved prior to reaching a resolution of the CAAPP permit appeal in this proceeding. Eastern has been progressively working toward a resolution of the REC issues. However, due to the technical and complex nature of the issues involved in the REC, as well as the pending litigation with the REC's vendor, a resolution of these issues has not yet been reached.

Despite these recent setbacks, Eastern is continuing to work on potential construction permitting scenarios and will be meeting with Illinois EPA on March 29, 2016, to review and discuss the same. Eastern remains committed to resolving the issues involved in this proceeding

and reaching a final resolution. To that end, Eastern provides the following responses to the Board's requests for additional information.

1. Explain the progress petitioner is making on its FESOP application.

Answer: Although Eastern has worked on a FESOP application, the setbacks associated with the REC and the REC's vendor have forced Eastern to delay its FESOP application. Although Eastern is handling the REC issues in separate litigation that is not before the Board, for the reasons discussed above, this progress on the REC is also progress toward resolving the permit appeal in this proceeding. Nevertheless, Eastern continues to work on potential construction permitting scenarios, including whether to operate pursuant to a FESOP, and is meeting with Illinois EPA on March 29, 2016.

2. Identify when petitioner will submit the application to IEPA.

Answer: Please see response to #1 above. For the reasons discussed above, Eastern is unable to commit to a specific timeframe for submitting an application to Illinois EPA.

3. What the next steps following submittal of the application would be that will lead to resolution of this case.

Answer: Please see response to #1 above. Due to the pending issues involving the REC and associated litigation, Eastern is still working on potential construction permitting scenarios with Illinois EPA. The results of those decisions will determine what the next steps will be related to whether Eastern will be submitting an application for a FESOP or a CAAPP permit.

4. Comment on whether the Board should set this case for hearing at the next status conference.

Answer: For the reasons discussed above, especially due to the pending litigation in federal court and the implications from that proceeding on the instant CAAPP permit appeal,

Eastern maintains its position that a hearing would be premature at this time and an inefficient use of Board and Illinois EPA resources.

As discussed above, Eastern is actively progressing toward a resolution of the REC issues through pending litigation in federal court with the REC's vendor. In the meantime, Eastern is also working with Illinois EPA on potential construction permitting scenarios. After Eastern has resolved those issues, the parties can then proceed with resolving the CAAPP permit issues in this proceeding, as well as any other permitting decisions for Eastern's operations.

Respectfully submitted,

BOARD OF TRUSTEES OF
EASTERN ILLINOIS UNIVERSITY,
Petitioner,

Dated: February 18, 2016

By: /s/ Katherine D. Hodge
Katherine D. Hodge

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HEPLERBROOM, LLC
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Springfield, Illinois 62703
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