

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
GREEN POWER LLC	)	
Petitioner,	)	PCB 27-
	)	
v.	)	(Permit Appeal-Ninety-Day
	)	Extension)
ILLINOIS ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
Respondent.	)	

NOTICE OF FILING

To: See attached Service List

PLEASE TAKE NOTICE that I have today electronically filed **PETITIONER'S REQUEST FOR NINETY-DAY EXTENSION OF APPEAL PERIOD** with the Illinois Pollution Control Board, copies of which are served upon you.

Dated: September 10, 2026

Respectfully submitted,
GREEN POWER LLC
Petitioner

By: /s/ John J. Kim
Attorney for Petitioner

John J. Kim
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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that a true copy of the foregoing Notice of Filing and Petitioner's Request for Ninety-Day Extension of Appeal Period was electronically filed on September 10, 2026 with the following:

Don Brown, Clerk
Illinois Pollution Control Board
60 East Van Buren St., Suite 630
Chicago, IL 60605
don.brown@illinois.gov

and that a copy was sent via e-mail on September 10, 2026 to the parties on the service list.

Dated: September 10, 2026

Respectfully submitted,

Green Power LLC
Petitioner

By: /s/ John J. Kim
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	)	Extension)
ILLINOIS ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
Respondent.	)	

PETITIONER'S REQUEST FOR NINETY-DAY EXTENSION
OF APPEAL PERIOD

NOW COMES Petitioner, Green Power LLC ("Green Power"), and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board ("Board") grant an extension of the thirty-five (35) day period to December 10, 2026, for petitioning for an appeal of the final decision of the Illinois Environmental Protection Agency ("Illinois EPA") to deny an air construction permit for Green Power. In support thereof, Green Power respectfully states as follows:

1. On or about August 6, 2026, the Illinois EPA issued a final decision to the Petitioner via certified mail. See Attachment 1.
2. Petitioner received the final decision from Illinois EPA on or about August 7, 2026, by electronic mail.
3. Pursuant to Section 40(a)(1) of the Act, Petitioner's current deadline to appeal the permit decision is September 11, 2026.
4. On September 10, 2026, Illinois EPA, through its Chief Legal Counsel, Andrew Armstrong, responded stating the Illinois EPA was amenable to the extension of the permit appeal period and to joining in the request.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five-day period for petitioning for a hearing so that the new deadline for filing a timely appeal is December 10, 2026.

Dated: September 10, 2026

Respectfully submitted,

Green Power LLC
Petitioner

By: /s/ John J. Kim
Attorney for Petitioner

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Illinois Environmental Protection Agency

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JB Pritzker, Governor

James Jennings, Director

217/785-1705

CERTIFIED MAIL

7012 0470 0001 3004 2948

PERMIT DENIAL

August 6, 2026

Green Power LLC
Attn: Ben Marquis, Manager
7419 W. Power Plant Road
Hennepin, Illinois 61327

I.D. No.: 155010ABK
Application No.: 26040017
Date Received: April 30, 2026
Construction of: Ethanol Plant
Location: 7419 W. Power Plant Road, Hennepin

The Illinois EPA has reviewed your application for Construction Permit for the above-referenced project. The permit application is DENIED because if the permit were issued, as requested by the applicant, it might violate various Sections in the Illinois Environmental Protection Act (Act) and various provisions in Illinois' regulations pursuant to the Act. The Sections of the Act that might be violated include Sections 9(a), 9.1(d), and 39(a). The provisions of the relevant Illinois regulations, i.e., Title 35, Subtitle B (Air Pollution) of the Illinois Administrative Code (IAC), that might be violated include 35 IAC 201.150 (Circumvention), 35 IAC 201.160(a)(1) (Standards for Issuance) and 35 IAC Part 204 Subpart F (Prevention of Significant Deterioration).

1. As part of the review of this application, the Illinois EPA must determine whether Green Power LLC should be treated as a single stationary source with other sources located on contiguous or adjacent property. An evaluation of single source status is required for a source seeking a state construction permit under Section 39(a) of the Act [415 ILCS 5/39(a)]. This evaluation is undertaken by the Illinois EPA on a case-by-case basis and is based on three criteria: 1) the source, or group of sources, is located on one or more contiguous or adjacent properties; 2) the source, or group of sources, is under common control of the same person (or persons under common control); and 3) the source, or group of sources, belongs to a single major industrial grouping. See generally, 415 ILCS 5/39.5(2) – definition of "Source" and 35 IAC 211.6130 – definition of "Source."¹

¹ "Source" means any stationary source (or any group of stationary sources) that are located on one or more contiguous or adjacent properties that are under common control of the same person (or persons under common control) and that belongs to a single major industrial grouping. For the purposes of defining "source," a stationary source or group of stationary sources shall be considered part of a single major industrial grouping if all of the pollutant emitting activities at such source or group of sources located on contiguous or adjacent properties and under common control belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987 (incorporated by reference in 35 Ill. Adm. Code 218.112 and 219.112), or such pollutant emitting activities at a stationary source (or group of sources) located on contiguous or adjacent properties and under common control constitute a support facility as defined in Section 39.5 of the Environmental Protection Act [415 ILCS 5/39.5]. The determination as to whether any group of stationary sources are located on contiguous or adjacent properties, and/or are under common control, and/or whether the pollutant emitting activities at such group of stationary sources constitute a support facility shall be made on a case-by-case basis [415 ILCS 5/39.5].

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Page 2

2. The Illinois EPA finds that the proposed construction of the ethanol manufacturing facility by Green Power LLC would be located within the same industrial complex as Marquis Energy LLC, and other related entities. The proposed facility would also share the same two-digit source industrial classification (SIC) as Marquis Energy LLC. These points are acknowledged in Green Power LLC's application materials, received April 30, 2026, June 11 and 18, 2026, and July 9, 2026.
3. The Illinois EPA also finds Green Power LLC and Marquis Energy LLC would be under common control of Marquis Master Holdings LLC, and therefore Green Power LLC and the various limited liability entities affiliated with Marquis Master Holdings LLC at the site should logically be considered a single source for purposes of the Act's air permitting requirements. This is because the relationship between Green Power LLC and the Marquis-related entities is one that resembles a family-based, closely held ownership structure that effectively belies the existence of separate sources.
4. The meaning of "under common control" is not statutorily defined, however, the United States Environmental Protection Agency (USEPA) has generally construed the term to mean the power or authority by one entity over another entity with respect to air pollution requirements.² Stated another way, "control" is the "power or authority of one entity to dictate a specific outcome at another entity" in a way that affects the "applicability of, or compliance with, air permitting requirements."³ USEPA has also previously observed in the preamble to the PSD regulations that it is guided by the definition of "control" employed by the Securities and Exchange Commission (SEC), which historically defines the term as "the possession, direct or indirect, of the power to direct or cause the direction of management and policies of a permit, whether through ownership of voting securities, by contract, or otherwise."⁴
5. Green Power LLC would be located within the same 3,000+ acre industrial complex as Marquis Energy LLC. Green Power LLC has entered into an Option to Lease Agreement with Marquis Land Holdings LLC (one of the various limited liability entities affiliated with Marquis Master Holdings LLC), the owner of property located at Section 3, Township 32 North, Range 2 West of the Third Principal Meridian.
6. Based on materials provided by the applicant, Green Power LLC is a manager-managed LLC consisting of three members of the Marquis family, all of whom currently draw salaries and possible benefit packages from LLC entities that are owned by Marquis Master Holdings LLC. Green Power LLC is equally composed of two entities, Green Power JBT LLC and Green Power MDA LLC. Green Power JBT LLC and Green Power MDA LLC are owned, respectively, by three trusts established for the benefit of Marquis family members. The predominant share of interest in both Green Power JBT LLC and Green Power MDA LLC is

² See, USEPA's Meadowbrook Energy, LLC and Keystone Sanitary Landfill, Inc. letter, dated April 30, 2018. See also, USEPA's Source Definition Issue for KN/Power/Front Range Energy Associates, LLC/PSCo Generating Facility letter, dated October 1, 1999.

³ Id.

⁴ 45 Fed. Reg. 59874, 59878 (September 11, 1980) (quoting 17 C.F.R. 210.1-02(g)(1980)).

held by three Marquis family members, who are not the family members that serve as the managing heads of Green Power LLC, but rather are the family members that also control Marquis Master Holding LLC.

7. Overall, the structure of the companies is such that the managing heads of the Marquis-related entities hold a greater share of interest in Green Power LLC than those family members who serve as its managers. This ownership structure creates a presumption that decision-making on matters such as air pollution compliance and permitting is likely to be held or directed by the managing heads of Marquis rather than the managing family members overseeing Green Power LLC.⁵ Green Power LLC and Marquis Energy LLC therefore are “under common control” for purposes of the Act and implementing regulations. Because this type of ownership structure is clearly incompatible with the notion of separate legal entities operating at arms-length and managing their respective air pollution obligations, Green Power LLC must be considered a single source with Marquis Master Holdings LLC, the owner of Marquis Energy LLC and other related entities currently operating at the site.
8. When Green Power LLC and Marquis Master Holdings LLC and related entities are considered as a single stationary source for air permitting purposes, the Illinois EPA concludes that the application does not demonstrate compliance with the requirements of Sections 9(a) and 9.1(d) of the Act and 35 IAC Part 204, Subpart F and 35 IAC Part 201.160(a).
 - a. In particular, the application does not provide that if this project were to be permitted it would not trigger the applicability requirements of 35 IAC 204.800(a), providing that the requirements of Part 204 apply to the construction of any new major stationary source (as defined in Section 204.510) or any project at an existing major stationary source in an area designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the [Clean Air Act].
 - b. Nor does the application show that if this project were to be permitted it would meet the applicable requirements of Section 204.800(b) and (c) providing that the requirements of Sections 204.1100 (control technology review), 204.1110 (source impact analysis), 204.1130 (air quality analysis) and 204.1140 (additional impact analysis) shall be met prior to beginning actual construction of any major modification at any existing major stationary source.
 - c. Given that application does not demonstrate compliance with the requirements of Section 9.1(d) of the Act and 35 IAC Part 204, the application does not demonstrate compliance with Section 9(a) of the Act and 35 IAC 201.160(a)(1) providing that no construction permit shall be granted unless the applicant submits proof to the Illinois EPA that the emission unit or air pollution control equipment will be constructed or modified to operate so as not to cause a violation of the Illinois

⁵ See, USEPA's Jacques Compressor Station letter, dated July 23, 2019.

Page 4

Environmental Protection Act or of Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board.

9. Because Green Power LLC and Marquis Master Holdings LLC and related entities constitute a single stationary source rather than separate entities operating at arms-length with one another, the application appears to violate the regulatory prohibition against circumvention of the Illinois PSD requirements, as cited above. The Pollution Control Board's air pollution regulations in Subtitle B, Air Pollution, Part 201 of Title 35 provide:

"no person shall cause or allow the construction or operation of any device or any means, including the creation or use of any corporations or other business entities having interlocking directorships or substantially identical ownerships, which, without resulting in a reduction in the total amount of any air contaminant emitted, conceals, dilutes or permits air contaminant emissions which would otherwise violate these regulations (emphasis added)."⁸

By creating limited liability companies and by seeking an application for a construction permit of a proposed facility that would effectively comprise a single stationary source with Marquis Master Holdings LLC and its related entities, Green Power LLC could evade PSD requirements that would otherwise apply to the proposed project.

The Illinois EPA will be pleased to review a reapplication for this permit that includes the necessary information and documentation to correct deficiencies noted above. In accordance with 35 IAC 201.152, this reapplication may incorporate by reference the data and information submitted to the Illinois EPA in the original permit application, provided that you certify that the data and information previously submitted remains true, correct and current. The reapplication will be considered filed on the date it is received by the Illinois EPA and will constitute a new permit application for purposes of Section 39(a) of the Act. One copy of this information must be submitted and should reference the application and ID numbers assigned above.

If you have any questions on this matter, please call Jack Sharba at 217/785-9250.

William D. Marr JMS 8/6/2026

William D. Marr
Manager, Permit Section
Bureau of Air

WDM:JGS:tan

⁸ See, 35 IAC 201.150 (Circumvention) (emphasis added).