

ORIGINAL
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 99-134
)	
PEABODY COAL COMPANY, a Delaware)	
corporation,)	
)	
Respondent.)	

JOINT MOTION FOR DEFINITE AND LIMITED STAY OF PROCEEDINGS

Complainant, People of the State of Illinois ("People") and Respondent, Peabody Coal Company ("PCC"), hereby move the Board for a stay of all proceedings in this matter for a period of time to and including December 1, 2003, so that the parties may concentrate on efforts to settle this case, and in support of this motion state as follows:

1. Since active litigation of this case resumed in January 2001, the parties have developed a great deal of information regarding the issues raised by the People's claims against PCC and PCC's defenses thereto, both through the substantial amount of formal discovery conducted by both parties and through the parties' informal exchanges of additional information. Furthermore, the parties have engaged in serious discussions regarding the information that has been developed, its significance in connection with the issues presented in this case, and their views regarding the merits of the People's claims and PCC's defenses.

2. Moreover, the parties have engaged in serious discussions regarding possible terms of a settlement of this case over the past several months and now agree that this case has developed to the point that there is a substantial possibility that the parties can resolve the case (or at least

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certain major, significant aspects of it) at this time by agreement. However, there are some further exchanges of information and discussions that must take place in order for the parties' settlement discussions to lead to settlement.

3. Under the scheduling order that is currently in effect in this case, the parties must devote substantial amounts of time in the immediate future to completing discovery relating to expert witnesses. Furthermore, Respondent contends that the discovery that the parties have carried out to date suggests the need for substantial additional discovery designed to elicit factual information relevant to the issues presented in this case. Moreover, the parties are presently involved in a major discovery dispute that involves competing motions now pending before the Board for resolution by its presiding Hearing Officer. Additionally, Complainant states that it continues to be involved in substantial production responsive to existing requests.

4. Under these circumstances, the parties agree that it would be in the best interests of both the parties and the Board for the parties to focus their efforts and resources at this time on settlement efforts, rather than discovery activities. However, the parties agree that this should not be an open-ended process and that the parties also should be able to determine by the end of November whether (and, if so, to what extent) their settlement efforts have succeeded. Accordingly, the parties agree that it would be appropriate and just for the Board to stay all proceedings in this case for the definite and limited period of time ending December 1, 2003 in order to afford the parties an opportunity to devote their efforts relating to this case to the goal of achieving settlement.

5. For the reasons stated above, the People and PCC respectfully request the Board to grant this Motion, to stay all proceedings in this case for a period of time ending December 1, 2003, and to grant them all further appropriate relief.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

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Attorney General of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement Division

Date: 9/9/03

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By its attorneys:

Date: Sept 9, 2003

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Pollution Control Board

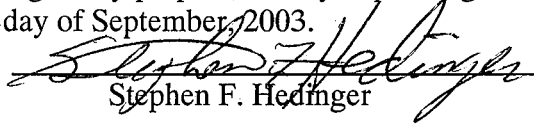
PEOPLE OF THE STATE OF ILLINOIS,)
Complainant,)
v.) PCB 99-134
PEABODY COAL COMPANY, a Delaware)
corporation,)
Respondent.)

NOTICE OF FILING AND PROOF OF SERVICE

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PLEASE TAKE NOTICE that on the 9th day of September, 2003, we sent to the Clerk of the Pollution Control Board the original and 3 copies of the Joint Motion for Definite and Limited Stay of Proceedings for filing in the above entitled cause.

The undersigned certifies that a true and correct copy of the above-described document was served upon the above-identified individuals via U.S. mail by enclosing the same in envelopes properly addressed, with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office mail box, on the 9th day of September, 2003.


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THIS FILING IS SUBMITTED ON RECYCLED PAPER