

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

KINCAID GENERATION, L.L.C., )

Petitioner, )

v. )

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )

Respondent. )

PCB 2006-62  
(CAAPP Permit Appeal)

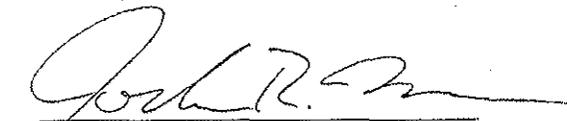
NOTICE

To: Dorothy Gunn, Clerk  
Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street  
Suite 11-500  
Chicago, Illinois 60601  
Chicago, Illinois 60601

Robb Layman, Assistant Counsel  
Sally Carter, Assistant Counsel  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Pollution Control Board **RESPONSE TO AGENCY MOTION FOR LEAVE TO FILE THE ADMINISTRATIVE RECORD ON A SET OF COMPACT DISCS**, copies of which are herewith served upon you.

  
Joshua R. More

Dated: February 2, 2006

Dated: February 2, 2006

SCHIFF HARDIN LLP  
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Petitioner,	)	
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**RESPONSE TO AGENCY MOTION FOR LEAVE TO FILE THE  
ADMINISTRATIVE RECORD ON A SET OF COMPACT DISCS**

Petitioner, KINCAID GENERATION, L.L.C. ("Petitioner"), by and through its attorneys, submits this Response to Respondent ILLINOIS ENVIRONMENTAL PROTECTION AGENCY's (the "Agency") motion for leave to file the administrative record on a set of compact discs. In support of this Response, the Petitioner states as follows:

1. On November 2, 2005, attorneys for the Petitioner filed this appeal with the Illinois Pollution Control Board ("Board") challenging certain permit conditions contained within the Clean Air Act Permit Program ("CAAPP") permit issued with respect to Petitioner by the Agency on September 29, 2005.
2. On November 17, 2005, the Board accepted Petitioner's request for hearing and ordered the Agency to file the entire record of its determination within 30 days of the receipt of the Petition.

3. On December 1, 2005, the Agency filed a Motion for Extension of Time to File the Record with the Board. Petitioner filed a response to that motion on or about December 15, 2005. The Board has not yet ruled on the Agency's Extension Motion.

4. The Agency is now requesting that it be granted leave to file the administrative record on a set of compact discs.

5. Petitioner has no objection to the filing of the administrative record on compact discs provided that Petitioner is not precluded from seeking and timely obtaining from Respondent complete and legible paper copies of documents that Petitioner or Petitioner's counsel are unable to obtain from the compact discs. For example, Petitioner should be permitted to timely obtain from Respondent, upon request to Respondent, complete, legible paper copies of any documents that have not been properly scanned or any documents that Petitioner or Petitioner's counsel are unable to open or read because of technical or other electronic issues.

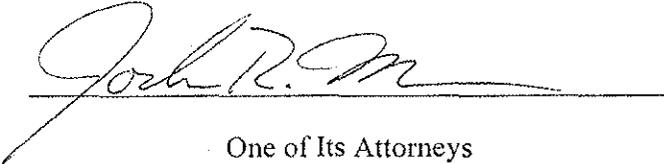
6. That Petitioner does not oppose, on the conditions set forth above. Petitioner's decision not to oppose, on the conditions set forth above, is not to be construed as a waiver of Petitioner's right to timely obtain hard copies of those documents that Petitioner is unable to obtain in complete and legible form from the compact discs.

For the foregoing reasons, Petitioner does not object to Respondent's request that the Board allow the Respondent to file the administrative record on a set of compact discs, provided that Petitioner is permitted to seek and timely obtain from Respondent complete and legible paper copies of any documents that Petitioner or Petitioner's counsel are unable to obtain in a complete and legible form from the compact discs.

Respectfully submitted,

KINCAID GENERATION, L.L.C

by:

  
One of Its Attorneys

Dated: February 2, 2006

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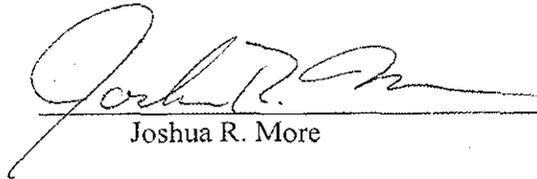
CERTIFICATE OF SERVICE

I hereby certify that on the 2<sup>nd</sup> day of February 2006, I did serve, by electronic filing, by electronic mail, and by U.S. Mail postage prepaid, a true and correct copy of the attached **RESPONSE TO AGENCY MOTION FOR LEAVE TO FILE THE ADMINISTRATIVE RECORD ON A SET OF COMPACT DISCS**, upon the following persons:

Dorothy Gunn, Clerk  
Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street  
Suite 11-500  
Chicago, Illinois 60601  
Chicago, Illinois 60601

Robb Layman, Assistant Counsel  
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