

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF:

COAL COMBUSTION WASTE (CCW) AND  
SURFACE IMPOUNDMENTS AT POWER  
GENERATING STATIONS: PROPOSED  
NEW 35 ILL. ADM. CODE 841

)  
)  
) R14-10  
) (Rulemaking – Water)  
)  
)

**NOTICE OF FILING**

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

Mr. Tim Fox  
Hearing Officer  
Illinois Pollution Control Board  
100 W. Randolph Street  
Suite 11-500  
Chicago, Illinois 60601  
(VIA ELECTRONIC MAIL)

**(SEE PERSONS ON THE 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 KATHERINE D. HODGE** and **THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP'S MOTION TO EXTEND THE STAY**, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
REGULATORY GROUP,

Dated: May 16, 2016

By: /s/Katherine D. Hodge  
One of Its Attorneys

Katherine D. Hodge  
HEPLERBROOM, LLC  
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Springfield, Illinois 62703  
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Antonette R. Palumbo  
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**CERTIFICATE OF SERVICE**

I, Katherine D. Hodge, the undersigned, hereby certify that I have served the attached  
ENTRY OF APPEARANCE OF KATHERINE D. HODGE and THE ILLINOIS  
ENVIRONMENTAL REGULATORY GROUP'S MOTION TO EXTEND THE STAY, upon:

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

via electronic mail on May 16, 2016; and upon:

Mr. Tim Fox  
Hearing Officer  
Illinois Pollution Control Board  
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depositing said documents in the United States Mail, postage prepaid, in Springfield, Illinois, on

May 16, 2016.

/s/Katherine D. Hodge

Katherine D. Hodge

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**ENTRY OF APPEARANCE OF KATHERINE D. HODGE**

NOW COMES Katherine D. Hodge, of the law firm HEPLERBROOM, LLC, and hereby enters her appearance in this matter on behalf of the Illinois Environmental Regulatory Group.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
REGULATORY GROUP

Dated: May 16, 2016

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

Katherine D. Hodge  
HEPLERBROOM, LLC  
3150 Roland Avenue  
Springfield, Illinois 62703  
(217) 523-4900

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**THE ILLINOIS ENVIRONMENTAL  
REGULATORY GROUP'S MOTION TO EXTEND THE STAY**

NOW COMES the ILLINOIS ENVIRONMENTAL REGULATORY GROUP ("IERG"), by and through its attorneys, HEPLERBROOM, LLC, and pursuant to 35 Ill. Admin. Code § 101.514, hereby requests that the Illinois Pollution Control Board ("Board") grant this Motion to Extend Stay of the Proceeding for an additional thirty (30) days, or until July 15, 2016.

IERG is an Illinois non-profit corporation affiliated with the Illinois Chamber of Commerce. IERG is comprised of fifty-three (53) member companies that are regulated by governmental agencies that promulgate, enforce, or administer environmental laws, rules, regulations, or other policies. One of IERG's primary roles is to represent the interests of its members in rulemakings before the Illinois Pollution Control Board. Several of IERG's members will be impacted by this proceeding.

The Illinois Environmental Protection Agency ("Illinois EPA") filed its Motion to Extend the Stay on March 4, 2016, in addition to a Status Report, as directed by the Board in its November 5, 2015, Order. On March 16, 2016, IERG filed its response in Support of Illinois EPA's request for an extended stay. The Board granted the stay until June 15, 2016, and directed that the Illinois EPA submit a status report by July 15, 2016. Board Order, R14-10 (Ill.Pol.Control.Bd. Mar. 17, 2016).

Counsel for the Illinois Environmental Protection Agency, Counsel for the Illinois Attorney General's Office and Counsel for the Environmental Groups have indicated that they do not object to an extension to the stay.

As such, IERG respectfully requests the Board grant this Motion to Extend the Stay. IERG Members are keen to participate in the Illinois EPA's stakeholder outreach during the stay in order to determine the most effective resolution for this rulemaking. The Illinois EPA identified seven differences between the federal rule and its most recent proposed regulations. Many of these differences are significant. Illinois EPA is working with stakeholders on revisions to its proposed rule in light of the federal rulemaking. More time is needed for the participants to provide comment on the new approach. IERG urges the Board to grant this stay and allow Illinois EPA to resolve these differences with the stakeholders in order to avoid any unnecessary proceedings. IERG asks that the status report directed by the Board to be filed by the Agency be similarly extended to the conclusion of the extended stay.

IERG respectfully requests that the Board take up this Motion at its upcoming meeting on May 19, 2016 for two reasons. First, the other participants in this rulemaking, including the environmental groups, the Attorney General's Office and the Agency are aware of this proposal and have no objection to an extension. Second, without the Board's attention to this matter this week, the motion would not be heard until the June 2, 2016. This time lag would render the motion moot, as the Agency has expressed a preference to receive comments from stakeholders by Friday, May 20, in order to file its response to the Board by the June 15 expiration date for the current stay.

Section 101.500(d) of Title 35 of the Illinois Administrative Code supports IERG's request for consideration of the motion prior to the expiration of the 14-day time period in which

to respond to motions. This provision states “[u]nless undue delay or material prejudice would result, neither the Board nor the hearing officer will grant any motion before expiration of the 14 day response period”. 35 Ill. Adm. Code 101.500(d). Undue delay would result if the motion is not considered at the May 19 meeting because the stakeholders require additional time to provide feedback to the Illinois EPA in furtherance of the constructive dialogue the Agency engaged in during the stay, and the submission of comments by the stakeholders will allow the Agency to better provide a response to the issues highlighted by the Board in its March 17, 2016 Order. Therefore, to prevent undue delay, the Board should consider this motion at Thursday’s meeting.

WHEREFORE, the ILLINOIS ENVIRONMENTAL REGULATORY GROUP, moves the Illinois Pollution Control Board grant this Motion to Extend Stay of the Proceeding for an additional thirty (30) days or until July 15, 2016.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
REGULATORY GROUP

Dated: May 16, 2016

By: /s/ Katherine D. Hodge  
One of Its Attorneys

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