

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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In the Matter of:		)	
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PETITION OF EAST DUBUQUE NITROGEN		)	AS 2024-002
FERTILIZERS, LLC FOR ADJUSTED		)	(Adjusted Standard – Air)
STANDARD		)	
		)	
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**NOTICE OF FILING**

To: Don A. Brown, Clerk of the Board  
Illinois Pollution Control Board  
60 E. Van Buren St., Ste 630  
Chicago, Illinois 60605

Gina Roccaforte  
Dana Vetterhoffer  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794

PLEASE TAKE NOTICE that today I have electronically filed with the Office of the Clerk of the Illinois Pollution Control Board **PETITIONER EDNF’S RESPONSE TO ILLINOIS EPA’S MOTION FOR STAY OF PROCEEDING OR, IN THE ALTERNATIVE, MOTION FOR EXTENSION OF TIME TO FILE RECOMMENDATION** and a **CERTIFICATE OF SERVICE**, which are attached and copies of which are herewith served upon you.

Dated: September 18, 2023

Respectfully submitted,

/s/John M. Heyde  
East Dubuque Nitrogen Fertilizers, LLC  
By One of Its Attorneys

Byron F. Taylor  
John M. Heyde  
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**PETITIONER EDNF’S RESPONSE TO ILLINOIS EPA’S MOTION FOR STAY OF PROCEEDING OR, IN THE ALTERNATIVE, MOTION FOR EXTENSION OF TIME TO FILE RECOMMENDATION**

Petitioner East Dubuque Nitrogen Fertilizers, LLC (“EDNF”) hereby responds to the Illinois Environmental Protection Agency’s (“Illinois EPA’s”) Motion for Stay of Proceeding or, in the Alternative, Motion for Extension of Time to File Recommendation (the “Motion”). In the Motion, Illinois EPA asked the Board to enter an order staying this proceeding for 90 days while the Board considers the rulemaking proposal that EDNF filed in Docket R23-18(A). In the alternative, Illinois EPA requested a 90-day extension of its time to file a recommendation, pursuant to 35 Ill. Adm. Code 104.416, on EDNF’s proposed adjusted standard.

EDNF does not object to Illinois EPA’s request for a stay of this proceeding. As Illinois EPA stated in the Motion, the proposed adjusted standard in this proceeding and EDNF’s rulemaking proposal in Docket R23-18(A) would have the same effect on EDNF’s facility in East Dubuque. EDNF believes that the issues associated with startup and shutdown of nitric acid processes – the subject of each of its proposals – are best addressed as a general rulemaking that would apply to it and any future nitric acid plant that may operate in Illinois. As a result, EDNF

agrees with Illinois EPA that the Board's and Illinois EPA's efforts are best spent initially on addressing the rulemaking proposal in Docket R23-18(A).

The adjusted standard petition remains relevant, however, for at least two reasons. First, the Board may conclude that the startup/shutdown issues associated with nitric acid plants are best addressed in an adjusted standard instead of an amendment to the general rule. Second, by requesting an adjusted standard, the stay provided in 415 ILCS 5/28.1(f) allows EDNF to continue to comply with its existing Clean Air Act Permit Program ("CAAPP") permit and applicable regulations. As Illinois EPA points out in the Motion, granting a 90-day stay of this proceeding will not compromise the stay nor limit the Board's options in choosing the proceeding that is best suited for the startup/shutdown issues.

Finally, in the event that the Board prefers not to stay this proceeding, EDNF does not object to Illinois EPA's alternative request for a 90-day extension of its time to provide its recommendation on the adjusted standard proposal.

Dated: September 18, 2023

Respectfully submitted,

/s/ John M. Heyde  
East Dubuque Nitrogen Fertilizers, LLC  
By One of Its Attorneys

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**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on September 18, 2023, I have served the attached **Petitioner EDNF's Response to Illinois EPA's Motion for Stay of Proceeding or, in the Alternative, Motion for Extension of Time to File Recommendation** upon the following persons by electronic mail.

I further state that my email address is as stated in the signature block below, that the number of pages in this email transmission is five, and that the email transmission took place before 4:30 p.m. on September 18, 2023.

Don A. Brown, Clerk of the Board  
Illinois Pollution Control Board  
60 E. Van Buren St., Ste 630  
Chicago, Illinois 60605  
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Dated: September 18, 2023

/s/John M. Heyde  
John M. Heyde

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