

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUL 7 2003

STATE OF ILLINOIS  
Pollution Control Board

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

PCB 99-134

NOTICE OF FILING AND PROOF OF SERVICE

To: Jane E. McBride  
Environmental Bureau  
Attorney General's Office  
500 S. Second St.  
Springfield, IL 62706

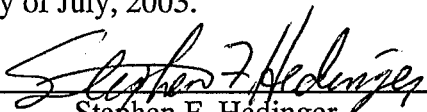
Bradley Halloran  
Hearing Officer  
Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
James R. Thompson Center  
Chicago, IL 60601-3218

Pollution Control Board, Attn: Clerk  
100 West Randolph Street  
James R. Thompson Center  
Suite 11-500  
Chicago, IL 60601-3218

David Joest  
Peabody Coal Company  
1951 Barrett Court  
P.O. Box 1990  
Henderson, KY 42419-1990

PLEASE TAKE NOTICE that on the 30<sup>th</sup> day of July, 2003, we sent to the Clerk of the Pollution Control Board the original and four copies of Motion for Extension of Time to Respond to Complainant's Motion to File Reply for filing in the above entitled cause.

The undersigned certifies that true and correct copies of the above-described document were 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 30<sup>th</sup> day of July, 2003.

  
Stephen F. Hedinger

Hedinger Law Office  
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**MOTION FOR EXTENSION OF TIME TO RESPOND TO COMPLAINANT'S  
MOTION TO FILE REPLY**

NOW COMES Respondent, PEABODY COAL COMPANY (hereinafter "PCC"), through its undersigned attorneys, and moves this Board, through its Hearing Officer, for a three day extension of time, to and until July 10, 2003, within which to file its response to the "Motion for Leave to Reply to Respondent's Brief in Opposition to State's Motion for Protective Order" filed by the Petitioner (hereinafter "the State") in this case. In support of this motion, PCC states as follows:

1. The State filed its motion for protective order on June 6, 2003. PCC was made to file its response only six calendar days later, on June 12, 2003.
2. Eight days thereafter (on June 20, 2003), Complainant submitted to PCC its motion for leave to file a reply.
3. By letter of the same date, June 20, 2003, PCC informed the Hearing Officer, with carbon copy to counsel for the State, that because of the press of business PCC would require the entire fourteen days allowed by the Board's procedural rule 101.500(d), 35 Ill. Adm. Code 101.500(d), to respond to the State's motion.

4. Pursuant to this Board's procedural rule 101.500(d), 35 Ill. Adm. Code 101.500(d), PCC's response is due on or before Monday, July 7, 2003.

5. Depositions of the State's opinion witnesses in this case and document production are occurring during the week of June 30, 2003; in addition, Friday of that week is the 4<sup>th</sup> of July holiday. In addition, during the preceding week one of the counsel for PCC was traveling and involved in pre-scheduled personal activities, and was unavailable to attend to legal matters such as drafting and submitting the response to this motion.

6. As a consequence of the above, and most particularly due to the discovery depositions taking up counsel's time during the week of June 30, PCC is unable to draft and submit its response to the motion to file a reply by Monday, July 7, 2003. PCC anticipates, however, that it will be able to, and will, file the response on or before Thursday, July 10, 2003.

7. PCC therefore requests this Board's Hearing Officer to grant an extension to and until July 10, 2003, within which for PCC to file its response to the motion of the State for leave to file a reply. Counsel for PCC has conferred with counsel for the State concerning this request for an extension, and counsel for the State has indicated that she has no position with respect to this request.

8. This request is being made in good faith, and not for any improper purpose. Allowance of the motion will have no adverse effect on anyone, because it pertains to a pending discovery issue related to PCC's discovery requests, which requests are already the subject of the State's motion. Denial of the motion would severely prejudice PCC by denying it the opportunity to respond to the State's motion.


WHEREFORE, Respondent, PEABODY COAL COMPANY, requests that this Board, through its Hearing Officer, grant to Peabody Coal Company an extension to and until July 10,

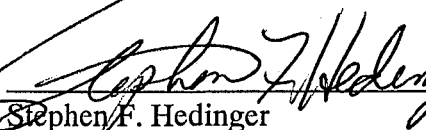
2003, within which to file its response to the pending "Motion for Leave to Reply to Respondent's Brief in Opposition to State's Motion for Protective Order."

Respectfully submitted,

PEABODY COAL COMPANY

By its attorneys

  
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