

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB NO. 99-134
) (Enforcement - Water)
 HERITAGE COAL COMPANY, L.L.C.)
 (f/k/a PEABODY COAL COMPANY)
 L.L.C.),)
)
 Respondent.)

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on February 8, 2011, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601, COMPLAINANT'S FIRST MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO MOTION FOR SUMMARY JUDGMENT, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 

THOMAS DAVIS, Chief
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: February 8, 2011

CERTIFICATE OF SERVICE

I hereby certify that I did on February 8, 2011, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING and COMPLAINANT'S FIRST MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO MOTION FOR SUMMARY JUDGMENT upon the persons listed on the Service List.



THOMAS DAVIS, Chief
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

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

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO. 99-134
)	(Enforcement)
)	
HERITAGE COAL COMPANY, LLC, f/k/a)	
PEABODY COAL COMPANY, LLC,)	
)	
Respondent.)	

**COMPLAINANT'S FIRST MOTION FOR EXTENSION
OF TIME TO FILE RESPONSE TO MOTION FOR SUMMARY JUDGMENT**

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, and pursuant to Section 101.522 of the Board's Procedural Rules respectfully requests an additional sixty (60) days for filing its Response to the Motion for Summary Judgment filed on December 20, 2010. In ruling upon the Respondent's last motion for enlargement of time to file the Motion for Summary Judgment, the Complainant's current deadline was extended by the Hearing Officer to February 10, 2011. The Complainant is hereby filing its first motion for enlargement of time primarily because of importance of the legal issues raised by the Motion for Summary Judgment. The Respondent's challenge to the legal applicability of the Part 620 standards to its mining activities as alleged in Count III of the People's Third Amended Complaint requires "case of first impression" rulings by the Board and a comprehensive response to the Motion for Summary Judgment requires a substantial allocation of additional time.

Section 101.522 requires a showing of good cause to support a motion for the extension of time to file a document. First of all, counsel for the Complainant have been working diligently

on a response to the Motion for Summary Judgment. Our response will include counter-affidavits and those materials are being prepared. However, the ongoing legal research has been delayed by the logistical difficulty in obtaining access to certain documentation submitted in the rulemaking proceedings in PCB R89-14. The request for an additional 60 days is not made lightly in a case that has been pending so long. This enforcement matter was originally filed several years ago and substantial time and effort have been expended in compliance negotiations, resulting in the establishment of a groundwater management zone, and the substantial completion of discovery. No hearing has yet been scheduled. Counsel for the Respondent have been informed of this request to extend the response deadline and do not object. Therefore, the Complainant requests that its deadline for filing a response to the Motion for Summary Judgment to extended to April 11, 2011. A status conference is scheduled for March 3, 2011 in this matter and the Complainant suggests that the deadline for any reply by the Respondent may then be set.

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this unopposed motion for extension of time be GRANTED.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN,
Attorney General of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 

THOMAS DAVIS
Environmental Bureau
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Dated: 2/08/11