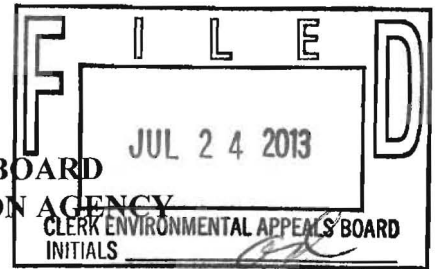


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re: Andrew B. Chase,
a/k/a Andy Chase, Chase Services,
Inc., Chase Convenience Stores, Inc.,
and Chase Commercial Land
Development, Inc.

RCRA (9006) Appeal No. 13-04

Docket No. RCRA-02-2011-7503

ORDER GRANTING MOTION TO MODIFY JULY 16, 2013 ORDER

On July 18, 2013, U.S. Environmental Protection Agency Region 2 (“Region”) filed a motion requesting the Environmental Appeals Board (“Board”) modify its Order of July 16, 2013, to provide additional time for the Region to file an appeal or cross-appeal in the above-captioned case. *See* Motion to Modify Order of July 16, 2013 (“Motion”) at 2-3. In the July 16, 2013 Order, the Board had granted the motion of Respondents Andrew B. Chase, a/k/a Andy Chase, Chase Services, Inc., Chase Convenience Stores, Inc., and Chase Commercial Land Development, Inc., and had extended the time in which Respondents could file a notice of appeal and brief until August 26, 2013. Order at 2. In the Order, the Board had also extended the time in which the Region could file a response brief until October 15, 2013. *Id.*

In its Motion, the Region notes that, in discussing Respondents’ proposed extension of time motion with Respondent, it had stated that it did not oppose the motion “provided your application to secure such extension indicates it also extends to any cross-appeal that might be filed” under 40 C.F.R. § 22.30(a). Motion at 2. Respondents, in their July 11, 2013 motion for

an extension of time, apparently inadvertently failed to report the Region's request for additional time for a cross-appeal, instead indicating that the Region had requested additional time to file a response. *Id.* The Region avers that it needs additional time to file an appeal or cross-appeal for the same reasons Respondents requested additional time: the length of the decision, the complexity of the issues, and internal discussions within the Agency. *Id.* at 3. The Region also states that it believes it would be equitable for Respondents to be afforded the same opportunity to respond to any Regional appeal that may be filed that the Board granted the Region in the July 16, 2013 Order. *Id.* at 2-3.

The part 22 regulations provide that any party may appeal any adverse order or ruling of the Presiding Officer within 30 days after the initial decision is served. 40 C.F.R. § 22.30(a)(1). This is one of the two deadlines the Board extended in its July 16, 2013 Order. *See* Order at 2. The part 22 regulations also separately provide for a *cross-appeal*, stating that, “[i]f a timely notice of appeal is filed by a party, any other party may file a notice of appeal on any issue within 20 days after the date on which the first notice of appeal was served.”¹ 40 C.F.R. § 22.30(1)(1). In addition, on the same date the cross-appeal is due, the regulations also authorize “any other party or non-party participant” to file “a response brief responding to argument raised by the appellant.” *Id.* § 22.30(a)(2). This is the other deadline the Board extended in its July 16, 2013 Order. *See* Order at 2.

For good cause shown and in order to provide consistency with the part 22 regulations, the Board GRANTS the Region's motion to modify the Board's earlier order. The Board

¹ Such provision generally applies where a party does not file its own appeal within the deadline for notices of appeal, but following another party's appeal of the initial decision, desires to appeal an issue not raised in the notices of appeal that were timely filed.

establishes the following deadlines: (1) If the Region files a notice of appeal, such appeal and accompanying brief are due on the same date Respondents' appeal is due, August 26, 2013.

(2) Any party (or non-party participant) filing a response brief must submit such brief on or before Tuesday, October 15, 2013. (3) Furthermore, if either party files a cross-appeal, such cross-appeal is due the same date responses are due, on Tuesday, October 15, 2013.

Additionally, for further consistency with the intent of 40 C.F.R. § 22.30, the deadline in which the Board may initiate review on its own initiative is similarly EXTENDED until September 5, 2013. *See id.* § 22.30(b) (authorizing the Board to review an initial decision on its own initiative within 45 days after the initial decision was served upon the parties, which is typically ten days after the appeal deadline).

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated:

7/24/13

By:



Catherine R. McCabe
Environmental Appeals Judge

CERTIFICATE OF SERVICE

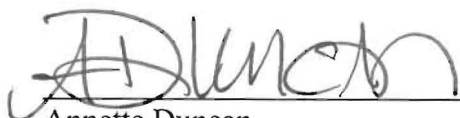
I hereby certify that copies of the foregoing *Order Granting Motion to Modify July 16, 2013 Order* in the matter of Andrew B. Chase a/k/a Andy Chase, Chase Services, Inc., Chase Convenience Stores, Inc., and Chase Commercial Land Development, Inc., RCRA (9006) Appeal No. 13-04, were sent to the following persons in the manner indicated:

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Annette Duncan
Secretary

JUL 24 2013

Date: _____