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

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CIVIL APPEALS BOARD

In re:

Leed Foundry, Inc.

Respondent.

Docket No. RCRA-03-2004-0061

RCRA (3008) Appeal No. 07- (02)

MOTION FOR LEAVE TO FILE  
CLARIFICATION RE: ORAL  
ARGUMENT

**MOTION FOR LEAVE TO FILE CLARIFICATION RE: ORAL ARGUMENT**

Complainant in this matter, the Region 3 Office of the U.S. Environmental Protection Agency, seeks leave to file a clarification on one issue that arose during oral argument on December 6, 2007.<sup>1</sup> This motion is submitted pursuant to Section 22.16 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits. 40 C.F.R. § 22.16. Region 3 requests that, should the requested leave be granted, the Board consider as part of its deliberations in this matter the following clarified information. Counsel for Leed Foundry has been notified of this clarification and has no objection to it.

<sup>1</sup> Region 3 is submitting a list of transcript typographical errors for correction under separate cover directly to the Clerk of the Board.

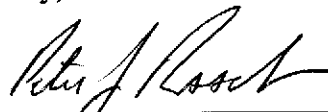
The clarification relates to an inquiry from the Board regarding the injunctive relief component of the case. The Board inquired as to what relief the Region is seeking:

**JUDGE STEIN: Is the Agency seeking any injunctive relief here, or is this about sort of [sic] liability penalty issues?**

**MR. RAACK: This is essentially a liability and penalty issue case.**

Transcript at p. 10, lines 16 – 20. The clarification is that the Region included in the Complaint an injunctive relief component, seeking “Compliance Tasks” such as hazardous waste determinations, cessation of illegal storage, and submission and implementation of a closure plan for all illegal storage/disposal areas, some of which may continue to be necessary. Complaint at Para. 143. Given that Leed Foundry has initiated removal of the stockpiled waste during the pendency of this case, all Compliance Tasks may not continue to be necessary and it is likely that liability and penalty issues will be the primary focus should a hearing be held upon remand. Region 3, however, reserves the right to determine at the time of hearing, in consultation with the Pennsylvania Department of Environmental Protection, those injunctive relief tasks set out in the Complaint that may remain necessary.

RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of January, 2008.

  
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CERTIFICATE OF SERVICE

I hereby certify that I caused the original and two copies of the foregoing Motion for Leave to File Clarification Re: Oral Argument in *In Re Leed Foundry, Inc.*, RCRA (3008) Appeal No. 07 - (02), to be hand delivered to the Clerk of the Environmental Appeals Board and caused copies to be sent by Federal Express overnight delivery service to the Region 3 Hearing Clerk, the Honorable William B. Moran and to Mr. Timothy J. Bergere, Esq., at the addresses listed below.

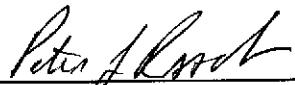
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