

# HINSHAW

& CULBERTSON LLP

RECEIVED  
JAN 06 2011

REGIONAL HEARING CLERK  
USEPA  
REGION 5

January 3, 2011

Regional Hearing Clerk  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

**ATTORNEYS AT LAW**

100 Park Avenue  
P.O. Box 1389  
Rockford, IL 61105-1389

815-490-4900  
815-490-4901 (fax)  
www.hinshawlaw.com

Re: EPCRA-05-2011-0002 (AAF McQuay Inc.)

Dear Regional Hearing Clerk

Enclosed for filing please find an original and two copies of the Respondent's Response to Region 5's Status Update, in the above referenced matter.

Please return a file-stamped copy of the attached documents to me in the enclosed self-addressed, stamped envelope. Please call (815) 490-4947 if you have any questions.

Very truly yours,

HINSHAW & CULBERTSON LLP



Nicola Nelson  
nnelson@hinshawlaw.com

NN:  
Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:

AAF-McQuay Inc.,

Respondent.

)  
)  
)  
)  
)

Docket No. EPCRA-05-2011-0002

NOTICE OF FILING

TO: Tamara Carnovsky (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

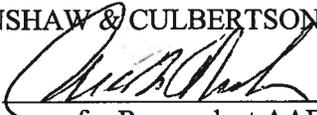
Maynard Shaw (LC-8J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Judge Marcy A. Toney  
Regional Judicial Officer  
USEPA Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604-3590

RECEIVED  
JAN 06 2011  
REGIONAL HEARING CLERK  
USEPA  
REGION 5

**PLEASE TAKE NOTICE THAT** on January 3, 2011, the undersigned caused to be filed with the Regional Hearing Clerk at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604 the **Respondent's Response to Region 5's Status Update**, a copy of which is attached hereto and served upon you.

HINSHAW & CULBERTSON LLP

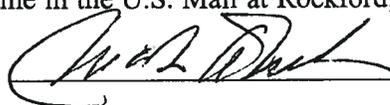
By:   
Attorneys for Respondent AAF-McQuay Inc.

Daniel W. McGrath  
HINSHAW & CULBERTSON LLP  
222 North LaSalle Street, Suite 300  
Chicago, Illinois 60601-1081  
(312) 704-3000

Charles F. Helsten  
Nicola A. Nelson  
HINSHAW & CULBERTSON LLP  
100 Park Ave., P.O. Box 1389  
Rockford, IL 61105-1389  
815-490-4900

PROOF OF SERVICE

Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that she served this **Notice and Respondent's Response to Region 5's Status Update** on the parties listed above by depositing the same in the U.S. Mail at Rockford, Illinois by 5:00 p.m. on January 3, 2011 with proper postage prepaid.

  
\_\_\_\_\_

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**In the Matter of:**

**AAF-McQuay Inc.,**

**Respondent.**

Docket No. EPCRA-05-2011-0002

**RECEIVED**

JAN 06 2011

**REGIONAL HEARING CLERK  
USEPA  
REGION 5**

**RESPONDENT'S RESPONSE TO REGION 5'S STATUS UPDATE**

NOW COME CHARLES F. HELSTEN, DANIEL W. McGRATH, and NICOLA A. NELSON of HINSHAW & CULBERTSON LLP, and for the Respondent's response to the Status Update filed by counsel for Region 5 in the above-referenced matter, state as follows:

1. On or about November 29, 2010, attorneys at Hinshaw & Culbertson were asked to represent Respondent in the above-captioned matter. On the same date, Attorney Charles Helsten called Region 5 attorney Tamara Carnovsky to request a settlement meeting, and also filed an appearance with the Regional Hearing Clerk.

2. Less than a week later, Respondent filed a motion requesting an extension of time to Answer, explaining that the parties were actively pursuing settlement.

3. Approximately two weeks after being retained, on December 14, 2010, Attorney Helsten met with EPA regional counsel Tamara Carnovsky, along with a corporate representative of Respondent, to discuss settlement.

4. At the December 14, 2010 meeting, Respondent offered to pay a civil penalty and update its CMS in settlement of this matter.

5. Within several days of the December 14, 2010 settlement meeting, Attorney Helsten had confirmed that the amount of the proposed settlement had the approval of Respondent's management, and EPA subsequently confirmed its acceptance of Respondent's

offer to settle, thereby effectuating settlement less than 30 days after becoming involved in the case.

6. During the week between Christmas and New Year's, Region 5 counsel Tamara Carnovsky sent an email with a proposed CAFO to Attorney Helsten, along with a voicemail; Attorney Helsten was at that time out of the office for the holidays and could not, therefore, respond to Ms. Carnovsky's email and voicemail until his return on January 3, 2011.

7. Upon returning to the office on January 3, 2011, the first business day after the New Year's holiday, Attorney Helsten immediately forwarded the draft CAFO to Respondent for review.

8. On January 3, 2011, Region 5 Counsel filed a Status Update with the Regional Hearing Clerk and with ALJ Toney, in which Ms. Carnovsky states there is no longer "good cause" to support an extension of time to file an Answer in this matter, which has been settled.

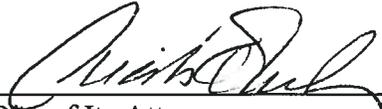
9. Counsel for Respondent has been diligent in pursuing a speedy, full and complete resolution of this matter, and has been able to facilitate a settlement agreeable to all parties despite the busy holiday season.

10. Respondent is currently reviewing the draft CAFO proposed by EPA, but Respondent's management requires five business days in which to assess and respond to the draft CAFO with comments.

WHEREFORE, Respondent respectfully requests an additional five business days in which to respond to the draft CAFO prepared by Region 5, and the facts set forth above show there is good cause to grant the requested extension of time.

Dated: Jan 3, 2011

HINSHAW & CULBERTSON LLP  
Attorneys for Respondent AAF-McQuay Inc.

  
\_\_\_\_\_  
One of Its Attorneys

<p>Daniel W. McGrath Hinshaw &amp; Culbertson, LLP 222 No. LaSalle St., Ste. 300 Chicago, Illinois 60601-1081 (312) 704-3000</p>	<p>Charles F. Helsten Nicola A. Nelson Hinshaw &amp; Culbertson LLP 100 Park Avenue, P.O. Box 1389 Rockford, IL 61105-1389 815-490-4900</p>
--	---

**RECEIVED**  
JAN 06 2011  
REGIONAL HEARING CLERK  
USEPA  
REGION 5