

Three Affiliated Tribes
Mandan, Hidatsa, and Arikara Nation

LEGAL DEPARTMENT

2008 AUG 26 AM 9:53

Tribal Administration Building
404 Frontage Road
New Town, North Dakota 58763

EPA REGIONAL HEARING OFFICE
Tel.: (701) 627-4781
Fax: (701) 627-3626
E-mail: tatlegal@mhanation.com

Date 8-26-08

TO:

Name Dina Artemis, Regional Hearing Clerk

Dept. U.S. EPA

Fax Number# 303-312-~~6855~~ 6859

City, State Denver, CO

Telephone _____

From:

Three Affiliated Tribes Legal Department

- Damon K. Williams
- Danile J.W. Henry
- Jennifer Fyten
- Phyliss Wells
- Tyra Wilkinson

Fax No # (701) 627- 3626

Telephone (701) 627-4781

City, State: New Town, North Dakota 58763

Number of pages 4- with Tax Cover

Remarks _____

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

2008 AUG 26 AM 9:53

BEFORE THE ADMINISTRATOR

EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)	Docket No. RCRA-08-2008-0001
)	Docket No. RCRA-08-2008-0002
The Three Affiliated Tribes)	Docket No. RCRA-08-2008-0003
and Sharon Jacobs, individually,)	
Highway 8 Convenience Store,)	
)	
The Three Affiliated Tribes)	MOTION FOR EXTENSION OF
And Yolanda Bears Tail, individually,)	TIME FOR COMPLIANCE
White Shield Rec Store,)	
)	
The Three Affiliated Tribes)	
and Dave Williams, individually,)	
West Dakota Service,)	
)	
Respondent,)	

The Three Affiliated Tribes (Respondent), through their undersigned counsel, hereby moves for an Order granting Respondent an extension of time to comply with the stipulations contained within the Environmental Protection Agency's (EPA) Final Order dated July 7, 2008.

As grounds for this Motion, the Respondent states the following:

1. Respondent and the EPA have entered into a Consent Agreement (Agreement) dated July 7, 2008. The Agreement has been incorporated into a Final Order.
2. Respondent agreed to a Corrective Action Order issued by the EPA which requires a Tier 2 Evaluation to be completed at the West Dakota Service Facility only.
3. The Evaluation was to be completed within 45 days beginning on July 7, 2008.
4. The purpose of the Evaluation was to fully determine the potential current and future receptors and the actual or potential exposure pathways as well as to complete

additional work to determine the extent of contamination if actual or potential exposure pathways are found.

5. The Brownsfield Program had initially agreed to cover the \$5,570.04 expense of conducting the Tier 2 Evaluation for the Tribe.

6. The Brownsfield Program delayed confirmation to move forward and on August 8, 2008, informed Respondent that it was unable to cover the cost of the Tier 2 Evaluation.

7. Due to the delayed action by the Brownsfield Program, a contractor could not be immediately secured. However, Respondent has now secured a contractor and work will commence on the Tier 2 Evaluation on or about August 18, 2008.

8. This Motion is timely filed, will not prejudice the Complainant EPA, and is based on good cause.

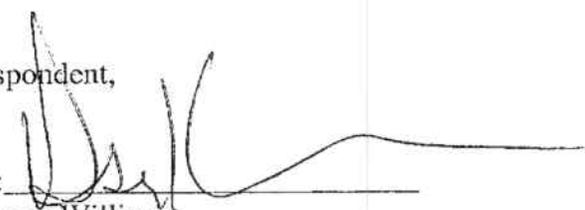
9. The Respondent has communicated with Complainant and the parties have agreed the extension is proper under the circumstances.

WHEREFORE, the Respondent requests an additional thirty (30) days to comply with the Final Order. The proposed deadline is Monday, Sept. 29, 2008.

Respectfully submitted this 26th day of August, 2008.

Three Affiliated Tribes,

Respondent,

By: 
Damon Williams,
Attorney for Respondent

Date: 8/24/08

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the **MOTION FOR EXTENSION OF TIME FOR COMPLIANCE** were hand-carried to the Regional Hearing Clerk, EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same was sent as follows:

By facsimile and certified mail:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW 1900L
Washington, DC 20406
Facsimile: (202) 565-0044

By facsimile and regular mail:

Attorney for Complainant:

Amy Swenson, Esq.
Assistant Regional Counsel
U.S. EPA
1595 Wynkoop Street
Denver, CO 80202
Facsimile: (303) 312-6953

Date: 8/26/08

By: 