

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

_____)	
In re:)	
)	
Solutia Inc.)	CERCLA 106(b) Petition No. 00-1
)	
Order No. II-CERCLA-98-0213)	
_____)	

FINAL ORDER
DETERMINING REIMBURSABLE COSTS AND AUTHORIZING PAYMENT

On November 6, 2001, the Environmental Appeals Board ("Board") issued its Final Decision and Order Granting Reimbursement in the above-referenced matter. See *In re Solutia Inc.*, CERCLA § 106(b) Pet. No. 00-1, slip op. (EAB, Nov. 6, 2001), 10 E.A.D. ____ ("Final Decision"). The Final Decision found that Solutia Inc. was not liable for response costs under section 107(a) of the Comprehensive Emergency Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607(a), and granted Solutia Inc.'s petition for reimbursement, with respect to compliance with CERCLA section 106(a) Administrative Order No. II-CERCLA-98-0213 ("UAO") issued by the United States Environmental Protection Agency Region II (the "Region") to Solutia Inc. ("Petitioner") on September 28, 1998. The UAO

ordered Petitioner to remove and dispose of certain hazardous substances from the Morgan Materials, Inc. Superfund Site in Buffalo, New York.

The Board's Final Decision set a schedule for Petitioner to file documentation of reasonable costs incurred in complying with the UAO and for the Region to file a response. *Id.* at 33-34. That schedule was extended twice to allow settlement discussions to proceed. See Order Granting Joint Request for Schedule Change with Respect to Cost Filings (EAB, Dec. 4, 2001); Order Granting Joint Request for Schedule Change with Respect to Cost Filings (EAB, Dec. 19, 2001).

On January 18, 2002, Petitioner timely filed its cost documentation with the Board. See Petitioner's Brief in Support of the Reasonableness of Costs Incurred in Implementing UAO Issued to Solutia Inc. by Region II (Jan. 18, 2001) ("Costs Filing"). Petitioner's Cost Filing documents cleanup costs of \$439,891.40 and requests payment of this sum plus interest accruing daily since the dates of expenditure. On February 11, 2002, the Region filed its response to Solutia's Costs Filing.

See Region II's Response to Petitioner Solutia Inc.'s Cost Filing (Feb. 11, 2002) ("Response"). The Region indicates in its Response that it "has reviewed the Petitioner's January 18, 2002 cost submission and does not contest the reasonableness of the costs submitted and documented therein." Response at 2.

The Board has considered Petitioner's Costs Filing and the Region's Response thereto. Based on those filings, the Board concludes that Petitioner has incurred reasonable costs in complying with the Region's UAO and is entitled to reimbursement in the amount of \$439,891.40, plus \$62,686.71 in interest that has accrued up to and including the date of this Order.¹ Accordingly, the Board hereby authorizes payment in the amount of \$502,578.11. The Board further authorizes the payment of such additional interest as may accrue between the date of this Order and payment of the foregoing amount. Such additional interest shall accrue daily, at a rate of \$45.98 per day, from the date of this Order until the payment is made.

¹Pursuant to 42 U.S.C. § 9606(b)(2)(A), interest accrues daily from the date of expenditure. In this case, pursuant to the rate of return that obtains under 42 U.S.C. § 9606(b)(2)(A), interest is currently accruing at a rate of \$45.98 per day.

Petitioner may obtain reimbursement by presenting this Order
to:

Mel Visnick
U.S. Environmental Protection Agency
Washington Financial Management Center
1200 Pennsylvania Avenue, N.W. (MC2734R)
Washington, D.C. 20460

So ordered.

Dated: 02/13/02

ENVIRONMENTAL APPEALS BOARD²

By: _____/s/
Edward E. Reich
Environmental Appeals Judge

²The three-member panel deciding this matter is comprised of Environmental Appeals Judges Scott C. Fulton, Ronald L. McCallum, and Edward E. Reich. See 40 C.F.R. § 1.25(e)(1).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Final Order Determining Reimbursable Costs and Authorizing Payment in the matter of Solutia Inc., CERCLA 106(b) Petition No. 00-1, were sent to the following persons in the manner indicated:

By Certified Mail,
Return Receipt Requested:

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Mel Visnick
U.S. Environmental Protection Agency
Washington Financial Management Center
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Dated: 02/13/02

_____/s/
Annette Duncan
Secretary