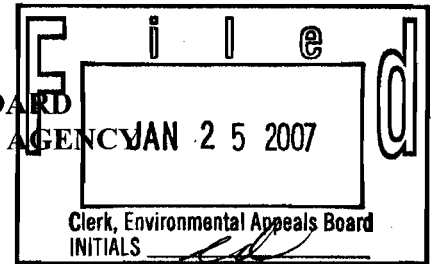


BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.



In re: )  
)  
The Dow Chemical Company, )  
Hanging Rock Plant ) RCRA Appeal No. 06-01  
)  
Permit No. OHD 039-128-913 )  
\_\_\_\_\_ )

**ORDER GRANTING THIRD MOTION**

**FOR EXTENSION OF TIME TO FILE RESPONSE**

By order issued November 15, 2006, the Environmental Appeals Board (“Board”) granted a motion from the United States Environmental Protection Agency Region 5 (the “Region”) requesting a second extension of time to file its response to the petition filed by The Dow Chemical Company (“Dow”) in the above-captioned matter.<sup>1</sup> The order grants the Region until January 31, 2007, to file its response. *See* Order Granting Second Motion for Extension of Time to File Response (EAB, Nov. 15, 2006). On January 23, 2007, the Region filed a third motion requesting a 180-day extension. *See* Third Motion for Extension of Time to Respond to Petition for Review (dated Jan. 22, 2007). The Region represents that it consulted with Dow regarding the motion and that counsel for Dow concurs with the extension request. *Id.* In support of its motion, the Region states that it and Dow have diligently and in good faith pursued resolution of the appeal and have made significant progress. *Id.* at 2. For instance, the Region explains that after the Board granted

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<sup>1</sup> On June 22, 2006, Dow filed a petition seeking review of a Resource Conservation and Recovery Act (“RCRA”) permit decision issued by Region 5 on May 24, 2006, allowing Dow to manage certain hazardous waste by using the hazardous waste as fuel for two boiler units. On July 26, 2006, the Board granted Region 5’s first request for extension of time to respond to Dow’s petition, allowing the Region 90 days to file a response brief.

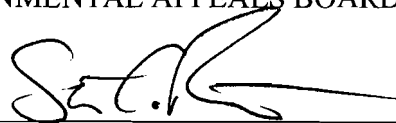
the second extension request, the parties immediately engaged in further information exchange, followed by a comprehensive and detailed conference call on December 5, 2006, which involved not only the regular representatives of U.S. EPA and Dow, but also two U.S. EPA risk assessment experts and several additional technical and staff personnel from Dow. *Id.* at 3. As a result of this interactions, Dow submitted to EPA a proposal to resolve some of the contested conditions. *Id.* The Region further explains that while progress has been made, the parties are still engaged in complex information-gathering and discussion. *See id.* at 3-4. The Region represents that Dow and the Region both wish to continue their good faith negotiations in order to fully resolve the appeal, or limit the issues that would proceed on appeal. *Id.* at 4. The 180-day extension is necessary, according to the Region, because even if the parties were to immediately settle the issues, the Region would still need time to amend the permit and provide public notice of the changes. *Id.*

Upon consideration of the foregoing and for good cause shown, the current motion is GRANTED. The Region's response must now be filed no later than July 30, 2007.<sup>2</sup> The Region must also file, by no later than April 30, 2007, a status report describing the current status and progress the parties have made toward resolution of the issues raised by Dow in its petition.

So ordered.

ENVIRONMENTAL APPEALS BOARD

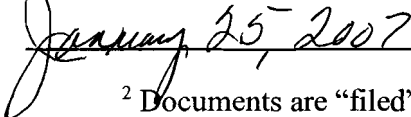
By: \_\_\_\_\_



Scott C. Fulton

Environmental Appeals Judge

Dated: \_\_\_\_\_



<sup>2</sup> Documents are "filed" with the Board on the date they are *received* by the Clerk.

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the forgoing Order Granting Third Motion for Extension of Time to File Response in the matter of The Dow Chemical Company, Hanging Rock Plant, RCRA Appeal No. 06-01, were sent to the following persons in the manner indicated:

First Class Mail  
and Facsimile:

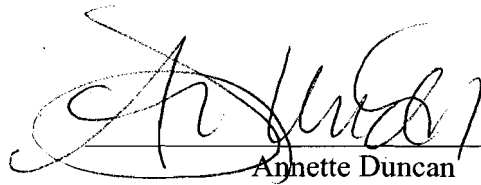
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Chicago, IL 60604  
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Dated:

JAN 25 2007

  
Annette Duncan  
Secretary