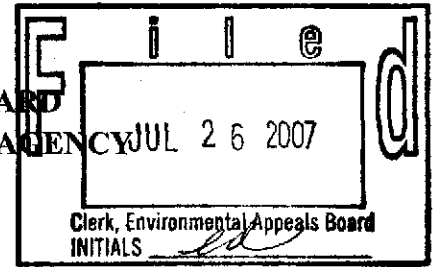


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



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

ORDER GRANTING MOTION FOR EXTENSION OF TIME
AND
SCHEDULING STATUS CONFERENCE

By order issued January 25, 2007, the Environmental Appeals Board ("Board") granted a motion from the United States Environmental Protection Agency Region 5 (the "Region") requesting a third extension of time to file its response to the petition filed by The Dow Chemical Company ("Dow") in the above-captioned matter.¹ The order grants the Region until July 30, 2007, to file its response. *See* Order Granting Third Motion for Extension of Time to File Response (EAB, Jan. 25, 2007). On July 23, 2007, the Region filed a fourth motion requesting an additional 120-day extension of time to allow the parties to pursue settlement of this matter. *See* Fourth Motion for Extension of Time to Resolve Petition for Review (dated July 20, 2007).

¹ 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 issued its first order granting the Region's request for extension of time to file its response. Thereafter, on November 15, 2006, and January 25, 2007, upon request and for good cause shown, the Board issued similar orders allowing additional time for the filing of the Region's response in view of the parties efforts to resolve this matter via settlement.

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 explains that Dow and the Region are close to reaching an agreement on this matter. The Region states that “the parties are near an agreement in principle to fully resolve the contested issues pertaining to the feed rates for mercury, chlorine, and particulate matter, and related issues.” *Id.* at 3. The Region also represents that the parties are close to resolving the “Corrective Action” matters contested in Dow’s petition. *Id.*

According to the Region, the parties have already exchanged firm settlement proposals and have identified potentially mutually-agreeable modifications to the permit. *Id.* The additional time is necessary, the Region explains, to obtain management approval of these proposals, and once approval is obtained, to amend the permit, provide public notice of the changes, and finalize the permit modification process. *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 November 27, 2007.² The Region must also file, by no later than November 10, 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.

² Documents are “filed” with the Board on the date they are *received* by the Clerk.

In addition, the Board has provisionally scheduled a status conference for December 4, 2007, in the event that the parties have not settled the case by that date.³ The status conference will be conducted at 10:30 a.m. EST in the Administrative Courtroom, U.S. Environmental Protection Agency, EPA East Building, Room 1152, 1201 Constitution Avenue, N.W., Washington, D.C. Counsel for either of the parties who wish to participate in the status conference via the EPA video-conferencing equipment shall contact the Clerk of the Board, at (202) 233-0122, no later than November 20, 2007, to make arrangements for the use of such equipment. Further, both parties shall provide the Board with the names of counsel who will be participating in the status conference no later than November 26, 2007.

So ordered.

ENVIRONMENTAL APPEALS BOARD

By:



Scott C. Fulton
Environmental Appeals Judge

Dated: 7/26/07

³ The parties shall inform the Board if settlement of this matter has been completed before this date.

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Order Granting Motion for Extension of Time and Scheduling Status Conference 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:

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Dated:

JUL 26 2007



Annette Duncan
Secretary