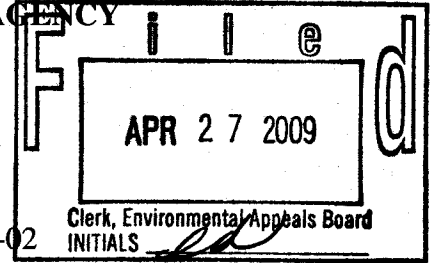


BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.



In re:

Higman Barge Lines, Inc.

CERCLA 106(b) Appeal No. 08-02

**STAY ORDER**

The parties in the above-captioned matter, Higman Barge Lines, Inc. ("Higman") and U.S. EPA Region 6 ("Region"), have entered into a consent agreement ("Agreement") that the parties represent resolves all issues raised in Higman's petition for reimbursement. Among other things, the Agreement states that within forty-five days of the Agreement's effective date, "EPA shall disburse funds to the Petitioner in the amount of \$110,000.00 in full settlement of all claims in the Petition."<sup>1</sup> Consent Agreement at 4. The Agreement further states that "[n]ot later than 10 days after receipt of payment under the terms of this Agreement, Higman shall file a motion before the EAB to withdraw and dismiss its Petition with prejudice." *Id.*

---

<sup>1</sup> According to the Agreement, the "effective date \* \* \* shall be the date upon which the [Environmental Appeals Board ("EAB")] executes its approval" of the Agreement. However, the authority to enter into settlements of claims asserted in petitions for reimbursements and to authorize payment in settlement of such claims has been delegated to the Regional Administrators or their delegates with the concurrence of the Assistant Administrator for Enforcement and Compliance Assurance, the Assistant Administrator for Solid Waste and Emergency Response, and the General Counsel, or their respective delegates. *See* Delegation 14-27.1.b., 2.b, 3.b. (Petitions for Reimbursement) (June 27, 2000). The parties have represented that the instant Agreement has received all necessary approvals and concurrences. Under these circumstances, the Agreement is currently effective and enforceable without the approval of the EAB. *See id.* The delegation requires only that the Regional Administrators or their delegates immediately notify the EAB upon reaching a settlement agreement. *Id.* at 3.f. By providing the EAB with a copy of the executed Agreement, the parties have satisfied the delegation's notification requirement.

Under these circumstances, the stay in this matter is hereby extended until June 18, 2009,<sup>2</sup> to allow the parties sufficient time to fulfill their obligations under the Agreement. Should all parties comply with the terms of the Agreement, the Board expects that Higman will file a motion to withdraw its petition for reimbursement with prejudice on or before June 18, 2009.<sup>3</sup>

So ordered.

Dated:

*April 27, 2009*

ENVIRONMENTAL APPEALS BOARD

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

*Anna L. Wolgast*  
Anna L. Wolgast  
Environmental Appeals Judge

---

<sup>2</sup> At the parties' request, this matter has been stayed since November 3, 2008, to allow the parties sufficient time to complete settlement discussions.

<sup>3</sup> Documents are "filed" with the Board on the date they are *received*.

## CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Stay Order in the matter of Higman Barge Lines, Inc., CERCLA 106(b) Appeal No. 08-02, were sent to the following persons in the manner indicated:

**First Class Mail  
and Facsimile:**

Harless R. Benthul  
Attorney at Law  
Lyric Center  
440 Louisiana, Suite 600  
Houston, TX 77002  
Fax # (713) 223-0026

**Pouch Mail  
and Facsimile:**

James L. Turner  
Senior Attorney  
Office of Regional Counsel  
U.S. EPA Reion 6  
1445 Ross Ave.  
Houston, TX 75202  
Fax # (214) 665-6460

Dated: APR 27 2009



---

Annette Duncan  
Secretary