



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

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ENVIR. APPEALS BOARD

EXPRESS MAIL OVERNIGHT DELIVERY

April 13, 2006

Eurika Durr
Clerk of the Board, Environmental Appeals Board
U.S. Environmental Protection Agency
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

RE: In the Matter of Tri-County Public Airport Site
The Raytheon Aircraft Company, Petitioner
Petition Number: 106(b) 06-01

Dear Ms. Durr:

Enclosed for filing in the above-referenced matter is one original and five copies of a Motion For Leave To Reply To Raytheon Aircraft Company's Response To The Environmental Appeals Board's Order To Show Cause Why Petition For Reimbursement Should Not Be Dismissed As Premature, with a Proposed Reply and Declaration. A copy of this letter and its attachments has been sent to counsel for the Petitioner.

Thank you for your assistance in this matter.

Sincerely,

J. Scott Pemberton
Senior Assistant Regional Counsel

Enclosures

cc: Beverlee J. Roper, Esquire
Daryl G. Ward, Esquire
Blackwell Sanders Peper Martin, LLP
4801 Main Street, Suite 1000
Kansas City, Missouri 64112

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

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ENVIR. APPEALS BOARD

IN RE:)
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Tri-County Public Airport Site) Petition No.
Morris County, Kansas) CERCLA 106(b) 06-01
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Raytheon Aircraft Company,)
))
Petitioner.)
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**MOTION FOR LEAVE TO REPLY TO RAYTHEON AIRCRAFT COMPANY'S
RESPONSE TO THE ENVIRONMENTAL APPEALS BOARD'S ORDER TO SHOW
CAUSE WHY PETITION FOR REIMBURSEMENT SHOULD NOT BE DISMISSED AS
PREMATURE**

The Respondent, U.S. Environmental Protection Agency, Region 7 ("EPA"), by and through its Office of Regional Counsel, hereby moves this Board for leave to file the attached reply to Raytheon Aircraft Company's ("Raytheon") Response to the Environmental Appeals Board ("EAB")'s Order To Show Cause Why Petition For Reimbursement Should Not Be Dismissed As Premature ("Raytheon's Response"). Leave is sought now because although Raytheon's Response has attached to it a Certificate of Service stating that the document was mailed to Respondent's Counsel on March 6, 2006, the document was not received and was just this week discovered on the EAB website. See attached Declaration of J. Scott Pemberton. EPA believes that the EAB's precedents were not fully discussed by Petitioner and seeks leave to augment the legal argument for dismissing the petition for reimbursement as premature.

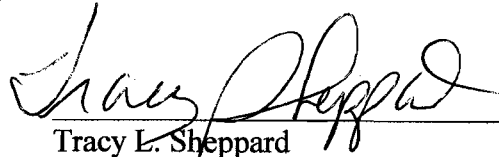
One of the undersigned counsels contacted petitioner's counsel on April 12, 2006 and petitioner's counsel indicated that Petitioner may wish to oppose this motion.

Dated the 13th day of April, 2006.

Respectfully submitted,

By: 

J. Scott Pemberton
Senior Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 7
901 North 5th Street
Kansas City, Kansas 66101
(913) 551-7276
FAX (913) 551-7925



Tracy L. Sheppard
Attorney-Advisor
Office of Site Remediation Enforcement
U.S. EPA
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
(202) 564-4785

CERTIFICATE OF SERVICE

I, Sarah Zaragoza, hereby certify that on the 13th day of April 2006, the original and five copies of the foregoing Motion for Leave to Reply to Raytheon Aircraft Company's Response to the Environmental Appeals Board's Order to Show Cause Why Petition for Reimbursement Should not be Dismissed as Premature, along with the attached Reply and Declaration, were sent via Express Mail Overnight Service to Eurika Durr, Clerk of the Board, Environmental Appeals Board, U.S. Environmental Protection Agency, 1341 G Street, N.W., Suite 600, Washington, D.C. 20005, and that true and correct copies were sent regular mail to the following counsel for Petitioner:

Beverlee J. Roper, Esquire
Daryl G. Ward, Esquire
Blackwell Sanders Peper Martin, LLP
4801 Main Street, Suite 1000
Kansas City, Missouri 64112

