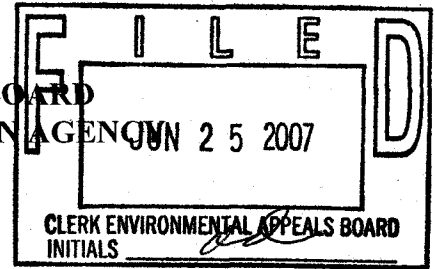


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)
)

Hercules Incorporated,)
)

Petitioner)
)

CERCLA 106(b) Petition No. 98-2

**ORDER TERMINATING STAY AND
DISMISSING PETITION WITH PREJUDICE**

On January 29, 1999, the Environmental Appeals Board granted the motion for stay of further proceedings in this matter filed by the Director of the Superfund Division, Region 6, United States Environmental Protection Agency (the "Region"). The Region's motion brought to the attention of this Board the case of *United States v. Vertac Chemical Corporation, et al.*, C.A. No. 80-109, (E.D. Ark) (the "Vertac Case"), which involved many of the same transactions or occurrences that underlie the petition of Hercules Incorporated ("Hercules") in the present matter. Due to potentially common issues of fact and law between the Vertac Case and the present matter, the Region requested that the stay in this matter continue "until the judgment in the District Court is final, either by the expiration of the time within which to appeal from a final judgment disposing of all claims, or at such time as all appeals have been exhausted in the Vertac Case between the United States and Hercules and judgment is final." *Id.*

On June 18, 2007, Hercules filed a motion seeking to terminate the stay in the present matter and to withdraw with prejudice its CERCLA § 106(b) petition for reimbursement in view

of the conclusion of the above referenced federal court litigation. Citing *United States v. Vertac Chem. Corp.*, 364 F.Supp.2d 941 (E.D. ARK. 2005), *aff'd* 453 F.3d 1031 (8th Cir. 2006), *cert. denied* ___ U.S. ___ (Apr. 23, 2007) (No. 06-865), Hercules states that “[t]he Courts have now denied, or declined to hear, the requests of Hercules * * * for relief on divisibility, administrative law, and constitutional law grounds.”

For the foregoing reasons, Hercules’ motion to terminate the stay is hereby granted, Hercules’ request to withdraw with prejudice its Petition for Reimbursement Pursuant to 42 U.S.C. § 9606(b) is hereby granted, and this matter is hereby **DISMISSED WITH PREJUDICE**.

So ordered.

ENVIRONMENTAL APPEALS BOARD

By: Scott C. Fulton
Scott C. Fulton,
Environmental Appeals Judge

Fulton

Dated: *June 25, 2007*

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Terminating Stay and Dismissing Petition with Prejudice in the matter of Hercules Incorporated, Petition No. CERCLA 106(b) 98-2, were sent to the following persons in the manner indicated:

First Class Mail
Postage Prepaid:

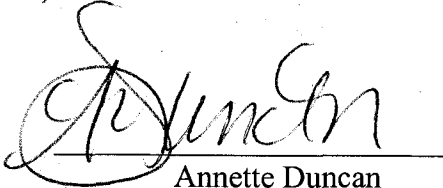
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Dated: JUN 26 2007



Annette Duncan
Secretary