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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7 901 NORTH 5TH STREET KANSAS CITY, KANSAS 66101

SINVIA. APPEALS BOARD

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EXPRESS MAIL OVERNIGHT DELIVERY

September 16, 2008

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 please find one original for filing of a U.S. Environmental Protection Agency's Status Report. This report was also electronically filed. 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! 7 M 10-02 WASHINGTON, D.C.

ENVIR. APPEALS BOARD

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) Petition No.) CERCLA 106(b) 06-01
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U.S. ENVIRONMENTAL PROTECTION AGENCY STATUS REPORT

The Respondent, Region VII of the U.S. Environmental Protection Agency ("EPA"), by and through its Office of Regional Counsel, submits this Status Report to inform the Environmental Appeals Board ("EAB") of the current status of the United States District Court, District of Kansas, civil case, *Raytheon Aircraft Company v. United States*, Case No. 05-2328-JWL. By Order dated February 1, 2007, the EAB stayed the reimbursement petition proceedings of Raytheon Aircraft Company ("Raytheon") until the conclusion of the above-referenced federal court litigation.

Trial was held in the *Raytheon Aircraft Company v. United States* matter between April 15 and April 30, 2008. On May 30, 2008, the District Court issued a Memorandum and Order (see Exhibit A) which ordered that: 1) judgment be entered in favor of the United States on

Raytheon's claims for cost recovery and contribution; and 2) judgment be entered in favor of the United States on the United States' claim against Raytheon for cost recovery, with the exception of certain costs incurred by the Agency for Toxic Substances and Disease Registry ("ATSDR"). After submitting the cost claim of the United States pursuant to the District Court's Memorandum and Order, minus the ATSDR costs, the District Court issued an Order on June 26, 2008 (see Exhibit B) entering judgment in favor of the United States on its claim against Raytheon for cost recovery in the amount of \$3,195,632.98.

On August 25, 2008 Raytheon filed a Notice of Appeal with the District Court, appealing the entire judgment entered by the District Court to the United States Court of Appeals for the Tenth Circuit. Federal court litigation continues.

Dated this _____/6 +/\ day of September, 2008.

Respectively 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

CERTIFICATE OF SERVICE

I, Deanna Smith, hereby certify that on the <u>Not N</u> day of September, 2008, the original of the foregoing U.S. Environmental Protection Agency Status Report was 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 a true and correct copy was 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

