



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

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2006 MAY -9 AM 11: 24

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.

2006 MAY -9 AM 11: 25  
ENVIR. APPEALS BOARD

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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, )  
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 )  
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.

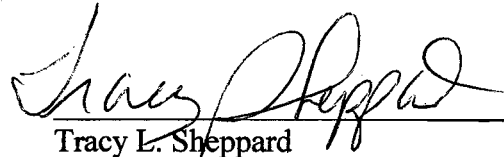
Dated the 13<sup>th</sup> day of April, 2006.

Respectfully submitted,

By:



J. Scott Pemberton  
Senior Assistant Regional Counsel  
Office of Regional Counsel  
U.S. EPA, Region 7  
901 North 5<sup>th</sup> 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 13<sup>th</sup> 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



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