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2006 MAR 20 AM 9:35

March 17, 2006

ENVIR. APPEALS BOARD

VIA FEDERAL EXPRESS

Clerk of the Board
Environmental Appeals Board
United States Environmental Protection Agency
1341 G Street, N.W., Suite 600
Washington, DC 20005

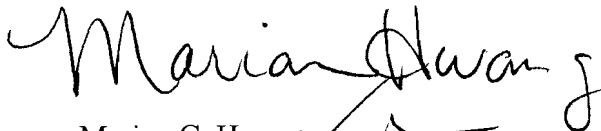
RE: In the Matter of: Environmental Protection Services, Inc.
U.S. EPA Docket No. TSCA-03-2001-0331

Dear Clerk:

On behalf of the Appellant, Environmental Protection Services, Inc., ("EPS"), please find enclosed an original and one copy of a Motion to Extend Deadline for Filing Appeal Brief. Copies have been sent by Federal Express to Judge Carl C. Charneski and to Ms. Cheryl L. Jamieson.

Thank you for your courtesy in this matter.

Very truly yours,



Marian C. Hwang
MCH/vlh
Enclosures

cc: Honorable Judge Carl C. Charneski
Cheryl L. Jamieson, Esquire, Senior Assistant Regional Counsel
John J. Ruggero, Esquire
Lee A. Spielman, Esquire
Lydia A. Guy, Regional Hearing Clerk

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ENVIRONMENTAL APPEALS BOARD 2006 MAR 20 AM 9:35

ENVIR. APPEALS BOARD

In the Matter of:

**ENVIRONMENTAL PROTECTION SERVICES,
INC.,**

U.S. EPA DOCKET NO.

TSCA-03-2001-0331

Appellant,

**MOTION TO EXTEND DEADLINE
FOR FILING APPEAL BRIEF**

Appellant Environmental Protection Services, Inc. ("Appellant" or "EPS"), by its undersigned counsel, submits this Motion to Extend the Deadline for Filing its Appeal Brief ("Motion") pursuant to 40 C.F.R. 22.7. Appellant will be seeking to appeal the Initial Decision In the Matter of Environmental Protection Services, Inc., issued March 7, 2006, by Carl C. Charneski, Administrative Law Judge. 40 C.F.R. § 22.7 provides:

The [EAB] * * * may grant an extension of time for filing any document: upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties; or upon its own initiative. Any motion for an extension of time shall be filed sufficiently in advance of the due date so as to allow other parties reasonable opportunity to respond and to allow the * * * Environmental Appeals Board reasonable opportunity to issue an order.

Appellant submits that this Motion should be granted for good cause and because no prejudice will be occasioned by the opposing party. See, U.S. EPA, EAB "The Environmental Appeals Board Practice Manual," (June 2004), citing In re B and B Wrecking and Excavating, Inc., 4

E.A.D. 16 (EAB 1992); Cypress Aviation, Inc., RCRA (3008) Appeal 91-6, at 2 (CJO, January 8, 1992).

Specifically, the underlying record below involved complex issues and defenses arising under the Toxic Substances Control Act. The hearing was held over the course of a year, from June 17, 2003, through June 30, 2004, and totaled over 15 hearing days. The record itself encompassed 4,944 pages, with over 13,000 pages of documentary exhibits. The Initial Decision is 61 pages in length, and was filed nearly two years after the last hearing date. Given the complexity of the issues, volume of records, and lapse in time necessitating the retrieval of records from storage, Appellant respectfully requests a 30-day extension in which to file its Appeal Brief or until May 12, 2006.


Further, the date upon service of the Initial Decision is somewhat unclear as receipt by lead counsel for EPS was initially misdirected and was not received until March 17, 2006. Co-counsel received the Initial Decision on March 13, 2006.

Appellant EPS's requested relief of an extension should not result in any prejudice to EPA. For the above reasons, EPS submits that special circumstances exist in this case to warrant and justify Appellant's Motion for Extension. Appellant has advised EPA of its intention to file this Motion and that EPS will not object to any extension that might be requested in the event EPA seeks an extension of its reply deadline.

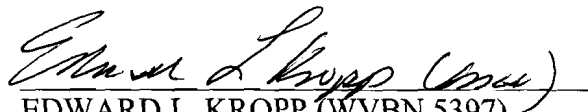
EPS intends to file its Notice of Appeal within the 30-day deadline, but seeks only an extension for filing its brief. As noted above, while the service date to counsel is unclear, the Notice of Appeal will be filed on or before April 12, 2006.

Respectfully submitted,

Environmental Protection Services, Inc.
By Counsel



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Baltimore, Maryland 21202



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Jackson Kelly PLLC
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Charleston, West Virginia 25322

Counsel for Respondent,
Environmental Protection Services, Inc

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ENVIRONMENTAL APPEALS BOARD**

In the Matter of:

**ENVIRONMENTAL PROTECTION SERVICES,
INC.,**

U.S. EPA DOCKET NO.

TSCA-03-2001-0331

Respondent/Appellant,

CERTIFICATE OF SERVICE

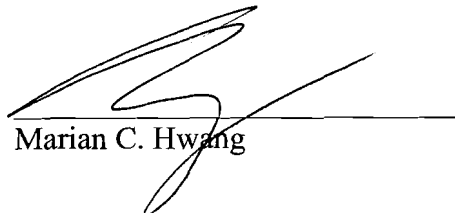
I hereby certify that on this 17th day of March 2006, service of the foregoing ENVIRONMENTAL PROTECTION SERVICES, INC.'s MOTION TO EXTEND DEADLINE FOR FILING APPEAL BRIEF was made by federal express for next business day delivery on March 20, 2006, to the following:

Lydia A. Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Honorable Carl C. Charneski
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1099 14th Street, N.W., Suite 350
Washington, D.C. 2005

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