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2006 SEP 2

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September 20, 2006

VIA COURIER

Ms. 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 and five copies of Raytheon Aircraft Company's Report.

A sixth copy of the motion is also enclosed. Please stamp the sixth copy and return the self-addressed stamped envelope enclosed.

Sincerely,



Beverlee J. Roper

BJR
Enclosures

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

2006 SEP 21
ENVIR. APPEALS

IN THE MATTER OF:)
)
)
TRI-COUNTY PUBLIC AIRPORT SITE,)
RAYTHEON AIRCRAFT COMPANY)

CERCLA § 106(b) Petition No. 06-

RAYTHEON AIRCRAFT COMPANY'S STATUS REPORT

Petitioner, Raytheon Aircraft Company ("RAC") hereby notifies the Environmental Appeals Board ("the Board") that on September 6, 2006, the U.S. Environmental Protection Agency Region VII ("EPA") issued RAC the

Notice of Completion of Field Work, Unilateral Administrative Order for Removal Response Activities, Docket No. CERCLA-07-2004-0311
In the Matter Of: Tri-County Public Airport Site, Morris County, Kansas
Respondents: Raytheon Aircraft Company and City of Herington, Kansas

The notice stated that

The EPA has determined that all field work has been fully performed in accordance with the referenced Order, with the exception of any continuing obligations required by the referenced Order, including Section XI (Record Preservation) and Section XVI (Reservation of Rights by EPA).

In its earlier-filed Motion to Dismiss, EPA cited as its sole basis for relief that RAC's petition was premature because "the required action has not been completed." EPA Motion to Dismiss, p.1. EPA's referenced Order clearly described when completion of work would occur.

When EPA determines, after review of the Removal Action Report, that all Work has been fully performed in accordance with this Order, with the exception of any continuing obligations required by this Order, including Section XI (Record Preservation) and Section XVI (Reservation of Rights by EPA), EPA will provide written notice to Respondents.

Order, p. 28. In light of EPA's September 6, 2006, Notice of Completion, RAC respectfully moves the Board forthwith to deny EPA's Motion to Dismiss. RAC further requests that the Board order reimbursement of RAC's response costs incurred complying with the UAO, and that EPA had ordered RAC to remediate contamination caused by United States World War II activities at the Herington Army Airfield.

In the alternative, RAC requests that the Board issue EPA an order to show cause why

RAC is not entitled to such reimbursement.

Date: September 20, 2006

Respectfully submitted,

Handwritten signature of Beverlee J. Roper in cursive script, followed by the initials 'KRZ'.

Beverlee J. Roper

Daryl G. Ward

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Kansas City, Missouri 64112

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Attorneys for Petitioner Raytheon Aircraft Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed via first class mail, return receipt requested, this 20th day of September 2006 to:

J. Scott Pemberton
Senior Assistant Regional Counsel
Environmental Protection Agency
901 N. Fifth Street
Kansas City, Kansas 66101

Daryl G. Ward /KPS

Daryl G. Ward