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ENVIR. APPEALS BOARD

From: Patricia Hamwell

Fax#: 312 886-7160

Date: 6/6/06

Subject: GM - Motion for  
Extension

Number of Pages: 9





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGIONS 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

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ENVIR. APPEALS BOARD

REPLY TO THE ATTENTION OF:

**POUCH MAIL**

June 6, 2006

Ms. Eurika Durr  
Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board (1103B)  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-000  
Facsimile: (202) 233-0121

Re: Complainant's Motion for Extension of Time  
*In re: General Motors Automotive-North America*  
Docket No. RCRA-05-2004-0001  
RCRA Appeal No. (3008) 06-02

Dear Ms. Durr:

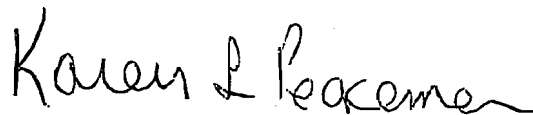
Please accept Complainant's apologies for originally mis-delivering the enclosed Complainant's Motion for Extension of Time. We inadvertently used an out-dated address for the Environmental Appeals Board, and consequently, the Board was never served with the May 25, 2006, motion. Fortunately, counsel for General Motors was timely served with the motion on May 26, 2006.

Enclosed, please find the original and five copies of Complainant's Motion for Extension of Time, filed herewith the U.S. EPA Environmental Appeals Board. A copy of this motion was sent to your attention via facsimile yesterday morning (approximately 11:20 AM, central time). We have corrected the certificate of service to reflect the correct address.

2

Please convey our apologies to the Judges on the Board. And please convey our gratitude to Ms. Suzanne Krolkowski, who graciously assisted us in filing the motion for extension yesterday.

Respectfully submitted,



Karen Peaceman  
Associate Regional Counsel

Enclosure

cc: Honorable Barbara Gunning  
Administrative Law Judge

Sonja Brooks-Woodard  
Region 5 Hearing Clerk

**CERTIFICATE OF SERVICE**

I hereby certify that the original and copies of the attached Complainant's Motion for Extension of Time were filed in the following manner on June 6, 2006:

Eurika Durr  
Clerk of the Board  
Environmental Appeals Board (1103B)  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-000

Sonja Brooks-Woodard  
Regional Hearing Clerk  
U.S.EPA  
Region 5  
77 West Jackson Boulevard  
Chicago, Il. 60604-3590 [hand delivered copy]

Honorable Barbara Gunning  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Mail Code 1900L  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
202-564-6291 [via Pouch Mail]

Robert J. Martineau, Jr., Esq.  
Waller Lansden Dortch & Davis, LLP  
Nashville City Center  
Suite 2700  
511 Union Street  
Nashville, TN 37219-8966 [via Certified Mail Return Receipt Requested]

Dated: 6/6/06

Signature:



Patricia Jeffries-Harwell  
Legal Technician



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGIONS 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

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ENVIR. APPEALS BOARD

REPLY TO THE ATTENTION OF:

May 25, 2006

Ms. Eurika Durr  
Clerk of the Board  
Appeals Board  
U.S. Environmental Protection Agency  
607 14<sup>th</sup> Street, N.W.  
Suite 500  
Washington, D.C. 20005

Re: Motion for Extension of Time  
In the Matter of General Motors Automotive-North America  
Docket No. RCRA-05-2004-0001/RCRA Appeal No.(3008) 06-02

Dear Ms. Durr:

Enclosed please find the original and five copies of Complainant's Motion for Extension of Time, filed herewith the U.S. EPA Environmental Appeals Board.

Respectfully submitted,

Karen L. Peaceman  
Associate Regional Counsel

Enclosures

cc: Judge Barbara A. Gunning  
Sonja Brooks  
John Kyle  
Michael Scanlon  
Robert J. Martineau, Jr. Esq.  
Edward M. Callaway, Esq.  
Michelle B. Walker, Esq.  
Michelle T. Fisher

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

6 MAY 25 P2:42

RCRA Appeal No. (3008) 06-02  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION V

IN RE: )  
)  
General Motors Automotive - North America )  
Docket No. RCRA-05-2004-0001 )  
\_\_\_\_\_ )

**MOTION FOR EXTENSION OF TIME TO FILE A BRIEF IN RESPONSE TO GM'S  
NOTICE OF APPEAL AND BRIEF IN SUPPORT OF NOTICE OF APPEAL**

Complainant in the above action hereby requests an extension of time to file its Brief in Response to the Notice of Appeal filed by Respondent, General Motors on May 19, 2006, appealing the Order of Administrative Law Judge Barbara A. Gunning, issued on March 30, 2006.

Pursuant to Section 22.30(a)(2) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits*, ("Consolidated Rules" or "CROP"), Complainant must file its brief in response to a notice of appeal and brief within 20 days of service of that notice of appeal and brief. Respondent General Motors Corporation ("GM") filed its Notice of Appeal on April 26, 2006 and it filed its Brief in Support of its Notice of Appeal on May 19, 2006. Service of GM's Brief in Support of its Notice of Appeal was made by overnight mail. Pursuant to Section 22.7 of the CROP, Complainant's Brief in Response to GM's Brief in Support of its Notice of Appeal ("Brief in Response") is due on June 8, 2006.

GM has raised issues of national significance in its appeal regarding the "point of

generation" of solid waste, the definitions of "discarded materials" and "spent materials" under RCRA, the applications of RCRA's "manufacturing process unit" and "totally enclosed treatment unit" exemptions to the facts of this case and the relationship between the EPA and the State of Michigan in enforcing RCRA. The resolution of these issues may have a significant impact on the Agency's administrative enforcement actions, and affect the conduct of its business throughout the nation. Because of the potential breadth and impact of the issues raised by GM on the national program and the need to consult and coordinate with various offices within Headquarters so as to provide the Environmental Appeals Board with the unified view of the Agency, the Complainant is requesting an extension of time up to and including July 10, 2006 in which to submit its Brief in Response to GM's Notice of Appeal and accompanying brief.

Counsel for Complainant has discussed this request for extension of time with counsel for GM. Counsel for GM has represented that GM has no objection to Complainant receiving a 15 day extension of time in which to file its Brief in Response. Notwithstanding GM agreeing only to a 15 day extension of time, Complainant believes the complexity of the issues presented in this appeal and their national significance warrants an extension of time to July 10, 2006. This request is particularly reasonable in that both the Memorial Day and July 4<sup>th</sup> holidays will occur

between now and the requested due date of July 10, 2006. This delay should not result in any prejudice to GM.

Respectfully submitted,



Karen L. Peaceman  
Associate Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection  
Agency  
77 West Jackson Blvd.  
Chicago, IL 60604  
(312) 353-5751

OF COUNSEL:

Gary A. Jones  
Senior Counsel for Strategic Litigation  
Office of Civil Enforcement (Mail Code 2241-A)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dated: May 26, 2006



**CERTIFICATE OF SERVICE**

I hereby certify that the original and copies of this Motion for Extension of Time were filed in the following manner on May 25, 2006

Eurika Durr  
Clerk of the Board  
Appeals Board  
U.S. Environmental Protection Agency  
607 14<sup>th</sup> Street, N.W.  
Suite 500  
Washington, D.C. 20005  
202-501-7060 [via fax and federal express]

Sonja Brooks  
Regional Hearing Clerk  
U.S.EPA  
Region 5  
77 West Jackson Boulevard  
Chicago, Il. 60604-3590 [hand delivered copy]

Judge Barbara A. Gunning  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Mail Code 1900L  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
202-564-6291 [via federal express]

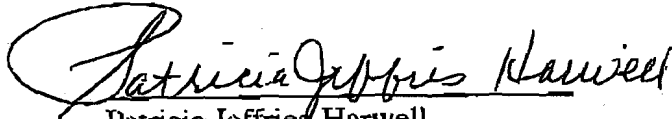
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US ENVIRONMENTAL  
PROTECTION AGENCY  
REGION V

Michelle T. Fisher, Esq.  
General Motors Corporation  
300 Renaissance Center  
P.O. Box 300  
Detroit, MI 48265-3000 (via federal express)

A handwritten signature in cursive script that reads "Patricia Jeffries Harwell". The signature is written in black ink and is positioned above the typed name.

Patricia Jeffries-Harwell  
Legal Technician  
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77 W. Jackson Boulevard  
Chicago, Illinois 60604  
(312) 353-7464