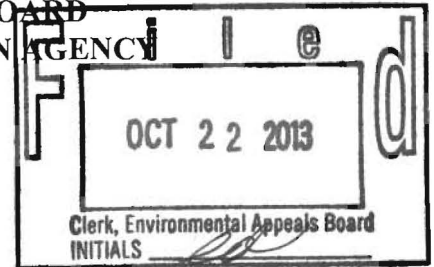


**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**



In re: Andrew B. Chase,
a/k/a Andy Chase, Chase Services,
Inc., Chase Convenience Stores, Inc.,
and Chase Commercial Land
Development, Inc.

RCRA (9006) Appeal No. 13-04

Docket No. RCRA-02-2011-7503

**ORDER GRANTING, IN PART, MOTION FOR EXTENSION OF TIME
AND ESTABLISHING NOVEMBER 15, 2013, AS NEW DEADLINE
FOR RESPONSE AND/OR CROSS-APPEAL**

On July 16, 2013, the Environmental Appeals Board ("Board") granted the motion for an extension of time to file a notice of appeal and brief that Respondents Andrew B. Chase, a/k/a Andy Chase, Chase Services, Inc., Chase Convenience Stores, Inc., and Chase Commercial Land Development, Inc. had submitted in the above-captioned case. Order Granting Motion for Extension of Time at 2. The Board extended Respondents' deadline until August 26, 2013, and also provided U.S. Environmental Protection Agency Region 2 ("Region") the same number of additional days (i.e., 30) in which it could file a response to such appeal. *Id.* The Region's response deadline was thus extended to October 15, 2013. *Id.* Upon motion by the Region, the Board later modified the July 16, 2013 Order to clarify that the additional time granted to the Region to file a response to the appeal also applied if the Region desired to file a cross-appeal. Order Granting Motion to Modify July 16, 2013 Order at 2-3. Both filings were due on October 15, 2013. *Id.* at 3.

Due to a lapse in appropriations, the U.S. government was partially shut down from October 1, 2013, through October 16, 2013, reopening on October 17, 2013. The Board was closed during the shutdown, as was the majority of EPA.

On October 18, 2013, the Region filed a motion requesting the Board establish a new deadline, November 22, 2013, for the Region's response and/or cross-appeal. Motion to Extend Filing Date for Appeal Brief at 1. Counsel for the Region provides several reasons for this request. First, he indicates that he was prohibited from working during the shutdown. *Id.* at 2. He also states that the issues in the case necessitate consultation with offices at EPA Headquarters, which "necessarily are time consuming." *Id.* He further explains that he had previously made plans to be out of town during the entire week of October 28, 2013. *Id.* Counsel for the Region avers that he contacted counsel for Respondents to obtain their views on the motion and that Respondents' counsel does not object to the new due date. Supplement to Motion to Extend Filing Date for Appeal Brief at 2 & Attach.

The Board GRANTS, but only in part, Region 2's motion for a new due date. The shutdown began 14 days before the original deadline, and thus 14 additional days from the date of the government's reopening would be equivalent to the amount of time lost because of the shutdown. The Region, however, requests an extension of 36 days – or an additional 22 days beyond those days lost due to the shutdown – to file its response and/or cross-appeal. Significantly, the Region has already been granted a 30-day extension in this matter.¹ While the additional time is partly justified by counsel's previous out-of-office commitments the week of

¹ Although the Region did not itself request the original 30-day extension, the Region had agreed to the Respondent's motion for additional time provided the Region received an equal extension of time in which to respond. Order Granting Motion for Extension of Time at 2.

October 28 and the need for discussions between the Region and Headquarters, the Board finds that the Region has not shown good cause for the entire 36-day extension request. Accordingly, the Board GRANTS the Region an additional 15 days beyond the 14 days lost because of the shutdown. The Region's response is therefore due on November 15, 2013.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated:

10/22/13

By:

A handwritten signature in black ink, appearing to read 'Catherine R. McCabe', written over a horizontal line.

Catherine R. McCabe
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing *Order Granting, in Part, Motion for Extension of Time and Establishing November 15, 2013, as New Deadline for Response and/or Cross-Appeal* in the matter of Andrew B. Chase a/k/a Andy Chase, Chase Services, Inc., Chase Convenience Stores, Inc., and Chase Commercial Land Development, Inc., RCRA (9006) Appeal No. 13-04, were sent to the following persons in the manner indicated:

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Annette Duncan
Secretary

Date: OCT 22 2013