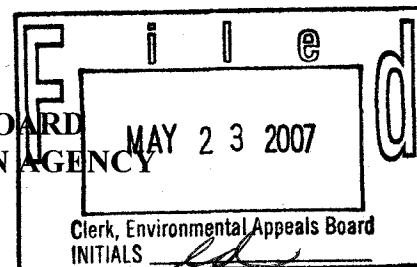


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)
)
Leed Foundry, Inc.)
)
Docket No. RCRA-03-2004-0061)
CWA-03-2004-0061)

RCRA (3008) Appeal No. 07-(02)
& CWA Appeal No. 07-(01)

**ORDER EXTENDING TIME TO FILE NOTICE OF APPEAL
AND SUPPORTING BRIEF**

By motion filed on May 16, 2007, U.S. EPA Region 3 (the "Region") seeks a 30-day extension of time, until June 29, 2007, to file a notice of appeal and a brief in support thereof from an Initial Decision issued on April 24, 2007, by Administrative Law Judge William B. Moran (the "ALJ"). Motion for Extension of Time (May 16, 2007) ("Motion"). In support of its Motion, the Region states that the ALJ's decision:

focus[es] on an area of law, the "Bevill Amendment" of the Resource Conservation and Recovery Act, 42 U.S.C. § 6921(b), which has a complex regulatory history. Because the [ALJ's] ruling in this matter is based on his interpretation of statutory language in an area where the Agency has already engaged in formal rulemaking, EPA counsel needs to consult with several different offices within EPA Headquarters and Region III. * * * [The Region] submits that the complexity and national significance of the issues raised in this case and the need for coordinating among various offices within EPA constitute good cause for the requested extension. [The Region] also submits that a 30-day extension of time for filing of its Notice of Appeal and Brief will not cause prejudice or harm to Respondent in any way.

Motion at 2.

Upon consideration, we find good cause to grant the extension. A 30-day extension will result in minimal disruption or delay to these proceedings and will allow the Region to fully

consult with appropriate offices within the Agency before deciding whether to file an appeal in this matter. Accordingly, the Region's Motion is granted. The Region's notice of appeal and brief in support thereof must now be filed with the Board no later than June 29, 2007.¹

Respondent in this matter, Leed Foundry, Inc., shall also have until June 29, 2007, to file an appeal in this matter should it chose to do so.

So ordered.²

Dated: 5/23/07

ENVIRONMENTAL APPEALS BOARD

By: 

Edward E. Reich
Environmental Appeals Judge

¹ Documents are "filed" with the Board on the date they are *received*.

² The period for filing cross-appeals under 40 C.F.R. § 22.30(a)(1) is thus also extended. Further, this order extends the deadline for filing an appeal beyond the period (45 days from the date of service of an Initial Decision) within which the Board would ordinarily determine, under 40 C.F.R. § 22.30(b), whether to undertake *sua sponte* review of an unappealed decision. Normally, because the time for a party to file an appeal is 30 days from the date of service of the decision, the Board has 15 additional days to make its determination respecting *sua sponte* review. To preserve this interval in this case, the Board will defer any consideration of *sua sponte* review until after the Region's revised deadline for filing an appeal expires on June 29, 2007. See 40 C.F.R. § 22.1(c) (when a procedural issue arises that is not explicitly addressed in the Consolidated Rules of Practice at 40 C.F.R. pt. 22, the Board has discretion to resolve the issue as it deems appropriate). As a result, the ALJ's decision shall become a final order pursuant to 40 C.F.R. § 22.27(c) *only* if: (1) no appeal is filed by either Region 3 or Leed Foundry, Inc. on or before June 29, 2007; and (2) the Board does not elect to review the decision *sua sponte* on or before July 14, 2007 (the 15th day after the Region's revised deadline for filing a notice of appeal).

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Order Extending Time to File Notice of Appeal and Supporting Brief in the matter of Leed Foundry, Inc., RCRA (3008) Appeal No. 07-(02) & CWA Appeal No. 07-(01), were sent to the following persons in the manner indicated:

By First Class Mail:

Timothy J. Bergere
Montgomery, McCracken, Walker & Rhoads, LLP
123 South Broad Street
Philadelphia, PA 19109

By Pouch Mail:

John Ruggero
Sr. Asst. Regional Counsel
U.S. EPA Region 3 (3RC00)
1650 Arch Street.
Philadelphia, PA 19103-2029

Lydia Guy, Regional Hearing Clerk
U.S. EPA, Region 3 (3RC00)
1650 Arch Street.
Philadelphia, PA 19103-2029

By Interoffice Mail:

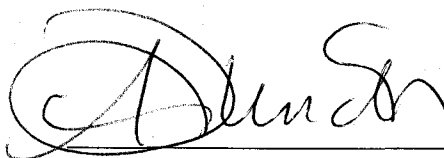
Gary Jones
Office of Civil Enforcement (2241A)

Pete Raack
Office of Civil Enforcement (2246A)

William B. Moran (1900L)
Administrative Law Judge

Dated:

MAY 23 2007



Annette Duncan
Secretary