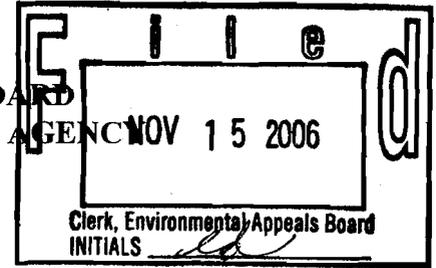


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)
)
Dow Chemical Company,)
Hanging Rock Plant) RCRA Appeal No. 06-01
)
Permit No. OHD 039-128-913)
_____)

ORDER GRANTING SECOND MOTION
FOR EXTENSION OF TIME TO FILE RESPONSE

By order issued July 26, 2006, the Environmental Appeals Board (“Board”) granted a motion from the United States Environmental Protection Agency Region 5 (“Region”) requesting a 90-day extension of time to file its response to the petition filed by The Dow Chemical Company (“Dow”) in the above-captioned matter.¹ The order grants the Region until November 16, 2006, to file its response. *See* Order Extending Time to File Response (EAB, July, 26, 2006). On November 13, 2006, the Region filed a second motion requesting a 76-day extension of time. *See* Second Motion for Extension of Time To Respond To Petition For Review (dated Nov. 9, 2006). The Region represents that it consulted with Dow regarding the motion and that counsel for Dow concurs with the extension request. *Id.* In support of its motion, the Region states that it and Dow have diligently and in good faith pursued resolution of the appeal and have made significant progress. *Id.* at 2. For instance, the Region explains, the parties, with the

¹ On June 22, 2006, Dow filed a petition seeking review of a Resource Conservation and Recovery Act (“RCRA”) permit decision issued by Region 5 on May 24, 2006, allowing Dow to manage certain hazardous waste by using the hazardous waste as fuel for two boiler units.

participation of numerous technical staff from Dow, the Ohio Environmental Protection Agency (“OEPA”), and the Region, have engaged in various discussions about the contested permit conditions. *Id.* As a result, Dow developed additional calculations and risk analyses related to some of the contested conditions, and the OEPA visited Dow’s facility to observe the Solid Waste Management Units and Areas of Concern listed in the permit. *Id.* at 3. However, the Region further explains, while progress has been made the parties are still engaged in complex information-gathering and discussion, and do not anticipate settling the remaining issues prior to November 16, 2006. *Id.* at 4. The 76-day extension is necessary, according to the Region, because even if the parties were to immediately settle the issues, the Region would still need time to amend the permit and provide public notice of the changes. *Id.*

Upon consideration of the foregoing and for good cause shown, the current motion is GRANTED. The Region’s response must now be filed no later than January 31, 2007.²

So ordered.

ENVIRONMENTAL APPEALS BOARD

By: 

for Scott C. Fulton
Environmental Appeals Judge

Dated: *November 15, 2006*

² Documents are “filed” with the Board on the date they are *received* by the Clerk.

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Order Granting Second Motion for Extension of Time to File Response in the matter of Dow Chemical Company, Hanging Rock Plant, RCRA Appeal No. 06-01, were sent to the following persons in the manner indicated:

First Class Mail
and Facsimile:

Robert J. Schmidt
Porter, Wright, Morris & Arthur
41 South High Street
Columbus, OH 43215
Fax: 614-227-2100

Pouch Mail and
Facsimile:

Kevin C. Chow
Assistant Regional Counsel
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, IL 60604
Fax: 312-886-0747

Dated: NOV 15 2006


Annette Duncan
Secretary