

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF

Appeal No. RCRA 10-01

American Airlines, Inc.

MCI Maintenance and Engineering Base

Kansas City, Missouri

Missouri/EPA Hazardous Waste Permit

No. MOD0439035048, Part II

MOTION FOR STAY IN PROCEEDINGS

COMES NOW Respondent, United States Environmental Protection Agency Region 7 (“EPA”), and avers and moves the Court as follows:

1. Pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq. (“RCRA”), and the regulations promulgated at 40 C.F.R. Part 124 and 40 C.F.R. Part 270, the EPA, on August 11, 2010, issued a part II permit for the American Airlines Maintenance Base (the “facility”), naming American Airlines, Inc (“American”) as the “operator” of the facility and the City of Kansas City, Missouri (the “City”) as the “owner” of the facility.

2. The Missouri Department of Natural Resources (“MDNR”) simultaneously issued a RCRA permit for the facility.

3. The State of Missouri has received authorization pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, to administer its own hazardous waste program. Missouri's authorization includes both the base RCRA program (see 40 C.F.R. § 272.1300-1301) and the

corrective action program (direct final rule, 64 FR 23780, May 4, 1999, effective date June 3, 1999) (not yet codified).

4. The portion of the permit issued by EPA on August 11 was issued to cover only those requirements promulgated pursuant to the Hazardous and Solid Waste Amendments of 1984 ("HSWA"), P.L. 98-616, 98 Stat. 3221, for which the State of Missouri has not received authorization, as well as any new HSWA requirements promulgated during the life of the permit.

5. The portion of the permit issued by MDNR covers all ongoing post-closure and corrective action activities at the facility.

6. American appealed both the MDNR-issued permit and the EPA-issued permit on September 13, 2010. The procedure for the appeal in the State of Missouri involves a hearing before the Missouri Administrative Hearing Commission. The Administrative Hearing Commission then makes a recommendation to the Missouri Hazardous Waste Commission, which then renders a decision on the appeal. The date for the hearing before the Administrative Hearing Commission has been set for Feb. 8, 2011, commencing at 9 am.

7. By letter dated September 16, 2010, the clerk of the Environmental Appeals Board (the "Board") advised David Cozad, Regional Counsel for EPA Region 7, of the appeal and requested that a response be filed with the Board no later than November 1, 2010.

8. All of the substantive permit requirements (that is, the ongoing work under the post-closure and corrective action portions of the permit) are contained in the State-issued permit. EPA's permit was issued as a placeholder for HSWA requirements for which the state does not have authorization should any such requirements become applicable to post-closure or corrective action activities.

9. If the review process now before the Board proceeds, there is the risk that there may be conflicting results from proceedings before the two different tribunals.

10. The EPA therefore respectfully moves that the Board to stay the appeal process initiated by American pending the resolution of the Missouri appeal.

11. Undersigned counsel for the Environmental Protection Agency hereby represents that I have consulted with counsel for American Airlines, and American does not object to staying these proceedings.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Belinda L. Holmes", written over a horizontal line.

Belinda L. Holmes
Senior Counsel
U.S. Environmental Protection Agency, Region 7

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Appeal No. RCRA-10-01

CERTIFICATE OF SERVICE

I certify that a .pdf of this document has been filed electronically with the Environmental Appeals Board this 20th day of October, 2010, and that a true and accurate copy has been served via electronic mail and certified mail, return receipt requested, to:

Robert J. Joyce
McAfee & Taft, PC
1717 S. Boulder Ave., Suite 900
Tulsa, OK 74119

A handwritten signature in black ink, appearing to read "Belinda L. Holmes", written over a horizontal line.

Belinda L. Holmes
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