



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

Sam Coleman, Director  
Superfund Division  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, TX 75202-2733

SEP 2 2008

ENVIRONMENTAL APPEALS BOARD

Re: Palmer Barge Superfund Site  
Petition Number: CERCLA 106(b) 08-02

Dear Mr. Coleman:

Enclosed is a petition for reimbursement dated August 26, 2008 received by the Environmental Appeals Board (the "Board") on August 27, 2008, filed by Harless R. Benthul, Attorney, on behalf of Higman Barge Lines, Inc., pursuant to CERCLA Section 106(b). The petition seeks reimbursement of costs incurred by the petitioner.

The Board has issued a revised guidance document, dated November 10, 2004, describing the Board's procedures for addressing Section 106(b) reimbursement petitions. A copy of the Board's guidance is enclosed.

Accordingly, please have your staff prepare and submit a response to the petition, as described more fully in Section IV. A of the Board's guidance. If your response challenges the petitioner's eligibility to seek reimbursement, without regard to the merits of the reimbursement claim, the response should be filed not later than October 2, 2008. If, however, your response does address the merits of the reimbursement claim, the response should be filed not later than November 3, 2008. In either event, please file an original (signed in blue ink) and two copies of the response with the Board at the address shown below, and send a copy of the response to the petitioner's attorney.<sup>1</sup>

Please include with the response a certified index to the administrative record that was compiled in connection with the issuance of the underlying CERCLA Section 106(a) Order. Please also include copies of any documents that are relied on in the response and that have not

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<sup>1</sup>The Environmental Appeals Board has an innovative system that allows parties to submit copies of documents, including exhibits, electronically in PDF. Instructions on registration and document submission are available by using the "Electronic Submission" link on the Board's website. Please note that, at the present time, electronic submissions will not be considered a substitute for filing an original document with the Clerk of the Board. The Clerk of the board still must actually receive the original document by the document's due date in order for it to be timely filed. However, Agency offices and private parties that use this system for submitting electronic copies will be excused from the requirement to submit multiple paper copies with their original filing.

If the Board determines that summary disposition is appropriate, the Board will issue an order to that effect. If the Board determines that summary disposition is not appropriate, or that the issue of summary disposition should be reserved until after a response to the merits of the petition is filed, the Board will issue an order directing that a response to the merits of the petition be filed within 15 days of the Board's order.

Response not Seeking Summary Disposition. If you do not file a response seeking summary disposition, please file a response to the merits of the petition by not later than October 2, 2008. Please include with your response relevant portions of the administrative record, together with a certified index of the entire administrative record.

File an original (signed in blue ink) and five copies of these materials with the Board, and send a copy to petitioner, with a certificate of service showing the date and method of service.

### **Mailing and Hand Delivery Instructions<sup>2</sup>**

**All documents that are sent through the U.S. Postal Service, Express Mail, hand-delivered, via courier must include the name of the organization, address, facsimile number, telephone number, and an email address, if available.**

Documents that are sent through the U.S. Postal Service (except by Express Mail) **MUST** be addressed to the Environmental Appeals Board's mailing address which is:

U.S. Environmental Protection Agency  
Clerk of the Board  
Environmental Appeals Board 1103B  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001

Documents that are sent to the Environmental Appeals Board's hand-delivery address (below) through the U.S. Postal Service (except by Express Mail) will be returned to the sender and shall not be considered as filed.

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submitting electronic copies will be excused from the requirement to submit multiple paper copies with their original filing.

<sup>2</sup>The Environmental Protection Agency is experiencing delays in delivery of mail from the U.S. Postal Service. These delays are due to a new sterilization procedure applied to all U.S. Postal Service mail delivered to the federal government. Parties are encouraged to utilize non-U.S. Postal Service carriers and the Board's hand-delivery address when filing time-sensitive pleadings with the Board. Additional information regarding mail delivery to the Board is available on the Environmental Appeals Board website ([www.epa.gov/eab](http://www.epa.gov/eab)) at the Clerk of the Board or Frequently Asked Questions.

already been submitted to the Board by the petitioner.

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### **Hand Delivery Address**

Documents that are **hand-carried** in person, delivered via courier, mailed by Express Mail, or delivered by a non-U.S. Postal Service carrier (e.g., Federal Express or UPS) **MUST** be delivered to:

U.S. Environmental Protection Agency  
Clerk of the Board, Environmental Appeals Board  
1341 G Street, N.W. Suite 600  
Washington, D.C. 20005

Documents that are hand-carried may be delivered to the Clerk of the Board between 8:30 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m., Monday through Friday (excluding federal holidays).

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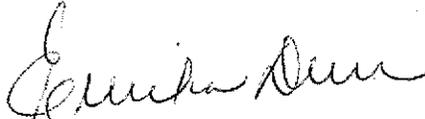
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**Filing Requirements**

**IMPORTANT:** All documents, including the materials due October 2, 2008 or November 3, 2008, must reference the petition number. In addition, any envelope or other packaging containing documents sent to the address, as prescribed above, must bear a complete and accurate return address in the upper left hand corner. The envelope or packaging must also clearly state the case name and case identifier in the lower left hand corner.

Thank you for your attention to this matter.

Sincerely,



Eurika Durr  
Clerk of the Board

Enclosure

cc w/o encl: Harless R. Bethul, Attorney  
Lyric Centre  
440 Louisiana, Suite 600  
Houston, TX 77002

w/encl: Ben Harrison (Acting)  
Regional Counsel  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, TX 75202-2733

Inter-office Mail Scott A. Sherman  
Office of Enforcement and Compliance Assurance (2366A)  
U.S. EPA, Headquarters  
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Kenneth Patterson  
Office of Enforcement and Compliance Assurance (2272A)  
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