

**THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

| | | |
|----------------------------------|---|---|
| In the matter of: |) | DOCKET NO: RCRA-UST-04-2009-0001 |
| |) | |
| Dilbag Khera |) | Proceeding under Section 9006 |
| AM Food and Gas |) | of the Resource Conservation |
| 11670 Jones Bridge Road |) | and Recovery Act, as amended |
| Alpharetta, Georgia 30005 |) | 42 U.S.C. § 6991e |
| |) | |
| Respondent |) | |
| _____ |) | |

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ENVIRONMENTAL PROTECTION AGENCY

COMPLAINANT'S RESPONSE TO RESPONDENT'S MOTION TO EXTEND TIME TO FILE ANSWER

1. On June 1, 2009, Complainant filed the Administrative Complaint referenced above by certified mail, return receipt requested. Pursuant to 40 C.F.R. § 22.16(a), Respondent's Answer was due 30 days after service of the Complaint. The return receipt requested green card shows that the Complaint was received on June 3, 2009. Therefore, the Complaint was served on June 3, 2009. (40 C.F.R.22.5(b)(1)(C)(iii)). Accordingly, the Answer was due on July 3, 2009.

2. On July 10, 2009, one week after the Answer was due, Respondent filed with the Regional Hearing Clerk his Motion for an Extension of Time to File Answer, together with his proposed Answer.

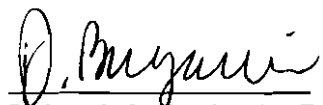
3. Paragraph 7 of Respondent's Motion erroneously states that service of the Complaint was ineffective and improper. Tellingly, Respondent does not provide any facts to support that contention. The Complaint was, in fact, properly served upon Respondent pursuant to all of the requirements found in 40 C.F.R. Part 22.

4. Paragraph 1 of Respondent's Motion erroneously states that the Complaint was delivered to Respondent's address on June 5, 2009. The green card shows that the Complaint was actually delivered, and received on June 3, 2009.

5. Paragraph 5 of Respondent's Motion erroneously states that Respondent retained counsel three days after it's Answer was due, on July 8, 2009. Since the Answer was due on July 3, 2009, Respondent did not retain counsel until five days after the Answer was due.

6. Having hereby clarified certain erroneous facts in Respondent's Motion, Complainant does not object to the Court allowing Respondent to file his proposed Answer.

Respectfully submitted,



Deborah S. Benjamin, Esq.
Associate Regional Counsel

7/21/09
Date

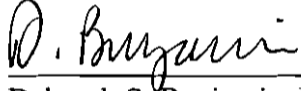
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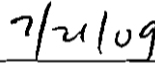
NOTICE OF SUBSTITUTION OF COUNSEL

Please be advised that from this date forward, until further notice, Deborah S. Benjamin is Complainant's new attorney of record for the above reference matter.

Respectfully submitted,



Deborah S. Benjamin, Esq.
Associate Regional Counsel



Date

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ENVIRONMENTAL
PROTECTION AGENCY

In the matter of Dilbag Khera, RCRA-UST-04-2009-0001

CERTIFICATE OF SERVICE

I certify that Complainant's **Reply to Respondent's Motion for Extension of Time to File Answer**, and **Notice of Substitution of Counsel**, was sent this 21st day of July, 2009, in the following manner to the addressees below:

Hand Delivery - Original and one copy

Patricia Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency
Office of Environmental Accountability
61 Forsyth Street, S.W.
Atlanta, GA 30303-8909

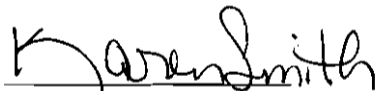
Hand Delivery - one copy

Deborah Benjamin
Associate Regional Counsel
U.S. Environmental Protection Agency
Office of Environmental Accountability
61 Forsyth Street, S.W.
Atlanta, GA 30303-8909

By Certified Mail, Return Receipt Requested - one copy

Steven M. Mills, Esq.
Mills & Hoopes, LLC
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Lawrenceville, Georgia 30043

July 21, 2009



Karen Smith
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