

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2008-4008
)	
FBF Nuclear Container, LLC)	
and)	
Metal Solutions Design & Fabrications, LLC)	Proceeding under Section 3008(a) of
and)	the Resource Conservation and Recovery
M. David Berger)	Act, 42 U.S.C. § 6928(a)
)	
Respondents.)	
_____)	

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**JOINT MOTION TO DISMISS RESPONDENTS
METAL SOLUTIONS DESIGN & FABRICATIONS, LLC AND M. DAVID BERGER**

Pursuant to 40 C.F.R. § 22.20, Complainant Environmental Protection Agency (“EPA”) and Respondents Metal Solutions Design & Fabrications, LLC, and M. David Berger hereby jointly move to dismiss Respondents Metal Solutions Design & Fabrications, LLC, and M. David Berger from this Resource Conservation and Recovery Act (RCRA) proceeding. During settlement negotiations, Respondents Metal Solutions Design & Fabrications, LLC, and M. David Berger provided EPA with sufficient evidence such that EPA has determined that Respondents Metal Solutions Design & Fabrications, LLC, and M. David Berger have no liability related to EPA Region 4’s Complaint docketed as RCRA-04-2008-4008. Therefore, Respondents Metal Solutions Design & Fabrications, LLC and M. David Berger should no longer be a party to this proceeding.

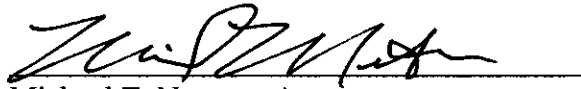
As such, Complainant EPA and Respondents Metal Solutions Design & Fabrications, LLC and M. David Berger respectfully request that the Presiding Officer enter an order

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dismissing Respondents Metal Solutions Design & Fabrications, LLC and M. David Berger from this action with prejudice.

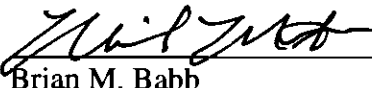
Respectfully submitted this 20th day of May, 2009

U.S. ENVIRONMENTAL PROTECTION AGENCY



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RESPONDENTS METAL SOLUTIONS DESIGN & FABRICATIONS, LLC AND M. DAVID BERGER

 *As Authorized by*

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In The Matter of FBF Nuclear Container, LLC, et al.
Docket No. RCRA-04-2008-4008

CERTIFICATE OF SERVICE

I hereby certify that on this date the original and one copy of the foregoing Joint Motion to Dismiss Respondents Metal Solutions Design & Fabrications, LLC, and M. David Berger were filed by hand delivery with the Regional Hearing Clerk, Region 4, and a true and correct copy was served in the manner indicated on the following addressees:

Honorable Susan B. Schub
Regional Judicial Officer
U.S. EPA – Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

(via Intra-Office Mail)

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Date: 5/20/09



Michael T. Newton