

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY

2008 AUG 29 AM 9:35

BEFORE THE ADMINISTRATOR

FILED  
EPA REGION VIII  
RECORDS CLERK

IN THE MATTER OF: ) Docket No. RCRA-08-2008-0001  
) Docket No. RCRA-08-2008-0002  
The Three Affiliated Tribes ) Docket No. RCRA-08-2008-0003  
and Sharon Jacobs, individually, )  
Highway 8 Convenience Store, )  
)  
The Three Affiliated Tribes ) **MOTION FOR EXTENSION OF**  
And Yolanda Bears Tail, individually, ) **TIME FOR COMPLIANCE**  
White Shield Ree Store, )  
)  
The Three Affiliated Tribes )  
and Dave Williams, individually, )  
West Dakota Service, )  
)  
Respondent, )

The Three Affiliated Tribes (Respondent), through their undersigned counsel, hereby moves for an Order granting Respondent an extension of time to comply with the stipulations contained within the Environmental Protection Agency's (EPA) Final Order dated July 7, 2008.

As grounds for this Motion, the Respondent states the following:

1. Respondent and the EPA have entered into a Consent Agreement (Agreement) dated July 7, 2008. The Agreement has been incorporated into a Final Order.
2. Respondent agreed to a Corrective Action Order issued by the EPA which requires a Tier 2 Evaluation to be completed at the West Dakota Service Facility only.
3. The Evaluation was to be completed within 45 days beginning on July 7, 2008.
4. The purpose of the Evaluation was to fully determine the potential current and future receptors and the actual or potential exposure pathways as well as to complete

additional work to determine the extent of contamination if actual or potential exposure pathways are found.

5. The Brownsfield Program had initially agreed to cover the \$5,570.04 expense of conducting the Tier 2 Evaluation for the Tribe.

6. The Brownsfield Program delayed confirmation to move forward and on August 8, 2008, informed Respondent that it was unable to cover the cost of the Tier 2 Evaluation.

7. Due to the delayed action by the Brownsfield Program, a contractor could not be immediately secured. However, Respondent has now secured a contractor and work will commence on the Tier 2 Evaluation on or about August 18, 2008.

8. This Motion is timely filed, will not prejudice the Complainant EPA, and is based on good cause.

9. The Respondent has communicated with Complainant and the parties have agreed the extension is proper under the circumstances.

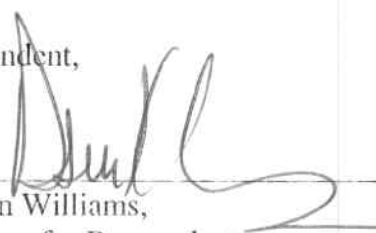
WHEREFORE, the Respondent requests an additional thirty (30) days to comply with the Final Order. The proposed deadline is Monday, Sept. 29, 2008.

Respectfully submitted this 26th day of August, 2008.

Three Affiliated Tribes,

Respondent,

Date: 8/26/08

By:   
Damon Williams,  
Attorney for Respondent

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the original and one copy of the **MOTION FOR EXTENSION OF TIME FOR COMPLIANCE** were hand-carried to the Regional Hearing Clerk, EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same was sent as follows:

**By facsimile and certified mail:**

The Honorable Susan L. Biro  
Chief Administrative Law Judge  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW 1900L  
Washington, DC 20406  
Facsimile: (202) 565-0044

**By facsimile and regular mail:**

Attorney for Complainant:

Amy Swanson., Esq.  
Assistant Regional Counsel  
U.S. EPA  
1595 Wynkoop Street  
Denver, CO 80202  
Facsimile: (303) 312-6953

Date: 8/26/08

By: 