

HINSHAW

& CULBERTSON LLP

December 15, 2010

Regional Hearing Clerk
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

ATTORNEYS AT LAW

100 Park Avenue
P.O. Box 1389
Rockford, IL 61105-1389

815-490-4900
815-490-4901 (fax)
www.hinshawlaw.com

Re: EPCRA-05-2011-0002 (AAF McQuay Inc.)

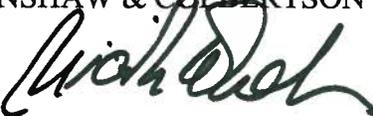
Dear Regional Hearing Clerk

Enclosed for filing please find an original and two copies of the Notice of Service, in the above referenced matter.

Please return a file-stamped copy of the attached documents to me in the enclosed self-addressed, stamped envelope. Please call (815) 490-4947 if you have any questions.

Very truly yours,

HINSHAW & CULBERTSON LLP


Nicola Nelson
nnelson@hinshawlaw.com

NN:
Enclosures

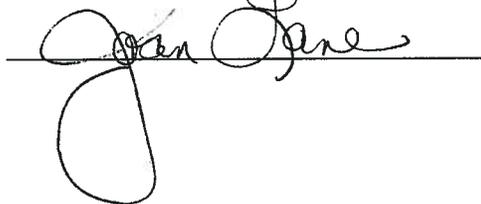
RECEIVED
DEC 23 2010

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

70663289v1 0918578 74904

PROOF OF SERVICE

Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that she served this **Notice of Service** of Respondent's previously filed Motion for Extension of Time to Answer on the parties listed above by depositing the same in the U.S. Mail at Rockford, Illinois by 5:00 p.m. on December 15, 2010 with proper postage prepaid.

A handwritten signature in black ink, appearing to read "Joan Jane", is written over a horizontal line. The signature is stylized and cursive.

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REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)
AAF-McQuay Inc.,)
Respondent.)
Docket No. EPCRA-05-2011-0002
Proceeding to Assess a Civil Penalty
Under Section 325(c) of the
Emergency Planning and Community
Right-to-Know Act of 1986, 42 U.S.C.
§ 11045(c)

NOTICE OF SERVICE

TO: Marcie A. Toney
Regional Judicial Officer
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
toney.marcy@epa.gov

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DEC 20 2010
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

PLEASE TAKE NOTICE that on December 6, 2010, the undersigned caused to be to be filed with the Regional Hearing Clerk (E-13J) at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604 the **Respondent's Motion for Extension of Time to Answer**, a copy of which, including a copy of the original **Notice of Filing**, is attached hereto and served upon you.

HINSHAW & CULBERTSON LLP

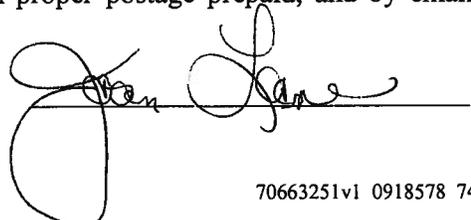
By: 
Attorneys for Respondent AAF-McQuay Inc.

Daniel W. McGrath
HINSHAW & CULBERTSON LLP
222 North LaSalle Street, Suite 300
Chicago, Illinois 60601-1081
(312) 704-3000

Charles F. Helsten
Nicola A. Nelson
HINSHAW & CULBERTSON LLP
100 Park Ave., P.O. Box 1389
Rockford, IL 61105-1389
815-490-4900

PROOF OF SERVICE

Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that she served this **Notice of Service** of Respondent's previously filed Motion for Extension of Time to Answer on the party listed above by depositing the same in the U.S. Mail at Rockford, Illinois by 5:00 p.m. on December 15, 2010 with proper postage prepaid, and by email to toney.marcy@epa.gov.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

AAF-McQuay Inc.,

Respondent.

)
) Docket No. EPCRA-05-2011-0002
)
)

) Proceeding to Assess a Civil Penalty
) Under Section 325(c) of the
) Emergency Planning and Community
) Right-to-Know Act of 1986, 42 U.S.C.
) § 11045(c)
)

NOTICE OF FILING

TO: Tamara Carnovsky (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Maynard Shaw (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

PLEASE TAKE NOTICE THAT on December 6, 2010, the undersigned caused to be filed with the Regional Hearing Clerk (E-13J) at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604 the **Respondent's Motion for Extension of Time to Answer**, a copy of which is attached hereto and served upon you.

HINSHAW & CULBERTSON LLP

FILE COPY

By: _____
Attorneys for Respondent AAF-McQuay Inc.

Daniel W. McGrath
HINSHAW & CULBERTSON LLP
222 North LaSalle Street, Suite 300
Chicago, Illinois 60601-1081
(312) 704-3000

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Nicola A. Nelson
HINSHAW & CULBERTSON LLP
100 Park Ave., P.O. Box 1389
Rockford, IL 61105-1389
815-490-4900

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**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**

PROOF OF SERVICE

Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that she served this **Notice and Respondent's Motion for Extension of Time to Answer** on the parties listed above by depositing the same in the U.S. Mail at Rockford, Illinois by 5:00 p.m. on December 6, 2010 with proper postage prepaid.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

AAF-McQuay Inc.,

Respondent

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REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Docket No. EPCRA-05-2011-0002

Proceeding to Assess a Civil
Penalty Under Section 325(c) of the
Emergency Planning and
Community Right-to-Know Act of
1986, 42 U.S.C. § 11045(c)

RESPONDENT'S MOTION FOR EXTENSION OF TIME TO ANSWER

NOW COME DANIEL W. McGRATH, CHARLES F. HELSTEN and NICOLA A. NELSON of HINSHAW & CULBERTSON LLP, pursuant to 40 C.F.R. §§ 22.16(a),(c), and for Respondent's Motion for Extension of Time to Answer, state as follows:

1. On or about October 27, 2010, U.S. EPA Region 5 filed a Complaint against Respondent, AAF-McQuay Inc. ("McQuay") pursuant to Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11046(c), alleging violations of EPCRA Section 313.

2. At the time McQuay received the Complaint, its Vice President and General Counsel, Paul Heim, was in the midst of addressing numerous other pending matters. (See Affidavit of Paul Heim, attached hereto as Exhibit A).

3. Within approximately two and a half weeks of McQuay's receipt of the Complaint, Mr. Heim forwarded it on to an environmental attorney who had previously assisted McQuay with other environmental matters. (See Exhibit A).

4. About ten days after the Complaint was forwarded to the environmental attorney, he notified Mr. Heim that McQuay would need to obtain local counsel within Region 5. Mr.

Heim then contacted Hinshaw & Culbertson LLP to request representation in this matter. (See Exhibit A).

5. Hinshaw & Culbertson attorneys thereafter promptly entered an appearance for McQuay, contacted counsel for Region 5 to request an informal settlement conference, and have begun diligently exploring the possibility of resolving this matter through settlement with the Agency, in the hope that further proceedings will be thereby made unnecessary.

6. Because good cause for granting this motion exists, McQuay moves for a fourteen day extension in which to answer the Complaint to allow time to meet and attempt to negotiate a settlement.

7. Counsel for EPA has reviewed this motion and has no objection to it.

WHEREFORE, McQuay respectfully requests an extension of fourteen days from entry of the Order in which to answer the Complaint.

Dated: _____

HINSHAW & CULBERTSON LLP
Attorneys for Respondent AAF-McQuay Inc.

FILE COPY

Charles F. Helsten
One of Its Attorneys

Daniel W. McGrath Hinshaw & Culbertson, LLP 222 No. LaSalle St., Ste. 300 Chicago, Illinois 60601-1081 (312) 704-3000	Charles F. Helsten Nicola A. Nelson Hinshaw & Culbertson LLP 100 Park Avenue, P.O. Box 1389 Rockford, IL 61105-1389 815-490-4900
---	---

COUNTY OF HENNEPIN)
) SS
STATE OF MINNESOTA)

AFFIDAVIT OF PAUL M. HEIM

I, Paul M. Heim, being first duly sworn on oath, do depose and state as follows:

1. I am Vice President and General Counsel for AAF-McQuay Inc. ("McQuay").
2. When McQuay received the Complaint issued by U.S. EPA Region 5, docketed as EPCRA-05-2011-0002, I was in the midst of addressing numerous other pending matters, and was therefore unable to immediately turn my attention to the Complaint.
3. Approximately two and a half weeks after receiving the Complaint, I forwarded it on to an environmental attorney who had previously represented McQuay in other matters, with the belief that he would be able to handle the matter for the Company.
4. About ten days later, I was informed by the above-referenced environmental attorney that the Company would have to obtain local counsel within Region 5 to handle this matter. Upon receiving his notification that the Company would have to find counsel within Region 5, I contacted the law firm of Hinshaw & Culbertson, LLP to retain that firm's services in responding to the Complaint with all due speed.
5. McQuay's delay in answering the Complaint within thirty (30) days of receipt was, accordingly, entirely inadvertent and due to matters beyond the Company's control.

Paul M. Heim
Paul M. Heim

Date: Dec 3, 2010

SUBSCRIBED and SWORN to
before me this 3rd day of December, 2010.

Debra A Smith
Notary Public

