



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

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In the Matter of: )
T.C. Dunham Paint Company, Inc., ) Docket No. RCRA-02-2013-7105
Respondent )

ORDER ON SECOND MOTION FOR EXTENSION OF TIME TO FILE PREHEARING EXCHANGES

On October 18, 2013, the Director of the Division of Enforcement and Compliance Assistance in U.S. Environmental Protection Agency Region 2 ("Complainant") initiated this action against T.C. Dunham Paint Company, Inc. ("Respondent") by filing a Complaint, Compliance Order and Notice of Opportunity for Hearing ("Complaint") with the Regional Hearing Clerk for Region 2. Respondent filed its Answer and Request for Hearing ("Answer") on December 6, 2013. On December 20, 2013, this Tribunal issued a Prehearing Order scheduling a series of deadlines to govern the parties' prehearing exchange of information. The Prehearing Order directs Complainant to file its Initial Prehearing Exchange no later than March 7, 2014, and Respondent to file its Prehearing Exchange no later than March 28, 2014. On February 18, 2014, Complainant filed a motion requesting that the prehearing exchange deadlines be extended by 60 days, and the motion was granted by order dated February 27, 2014.

On April 17, 2014, Complainant file a Second Motion for Extension of Time to File Prehearing Exchanges ("Motion"). Complainant writes that "the parties are engaged in settlement discussion," and "are desirous of more time to pursue settlement and avoid unnecessary costs reviewing and possibly preparing" Prehearing Exchanges. Mot. at 1. Complainant and Respondent jointly request that the prehearing exchange deadlines be extended by an additional 60 days. Mot. at 1.

The Rules of Practice that govern this proceeding, 40 C.F.R. Part 22, provide that the presiding officer may grant an extension of time for filing any document "upon timely motion . . . for good cause shown, and after consideration of prejudice to other parties; or upon its own initiative." 40 C.F.R. § 22.7(b). The Motion was timely, and there is no indication that either

1 Complainant did not file the proof of service of the Complaint required by 40 C.F.R. § 22.5(b)(1)(iii), so the record does not show when service of process was accomplished. In a cover letter accompanying the Answer, Respondent's counsel indicates that the Complaint was not served on Respondent until November 8, 2013.

party will suffer undue prejudice if the filing deadlines are extended. However, presiding officers are also tasked with avoiding delay and promoting the efficient adjudication of administrative proceedings. 40 C.F.R. § 22.4(c). The parties have already postponed the prehearing information exchange by 60 days. Complainant has shown there is good cause for granting the parties additional time to work towards settlement, but not for a second 60-day extension. In accordance with 40 C.F.R. § 22.7(b), good cause has been shown for extending the prehearing exchange deadlines by 30 days, and the Motion is hereby **GRANTED IN PART**. The parties are reminded that the requirements set out in the Prehearing Order issued by the undersigned on December 20, 2013, remain in effect with the exception of a revised prehearing exchange schedule. The parties shall file their prehearing exchanges pursuant to the following schedule:

|                      |  |
|----------------------|--|
| <b>June 5, 2014</b>  | Complainant's Initial Prehearing Exchange  |
| <b>June 26, 2014</b> | Respondent's Prehearing Exchange           |
| <b>July 10, 2014</b> | Complainant's Rebuttal Prehearing Exchange |

**SO ORDERED.**

  
Christine D. Coughlin  
Administrative Law Judge

Dated: April 21, 2014  
Washington, D.C.

In the Matter of *T.C. Dunham Paint Company, Inc.*, Respondent.  
Docket No. RCRA-02-2013-7105

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Second Motion for Extension of Time to File Prehearing Exchanges**, dated April 21, 2014, was sent this day in the following manner to the addressees listed below.



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Mary Angeles  
Legal Staff Assistant

Original and One Copy by Hand Delivery to:

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**Dated: April 21, 2014**  
**Washington, D.C.**