

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

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In the Matter of :
 :
PSC, LLC, a/k/a Philip Services : **DOCKET NUMBER:**
Corporation, LLC, and Chemical : **RCRA-02-2010-7101**
Pollution Control, LLC of New :
York, a/k/a CPC, LLC of New York, :
 :
Respondents. : **Honorable Barbara A. Gunning,**
 : **Presiding Officer**
 :
Proceeding Under Section 3008 :
of the Solid Waste Disposal Act, :
as amended . :
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U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2010 DEC -8 P 3:19
REGIONAL HEARING
CLERK

MOTION FOR ADDITIONAL TIME TO EXECUTE SETTLEMENT

Complainant, EPA's (Region 2) Director of the Division of Enforcement and Compliance Assistance, hereby requests this Court to modify its prior order and grant the parties one additional week to effect the execution of the pending settlement document. Respondents' counsel has indicated (telephone conversation on December 6, 2010) he does not object to such additional time.

On November 19th, the undersigned was informed by this Court's Law Secretary (Mary Angeles) that Complainant's motion to extend the deadline for the execution of the consent agreement (or, failing that, the submission of Complainant's prehearing exchange) was granted; the time was extended through December 13, 2010 (this coming Monday). That motion sought the extra time because of anticipated scheduling problems (page 2):

[S]ecuring the requisite signatures for the document's execution prior to November 29th might present a problem. Next week is traditionally a shortened one, with the Thanksgiving holiday coming on Thursday, November 25th. Given that at least one day will be lost (and more likely two days, as invariably many

will take off the next day), the undersigned does not believe the parties can meet the Court's deadline, which falls on the Monday following the weekend after Thanksgiving. Thus Complainant moves for this extra amount of time, not only to give the parties a bit more latitude in obtaining the necessary signatures but also to ensure they do not run afoul of the deadlines established in the Court's September 21st order.

Since that time, the parties have moved quantitatively closer to settlement. On Monday, December 6th, Respondents electronically transmitted the document with the requisite signatures; as per a conversation between counsel earlier that Monday, on the following day (Tuesday, December 7th), the undersigned received the document in hard copy, with the actual signatures. A copy of the two signature pages has been attached to this motion. The consent agreement is now in the pipeline awaiting signature by Complainant and by the Regional Administrator. Nonetheless, it is far from certain that both signatures can be timely secured to comply with the deadline established by this Court. For example, the undersigned has been advised that the Regional Administrator is in Puerto Rico this week, and the Deputy Regional Administrator will not be in the New York office until this coming Thursday, December 9th. Given the other business he inevitably will have to attend to, it is questionable whether the parties can meet the December 13th deadline, despite all efforts to do so.

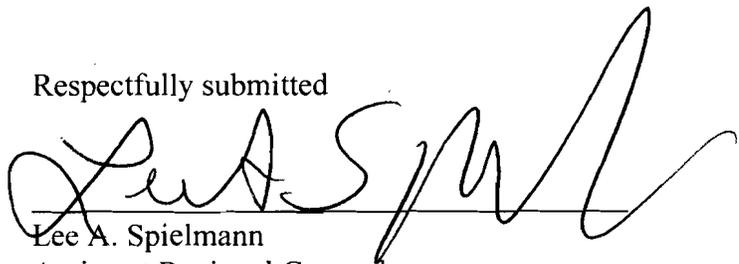
Thus, in order to err on the side of caution, this motion for a margin of one additional week is being made. While the undersigned had anticipated that the November 19th motion would be the last one before the conclusion of the settlement process, such optimism proved unduly optimistic and wrong as to its prescience. Thus Complainant requests this relief, one seeking essentially an additional soupçon of time to ensure the parties effect settlement in accord with the directives of this Court, without any realistic chance of violating them. And, for the

reasons set forth in the prior motion, the undersigned submits that the requisite good cause requirement of 40 C.F.R. § 22.7(b) exists: neither party would suffer prejudice because the extension is sought only to ensure there is sufficient time to secure Regional signatures on the settlement document (in addition to Respondents not objecting), and the Court should not be prejudiced as the extension does not require it to alter its position (such as changing a hearing date); this extension seeks only one more week (no less at a time when the end-of-year holidays are approaching, a time traditionally marked by more languid workplace rhythms) to terminate the formal proceeding for purposes of the involvement of this tribunal.

Therefore, EPA respectfully moves this Court, pursuant to 40 C.F.R. §§ 22.4(c)(2), 22.7(b), 22.16(a) and 22.19(a)(1), for an order: **a)** vacating so much of the oral November 19th order directing the parties to file their prehearing exchanges by the dates therein prescribed; and **b)** allowing the parties until December 20th fully to execute the consent agreement and accompanying final order.

Dated: December 7, 2010
New York, New York

Respectfully submitted



Lee A. Spielmann
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866
212-637-3222
FAX: 212-637-3199

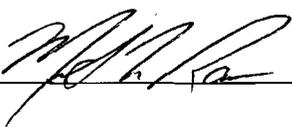
TO: Honorable Barbara A. Gunning
Administrative Law Judge
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1900L
Washington, DC 20460

Office of Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

Douglas A. Cohen, Esq.
Jennifer Mullen St. Hilaire, Esq.
Brown Rudnick LLP
CityPlace I
185 Asylum Street
Hartford, Connecticut 06103

**COMPLAINANT'S EXHIBIT: RESPONDENTS' SIGNATURES
ON THE PENDING CONSENT AGREEMENT**

RESPONDENTS:

BY: 

NAME: Michael W. Ramirez

TITLE: Chief Financial Officer, Treasurer and
Secretary for PSC, LLC

DATE: 12/6/2010

COMPLAINANT:

BY: _____
Dore LaPosta, Director
Division of Enforcement and Compliance
Assistance
U.S. Environmental Protection Agency -
Region 2

DATE: _____

RESPONDENTS:

BY: 

NAME: Michael W. Ramirez

TITLE: Vice President for Chemical Pollution
Control, LLC of New York

DATE: 12/6/2010

COMPLAINANT:

BY: _____
Dore LaPosta, Director
Division of Enforcement and Compliance
Assistance
U.S. Environmental Protection Agency -
Region 2

DATE: _____

In re PSC, LLC and Chemical Pollution Control, LLC of New York
Docket No. RCRA-02-2010-7101

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing "MOTION FOR ADDITIONAL TIME TO EXECUTE SETTLEMENT," dated December 7, 2010, in the following manner to the respective addressees listed below:

Original and One Copy
By Inter-Office Mail:

Office of Regional Hearing Clerk
U.S. Environmental Protection
Agency - Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

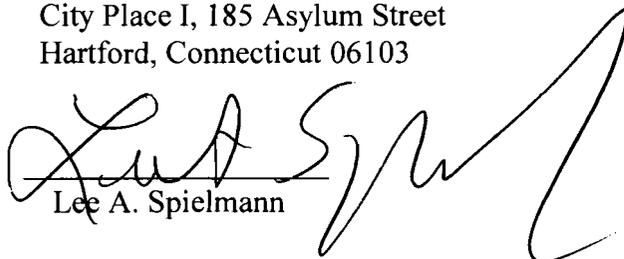
Copy by Fax Transmission,
202-565-0044, and Pouch Mail:

Honorable Barbara A. Gunning
Administrative Law Judge
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1900 L
Washington, DC 20460

Copy by Fax Transmission,
860-509-6501, and First Class Mail:

Douglas A. Cohen, Esq.
Jennifer Mullen St. Hilaire, Esq.
Brown Rudnick LLP
City Place I, 185 Asylum Street
Hartford, Connecticut 06103

Dated: December 7, 2010
New York, New York



Lee A. Spielmann