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November 21, 2011

Karen Maples  
Regional Hearing Clerk (3RC00)  
US EPA, Region II  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2011 NOV 22 A 10:03  
REGIONAL HEARING  
CLERK

In the Matter of Cycle Chem, Inc.  
US EPA Docket No.: RCCA-02-2011-7101

Dear Ms. Maples:

I am counsel for the respondent in the above-entitled matter. I enclose an original and one copy of respondent's motion for an extension of time for filing Respondent's Prehearing Exchange from November 28, 2011 to December 8, 2011

Very truly yours,

  
Mark C. Kelly

cc: Gary Nurkin, Esq.  
Office of Regional Counsel  
U.S. EPA/Region II/ Water and Toxic Substances Br.  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007

CERTIFICATION

The undersigned certifies that the within Motion for Extension of Time was served on Respondent's counsel,

Gary Nurkin, Esq.  
Office of Regional Counsel  
U.S. EPA/Region II/ Water and Toxic Substances Br.  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007

And an original and one copy filed with

Karen Maples  
Regional Hearing Clerk (3RC00)  
US EPA. Region II  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

And one copy filed with

Judge Barbara A. Gunning  
U.S.E.P.A.  
Office of Administrative Law Judges  
Franklin Court Building  
1099 14<sup>th</sup> St. N.W. Suite 350  
Washington, D.C. 20005

All by overnight courier on November 21, 2011.

  
\_\_\_\_\_  
Mark C. Kelly  
Attorney for Respondent

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION  
AGENCY REGION II

\_\_\_\_\_ X  
In the Matter of: :  
Cycle Chem, Inc. :  
201 S. First Street :  
Elizabeth, New Jersey :  
07206 :  
Respondent. :  
\_\_\_\_\_ X

U.S.EPA Docket No.  
RCCA-02-2011-7101

MOTION

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2011 NOV 22 A 10:04  
REGIONAL HEARING  
CLERK

Upon the annexed declaration of Mark C. Kelly, dated November 21, 2011, the undersigned attorney for respondent, hereby moves for an Order, pursuant to 40 C.F.R. 22.7(b), granting respondent a 10 day extension of time to file Respondent's Prehearing Exchange from November 28, 2011 to on or before December 8, 2011, and consequent extension of the filing date of Complainant's Rebuttal Prehearing Exchange which is currently due on December 12, 2011 to December 22, 2011 and for such other and further relief as may be just and proper.

Dated: New York, New York  
November 21, 2011

  
\_\_\_\_\_  
Mark C. Kelly

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION  
AGENCY REGION II

_____	x	
In the Matter of:	:	U.S. EPA Docket No. RCCA-02-2011-7101
Cycle Chem, Inc. 201 S. First Street Elizabeth, New Jersey 07206	: : :	
Respondent.	:	
_____	x	

**DECLARATION OF MARK C. KELLY**

MARK C. KELLY, hereby declares, pursuant to 28 U.S.C. Sec. 1746 that the following statements are true and correct, under penalty of perjury:

1. My name is Mark C. Kelly and I am over 18 years of age. I make this declaration voluntarily and based upon my own personal knowledge. I am an attorney admitted in New York and I am counsel for respondent, Cycle Chem, Inc. I have personal knowledge of the facts which follow. This declaration is submitted in support of the within motion for an extension of time, pursuant to 40 C.F.R. 22.7(b), to file Respondent's Prehearing Exchange from November 28, 2011 to December 8, 2011.

2. This proceeding was commenced with the filing of a Complaint on June 29, 2011 and an Answer was filed with the time allowed by the Consolidated Rules of Practice.

3. Pursuant to Prehearing Order entered herein on August 26, 2011, Complainant's Prehearing Exchange was due on October 28, 2011, and Respondent's Prehearing Exchange is due November 28, 2011 and Complainant's Rebuttal Prehearing Exchange is currently due on December 12, 2011.

4. The undersigned had eye surgery on Monday November 14, 2011. As a result, the undersigned received an extension for a reply brief due in the Appellate Division Second Department, New York from November 17, 2011 to November 28, 2011 and no further extension is permitted absent hardship.

5. Respondent Cycle Chem, Inc. is closed on Thursday November 24 and Friday November 25, 2011 due to the Thanksgiving Holiday. The undersigned needs to consult with the Regulatory manager to obtain information and documentary proof, which is informed by research currently ongoing.

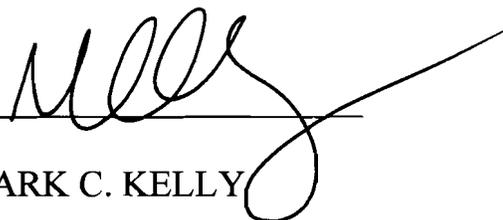
6. The undersigned has obligations for family events being hosted at his domicile on November 24, 2011.

7. Good cause exists under 40 C.F.R. 22.7(b) for granting a 10 day extension of time to file Respondent's Prehearing Exchange from November 28, 2011 to on or before December 8, 2011, and consequent extension of the filing date of

Complainant's Rebuttal Prehearing Exchange which is currently due on December 12, 2011 to December 22, 2011.

8. No prejudice exists to other parties for consideration under 40 C.F.R. 22.7(b) since I have communicated with counsel for the sole other party, the Environmental Protection Agency, who has advised that such counsel has no objections to this motion and will not oppose it.

Dated: New York, New York  
November 21, 2011



MARK C. KELLY

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION  
AGENCY REGION II

\_\_\_\_\_ X  
In the Matter of: : U.S.EPA Docket  
RCCA-02-2011-7101  
Cycle Chem, Inc. : ORDER  
201 S. First Street  
Elizabeth, New Jersey  
07206 :  
Respondent. :  
\_\_\_\_\_ X

Upon the motion of Mark C. Kelly, Esq., the attorney for respondent, dated November 21, 2010, and for good cause, it is hereby Ordered, that Respondent is granted an extension to file Respondent's Prehearing Exchange up to and including December 8, 2011, and the time for Complainant to file its Rebuttal Prehearing Exchange (if necessary) is hereby extended up to and including December 22, 2011.

Dated: New York, New York  
November \_\_, 2011

\_\_\_\_\_  
Judge