a 11 - 1		
		FILED
1	PATRICIA M. O'TOOLE, State Bar No. 10719	
2	THE O'TOOLE LAW FIRM	2000 APR 16 PM 2: 43
3	P. O. Box 352348 Los Angeles, California 90035-0260	U.S. FPA RECTOUNTS
J	Telephone: (213) 630-4200	REGIONAL HEARING CLERK
4	Facsimile: (213) 683-1148 Attorney for Respondent	
5	U.S. POLE COMPANY, INC.	
6		
7	BEFORE T	HE
	UNITED STATES ENVIRONMENTAL PROTECTION AGENCY	
8	REGIO	N IX
9		
10	In the Matter of:	Docket No. CAA-09-2007-0031
11	U.S. POLE COMPANY, INC.,	NOTICE OF MOTION AND
12		MOTION TO EXTEND TIME
13	Respondent	TO ANSWER COMPLAINT AND REQUEST OPPORTUNITY
	Instruction	FOR HEARING; DECLARATION
14		OF PATRICIA M. O'TOOLE
15	/	
16		A CONTRACT OF
17	PLEASE TAKE NOTICE that Respondent U.S. Pole Company, Inc. will move the	
18	Regional Judicial Officer of the United States Environmental Protection Agency –	
19	Region IX to enter an Order further extending the time for Respondent (i) to answer the	
20	complaint filed by the United States Environmental Protection Agency – Region IX	
1	("EPA-IX") in this matter and (ii) to request a hearing, for an additional 30 days until	
21	May 21, 2008.	
22	This Motion is brought pursuant to 40 CFR §22.7(b), governing motions	
23	concerning extensions of time, and is timely thereunder as the Complaint in this matter	
24	was served on October 9, 2007, and Respondent's answer and request for hearing is due	
25	on April 21, 2008.	
26	Good cause exists for granting the requested extension of time in this case	
27	because (1) EPA-IX and Respondent have been engaged in settlement discussions since	
28	the service of the Complaint; (2) on November 6, 2007, EPA-IX and Respondent reached	
		and the second second second second

.1 .

1 an agreement in principle on the terms of a settlement of all allegations set forth in the 2 Complaint, including the monetary component of such settlement; (3) the parties have 3 been working collaboratively and diligently on issues relating to assurance of Respondent's continued compliance with and/or exemption from the requirements of 40 4 CFR 63.1500 et seg. in the future; (4) EPA-IX required additional time to review and 5 confer with EPA Headquarters on critical issues affecting the terms and scope of the 6 settlement; (5) EPA-IX has now drafted the documentation of the settlement; (6) the 7 parties need the additional time requested to review and finalize and to obtain all 8 required approvals for the Consent Agreement and Final Order to resolve this matter; 9 and (7) requiring Respondent to prepare and file an answer and request for hearing by 10 April 21, 2008 would, under these circumstances, impose an unnecessary burden on 11 Respondent and require an unnecessary allocation of resources for both Respondent and 12 EPA-IX to prepare for a hearing that is unlikely to occur. 13

Therefore, Respondent is moving for a further extension of 30 days, until May 21, 2008, to file an answer and request a hearing in this matter.

On April 15, 2008, counsel for EPA-IX, Mr. Daniel Reich, and Respondent's counsel discussed this Motion, and Mr. Reich confirmed that EPA-IX concurs in Respondent's motion for an additional 30-day extension of time to answer the Complaint and request a hearing.

This Motion is based on this Notice, the attached Declaration of Patricia M. O'Toole, all pleadings and papers on file in this action, and on such further evidence and arguments as may be presented in any hearing on this Motion.

April 15, 2008

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

### THE O'TOOLE LAW FIRM

BY

Patricia M. O'Toole Attorney for Respondent U.S. Pole Company, Inc.

9 -

DECLARATION OF PATRICIA M. O'TOOLE           1         Patricia M. O'Toole declare:           1         1. Tam an attorney admitted to practice before all the Courts of the State of           1         California, the United States District Court for the Central District of California, and           1         the United States Court of Appeals for the Ninth Circuit, and I am the attorney           1         am familiar with the following facts from my personal observations and experience and,           1         icalled as a witness, I would and could testify as follows:           2         The United States Environmental Protection Agency – Region IX ("EPA-IX")           1         served a Complaint in this matter on U.S. Pole on October 9, 2007.           2         The United States Environmental Protection Agency – Region IX ("EPA-IX")           1         service of the Complaint.           2         On November 6, 2007, EPA-IX and Respondent reached an agreement in principle           1         the terms of a settlement of all allegations set forth in the Complaint, including the           1         nontary component of such settlement.           5         The parties have been working collaboratively and diligently on issues relating to           1         negnety personnel involved in this matter required additional time to review and confer           1         Iverties have been working collaboratively and diligently on issues relat		
3I, Patricia M. O'Toole declare:41. I am an attorney admitted to practice before all the Courts of the State of5California, the United States District Court for the Central District of California, and6the United States Court of Appeals for the Ninth Circuit, and I am the attorney7representing the Respondent, U.S. Pole Company, Inc. ("Respondent"), in this matter. I8am familiar with the following facts from my personal observations and experience and,9if called as a witness, I would and could testify as follows:102. The United States Environmental Protection Agency – Region IX ("EPA-IX")9served a Complaint in this matter on U.S. Pole on October 9, 2007.11service of the Complaint.40. On November 6, 2007, EPA-IX and Respondent reached an agreement in principle11on the terms of a settlement of all allegations set forth in the Complaint, including the16monetary component of such settlement.175. The parties have been working collaboratively and diligently on issues relating to18assurance of Respondent's continued compliance with and/or exemption from the19requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.106. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the19agency personnel involved in this matter required additional time to review and confer11with EPA Headquarters on critical issues affecting the terms and scope of the12settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had13completed that review an		DECLARATION OF PATRICIA M. O'TOOLE
41.I am an attorney admitted to practice before all the Courts of the State of5California, the United States District Court for the Central District of California, and6the United States Court of Appeals for the Ninth Circuit, and I am the attorney7representing the Respondent, U.S. Pole Company, Inc. ("Respondent"), in this matter. I8am familiar with the following facts from my personal observations and experience and,9if called as a witness, I would and could testify as follows:102.The United States Environmental Protection Agency – Region IX ("EPA-IX")11served a Complaint in this matter on U.S. Pole on October 9, 2007.123.EPA-IX and Respondent have been engaged in settlement discussions since the13service of the Complaint.44.On November 6, 2007, EPA-IX and Respondent reached an agreement in principle16on the terms of a settlement of all allegations set forth in the Complaint, including the17monetary component of such settlement.165.The parties have been working collaboratively and diligently on issues relating to17assurance of Respondent's continued compliance with and/or exemption from the18requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.196.I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the20agency personnel involved in this matter required additional time to review and confer21with EPA Headquarters on critical issues affecting the terms and scope of the22settlement; and was further informed b		I. Patricia M. O'Toole declare:
<ul> <li>California, the United States District Court for the Central District of California, and</li> <li>the United States Court of Appeals for the Ninth Circuit, and I am the attorney</li> <li>representing the Respondent, U.S. Pole Company, Inc. ("Respondent"), in this matter. I</li> <li>am familiar with the following facts from my personal observations and experience and,</li> <li>if called as a witness, I would and could testify as follows:</li> <li>2. The United States Environmental Protection Agency – Region IX ("EPA-IX")</li> <li>served a Complaint in this matter on U.S. Pole on October 9, 2007.</li> <li>3. EPA-IX and Respondent have been engaged in settlement discussions since the service of the Complaint.</li> <li>4. On November 6, 2007, EPA-IX and Respondent reached an agreement in principle on the terms of a settlement of all allegations set forth in the Complaint, including the monetary component of such settlement.</li> <li>5. The parties have been working collaboratively and diligently on issues relating to assurance of Respondent's continued compliance with and/or exemption from the requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.</li> <li>6. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the agency personnel involved in this matter required additional time to review and confer</li> <li>with EPA Headquarters on critical issues affecting the terms and scope of the settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had</li> <li>completed that review and conferral process and was ready to proceed with the documentation of the settlement.</li> <li>7. EPA-IX has now drafted the documentation for the settlement, and the parties need the additional time requested to review and finalize and to obtain all required approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ul>		
<ul> <li>the United States Court of Appeals for the Ninth Circuit, and I am the attorney</li> <li>representing the Respondent, U.S. Pole Company, Inc. ("Respondent"), in this matter. I</li> <li>am familiar with the following facts from my personal observations and experience and,</li> <li>if called as a witness, I would and could testify as follows:</li> <li>2. The United States Environmental Protection Agency – Region IX ("EPA-IX")</li> <li>served a Complaint in this matter on U.S. Pole on October 9, 2007.</li> <li>3. EPA-IX and Respondent have been engaged in settlement discussions since the</li> <li>service of the Complaint.</li> <li>4. On November 6, 2007, EPA-IX and Respondent reached an agreement in principle</li> <li>on the terms of a settlement of all allegations set forth in the Complaint, including the</li> <li>monetary component of such settlement.</li> <li>5. The parties have been working collaboratively and diligently on issues relating to</li> <li>assurance of Respondent's continued compliance with and/or exemption from the</li> <li>requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.</li> <li>6. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the</li> <li>agency personnel involved in this matter required additional time to review and confer</li> <li>with EPA Headquarters on critical issues affecting the terms and scope of the</li> <li>settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had</li> <li>completed that review and conferral process and was ready to proceed with the</li> <li>documentation of the settlement.</li> <li>7. EPA-IX has now drafted the documentation for the settlement, and the parties</li> <li>need the additional time requested to review and finalize and to obtain all required</li> <li>approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ul>		
7representing the Respondent, U.S. Pole Company, Inc. ("Respondent"), in this matter. I8am familiar with the following facts from my personal observations and experience and,9if called as a witness, I would and could testify as follows:102. The United States Environmental Protection Agency – Region IX ("EPA-IX")11served a Complaint in this matter on U.S. Pole on October 9, 2007.123. EPA-IX and Respondent have been engaged in settlement discussions since the13service of the Complaint.144. On November 6, 2007, EPA-IX and Respondent reached an agreement in principle16on the terms of a settlement of all allegations set forth in the Complaint, including the16monetary component of such settlement.17assurance of Respondent's continued compliance with and/or exemption from the18requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.196. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the12agency personnel involved in this matter required additional time to review and confer11with EPA Headquarters on critical issues affecting the terms and scope of the12settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had13completed that review and conferral process and was ready to proceed with the14documentation of the settlement.157. EPA-IX has now drafted the documentation for the settlement, and the parties16ned the additional time requested to review and finalize and to obtain all required12approvals for the Consent Agre		
<ul> <li>am familiar with the following facts from my personal observations and experience and,</li> <li>if called as a witness, I would and could testify as follows:</li> <li>2. The United States Environmental Protection Agency – Region IX ("EPA-IX")</li> <li>served a Complaint in this matter on U.S. Pole on October 9, 2007.</li> <li>3. EPA-IX and Respondent have been engaged in settlement discussions since the</li> <li>service of the Complaint.</li> <li>4. On November 6, 2007, EPA-IX and Respondent reached an agreement in principle</li> <li>on the terms of a settlement of all allegations set forth in the Complaint, including the</li> <li>monetary component of such settlement.</li> <li>5. The parties have been working collaboratively and diligently on issues relating to</li> <li>assurance of Respondent's continued compliance with and/or exemption from the</li> <li>requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.</li> <li>6. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the</li> <li>agency personnel involved in this matter required additional time to review and confer</li> <li>with EPA Headquarters on critical issues affecting the terms and scope of the</li> <li>settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had</li> <li>completed that review and conferral process and was ready to proceed with the</li> <li>documentation of the settlement.</li> <li>7. EPA-IX has now drafted the documentation for the settlement, and the parties</li> <li>need the additional time requested to review and finalize and to obtain all required</li> <li>approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ul>		representing the Respondent, U.S. Pole Company, Inc. ("Respondent"), in this matter. I
<ul> <li>if called as a witness, I would and could testify as follows:</li> <li>2. The United States Environmental Protection Agency – Region IX ("EPA-IX")</li> <li>served a Complaint in this matter on U.S. Pole on October 9, 2007.</li> <li>3. EPA-IX and Respondent have been engaged in settlement discussions since the</li> <li>service of the Complaint.</li> <li>4. On November 6, 2007, EPA-IX and Respondent reached an agreement in principle</li> <li>on the terms of a settlement of all allegations set forth in the Complaint, including the</li> <li>monetary component of such settlement.</li> <li>5. The parties have been working collaboratively and diligently on issues relating to</li> <li>assurance of Respondent's continued compliance with and/or exemption from the</li> <li>requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.</li> <li>6. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the</li> <li>agency personnel involved in this matter required additional time to review and confer</li> <li>with EPA Headquarters on critical issues affecting the terms and scope of the</li> <li>settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had</li> <li>completed that review and conferral process and was ready to proceed with the</li> <li>documentation of the settlement.</li> <li>7. EPA-IX has now drafted the documentation for the settlement, and the parties</li> <li>need the additional time requested to review and finalize and to obtain all required</li> <li>approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ul>		am familiar with the following facts from my personal observations and experience and,
<ol> <li>The United States Environmental Protection Agency – Region IX ("EPA-IX")</li> <li>served a Complaint in this matter on U.S. Pole on October 9, 2007.</li> <li>EPA-IX and Respondent have been engaged in settlement discussions since the</li> <li>service of the Complaint.</li> <li>On November 6, 2007, EPA-IX and Respondent reached an agreement in principle</li> <li>on the terms of a settlement of all allegations set forth in the Complaint, including the</li> <li>monetary component of such settlement.</li> <li>The parties have been working collaboratively and diligently on issues relating to</li> <li>assurance of Respondent's continued compliance with and/or exemption from the</li> <li>requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.</li> <li>I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the</li> <li>agency personnel involved in this matter required additional time to review and confer</li> <li>with EPA Headquarters on critical issues affecting the terms and scope of the</li> <li>settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had</li> <li>completed that review and conferral process and was ready to proceed with the</li> <li>documentation of the settlement.</li> <li>EPA-IX has now drafted the documentation for the settlement, and the parties</li> <li>need the additional time requested to review and finalize and to obtain all required</li> <li>approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ol>		if called as a witness, I would and could testify as follows:
11served a Complaint in this matter on U.S. Pole on October 9, 2007.123. EPA-IX and Respondent have been engaged in settlement discussions since the service of the Complaint.134. On November 6, 2007, EPA-IX and Respondent reached an agreement in principle on the terms of a settlement of all allegations set forth in the Complaint, including the monetary component of such settlement.165. The parties have been working collaboratively and diligently on issues relating to assurance of Respondent's continued compliance with and/or exemption from the requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.196. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the agency personnel involved in this matter required additional time to review and confer with EPA Headquarters on critical issues affecting the terms and scope of the settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had completed that review and conferral process and was ready to proceed with the documentation of the settlement.257. EPA-IX has now drafted the documentation for the settlement, and the parties need the additional time requested to review and finalize and to obtain all required approvals for the Consent Agreement and Final Order to resolve this matter.		2. The United States Environmental Protection Agency – Region IX ("EPA-IX")
123. EPA-IX and Respondent have been engaged in settlement discussions since the service of the Complaint.134. On November 6, 2007, EPA-IX and Respondent reached an agreement in principle on the terms of a settlement of all allegations set forth in the Complaint, including the monetary component of such settlement.165. The parties have been working collaboratively and diligently on issues relating to assurance of Respondent's continued compliance with and/or exemption from the requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.196. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the agency personnel involved in this matter required additional time to review and confer21with EPA Headquarters on critical issues affecting the terms and scope of the settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had completed that review and conferral process and was ready to proceed with the documentation of the settlement.257. EPA-IX has now drafted the documentation for the settlement, and the parties need the additional time requested to review and finalize and to obtain all required approvals for the Consent Agreement and Final Order to resolve this matter.		served a Complaint in this matter on U.S. Pole on October 9, 2007.
13service of the Complaint.144. On November 6, 2007, EPA-IX and Respondent reached an agreement in principle15on the terms of a settlement of all allegations set forth in the Complaint, including the15monetary component of such settlement.165. The parties have been working collaboratively and diligently on issues relating to17assurance of Respondent's continued compliance with and/or exemption from the18requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.196. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the20agency personnel involved in this matter required additional time to review and confer21with EPA Headquarters on critical issues affecting the terms and scope of the22settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had23completed that review and conferral process and was ready to proceed with the24documentation of the settlement.257. EPA-IX has now drafted the documentation for the settlement, and the parties26need the additional time requested to review and finalize and to obtain all required27approvals for the Consent Agreement and Final Order to resolve this matter.		3. EPA-IX and Respondent have been engaged in settlement discussions since the
<ul> <li>4. On November 6, 2007, EPA-IX and Respondent reached an agreement in principle</li> <li>on the terms of a settlement of all allegations set forth in the Complaint, including the</li> <li>monetary component of such settlement.</li> <li>5. The parties have been working collaboratively and diligently on issues relating to</li> <li>assurance of Respondent's continued compliance with and/or exemption from the</li> <li>requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.</li> <li>6. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the</li> <li>agency personnel involved in this matter required additional time to review and confer</li> <li>with EPA Headquarters on critical issues affecting the terms and scope of the</li> <li>settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had</li> <li>completed that review and conferral process and was ready to proceed with the</li> <li>documentation of the settlement.</li> <li>7. EPA-IX has now drafted the documentation for the settlement, and the parties</li> <li>need the additional time requested to review and finalize and to obtain all required</li> <li>approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ul>		service of the Complaint.
15on the terms of a settlement of all allegations set forth in the Complaint, including the monetary component of such settlement.165. The parties have been working collaboratively and diligently on issues relating to assurance of Respondent's continued compliance with and/or exemption from the requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.196. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the agency personnel involved in this matter required additional time to review and confer21with EPA Headquarters on critical issues affecting the terms and scope of the settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had completed that review and conferral process and was ready to proceed with the documentation of the settlement.257. EPA-IX has now drafted the documentation for the settlement, and the parties need the additional time requested to review and finalize and to obtain all required approvals for the Consent Agreement and Final Order to resolve this matter.		4. On November 6, 2007, EPA-IX and Respondent reached an agreement in principle
Importantmonetary component of such settlement.165. The parties have been working collaboratively and diligently on issues relating to assurance of Respondent's continued compliance with and/or exemption from the requirements of 40 CFR 63.1500 et seq. in the future.196. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the agency personnel involved in this matter required additional time to review and confer21with EPA Headquarters on critical issues affecting the terms and scope of the settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had completed that review and conferral process and was ready to proceed with the documentation of the settlement.257. EPA-IX has now drafted the documentation for the settlement, and the parties need the additional time requested to review and finalize and to obtain all required approvals for the Consent Agreement and Final Order to resolve this matter.		on the terms of a settlement of all allegations set forth in the Complaint, including the
<ul> <li>5. The parties have been working collaboratively and diligently on issues relating to</li> <li>assurance of Respondent's continued compliance with and/or exemption from the</li> <li>requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.</li> <li>6. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the</li> <li>agency personnel involved in this matter required additional time to review and confer</li> <li>with EPA Headquarters on critical issues affecting the terms and scope of the</li> <li>settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had</li> <li>completed that review and conferral process and was ready to proceed with the</li> <li>documentation of the settlement.</li> <li>7. EPA-IX has now drafted the documentation for the settlement, and the parties</li> <li>need the additional time requested to review and finalize and to obtain all required</li> <li>approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ul>		monetary component of such settlement.
<ul> <li>assurance of Respondent's continued compliance with and/or exemption from the</li> <li>requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.</li> <li>I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the</li> <li>agency personnel involved in this matter required additional time to review and confer</li> <li>with EPA Headquarters on critical issues affecting the terms and scope of the</li> <li>settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had</li> <li>completed that review and conferral process and was ready to proceed with the</li> <li>documentation of the settlement.</li> <li>EPA-IX has now drafted the documentation for the settlement, and the parties</li> <li>need the additional time requested to review and finalize and to obtain all required</li> <li>approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ul>		5. The parties have been working collaboratively and diligently on issues relating to
<ul> <li>requirements of 40 CFR 63.1500 <i>et seq.</i> in the future.</li> <li>6. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the</li> <li>agency personnel involved in this matter required additional time to review and confer</li> <li>with EPA Headquarters on critical issues affecting the terms and scope of the</li> <li>settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had</li> <li>completed that review and conferral process and was ready to proceed with the</li> <li>documentation of the settlement.</li> <li>7. EPA-IX has now drafted the documentation for the settlement, and the parties</li> <li>need the additional time requested to review and finalize and to obtain all required</li> <li>approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ul>		assurance of Respondent's continued compliance with and/or exemption from the
<ul> <li>6. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the</li> <li>agency personnel involved in this matter required additional time to review and confer</li> <li>with EPA Headquarters on critical issues affecting the terms and scope of the</li> <li>settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had</li> <li>completed that review and conferral process and was ready to proceed with the</li> <li>documentation of the settlement.</li> <li>F. EPA-IX has now drafted the documentation for the settlement, and the parties</li> <li>need the additional time requested to review and finalize and to obtain all required</li> <li>approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ul>		requirements of 40 CFR 63.1500 et seq. in the future.
<ul> <li>agency personnel involved in this matter required additional time to review and confer</li> <li>with EPA Headquarters on critical issues affecting the terms and scope of the</li> <li>settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had</li> <li>completed that review and conferral process and was ready to proceed with the</li> <li>documentation of the settlement.</li> <li>7. EPA-IX has now drafted the documentation for the settlement, and the parties</li> <li>need the additional time requested to review and finalize and to obtain all required</li> <li>approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ul>		6. I was informed in early February 2008 by Daniel Reich, Esq. of EPA-IX that the
<ul> <li>with EPA Headquarters on critical issues affecting the terms and scope of the</li> <li>settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had</li> <li>completed that review and conferral process and was ready to proceed with the</li> <li>documentation of the settlement.</li> <li>7. EPA-IX has now drafted the documentation for the settlement, and the parties</li> <li>need the additional time requested to review and finalize and to obtain all required</li> <li>approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ul>		agency personnel involved in this matter required additional time to review and confer
<ul> <li>settlement, and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had</li> <li>completed that review and conferral process and was ready to proceed with the</li> <li>documentation of the settlement.</li> <li>7. EPA-IX has now drafted the documentation for the settlement, and the parties</li> <li>need the additional time requested to review and finalize and to obtain all required</li> <li>approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ul>	21	with EPA Headquarters on critical issues affecting the terms and scope of the
<ul> <li>24</li> <li>25</li> <li>26</li> <li>27</li> <li>approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ul>	22	settlement; and was further informed by Mr. Reich on March 3, 2008 that EPA-IX had
<ul> <li>25</li> <li>7. EPA-IX has now drafted the documentation for the settlement, and the parties</li> <li>26</li> <li>26 need the additional time requested to review and finalize and to obtain all required</li> <li>27 approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ul>	23	completed that review and conferral process and was ready to proceed with the
<ul> <li>need the additional time requested to review and finalize and to obtain all required</li> <li>approvals for the Consent Agreement and Final Order to resolve this matter.</li> </ul>	24	documentation of the settlement.
27 approvals for the Consent Agreement and Final Order to resolve this matter.	25	7. EPA-IX has now drafted the documentation for the settlement, and the parties
	26	need the additional time requested to review and finalize and to obtain all required
28 8. Completion of the review and approval of the Consent Agreement and Final Order	27	approvals for the Consent Agreement and Final Order to resolve this matter.
	28	8. Completion of the review and approval of the Consent Agreement and Final Order

.1 .

1 by the parties will require approximately 30 additional days.

9. Requiring Respondent to prepare and file an answer and request for hearing by
April 21, 2008 would, under these circumstances, impose an unnecessary burden on
Respondent and require an unnecessary allocation of resources for both Respondent and
EPA-IX to prepare for a hearing that is unlikely to occur.

6 10. On April 15, 2008, counsel for EPA-IX, Mr. Daniel Reich, and Respondent's
7 counsel discussed this Motion, and Mr. Reich confirmed that EPA-IX concurs in
8 Respondent's motion for an additional 30-day extension of time to answer the Complaint
9 and request a hearing.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 15<sup>th</sup> day of April 2008 at Los Angeles, California.

Daticia M. O'Toole Patricia M. O'Toole

# PROOF OF SERVICE

### United States Environmental Protection Agency Region IX

## IN RE U.S. POLE COMPANY, INC. Docket No. CAA-09-2007-0031

#### STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and am not a party to the within action. My business address is The O'Toole Law Firm, P. O. Box 352348, Los Angeles, California 90035-0260.

On April 15, 2008, I served the foregoing documents described as Notice of Motion and Motion to Extend Time to Answer Complaint and Request Opportunity for Hearing; Declaration of Patricia M. O'Toole on the following parties and interested persons at the following addresses:

# Daniel Reich, Esq. Office of Regional Counsel U.S. Environmental Protection Agency – Region IX 75 Hawthorne Street, ORC-2 San Francisco, CA 94105

BY OVERNIGHT COURIER: I placed a true copy thereof enclosed in a sealed envelope and deposited such envelope with Federal Express at Los Angeles, California, with delivery charges thereon fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 15, 2008 at Los Angeles, California.

Patricia M. O'Toole

SIGNATURE: Daticin M. O Toole