

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. 2  
2008 DEC 16 AM 7:32  
REGIONAL HEARING  
CLERK

In the Matter of:

Stevenson Commons Associates, L. P.  
Bronx, New York

&

Grenadier Realty Corp.  
Brooklyn, NY

Respondents

In a proceeding under the Clean Air Act,  
42 U.S.C. § 7401, et seq, 42 U.S.C.  
§ 7413(d), Section 113(d)

CAA-02-2008-1220

Hon. Susan L. Biro,  
Chief Administrative Law Judge

**MOTION FOR AN EXTENSION OF TIME TO FILE PREHEARING EXCHANGES**

Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, EPA, Region 2 (EPA), through her attorney, requests the Court grant a 60-day extension of time for the parties to file their prehearing exchanges, an extension concurred upon by Stevenson Commons Associates, L.P. and Grenadier Realty Corp. (Respondents), through their counsel, Daniel Riesel, Esq. For the reasons set forth below, the parties submit that good cause exists for granting the motion.

Pursuant to 42 U.S.C. § 7401, et seq, 42 U.S.C. § 7413(d), Section 113(d), the Clean Air Act (CAA or the Act), Complainant filed an administrative Complaint and Notice of Opportunity to Request a Hearing against Respondents for violations of 40 C.F.R. Part 60, Subpart Dc "Standards of Performance for Small Industrial-

Commercial-Institutional Steam Generating Units,” promulgated pursuant to 42 U.S.C. §§ 7411 and 7414, Sections 111 and 114 of the Act. The total amount of the penalty proposed by Complainant is \$190,799. Respondents’ filed an Answer and Request for a Hearing dated October 30, 2008.

By letter, dated November 5, 2008, the Honorable Susan L. Biro required the parties to respond, preferably by email, to Maria Whiting-Beale, Staff Assistant to Chief Judge Biro, on or before November 19, 2008 if the parties choose to conduct administrative dispute resolution (ADR). Respondents filed a letter on November 13, 2008 to Karen Maples, Regional Hearing Clerk (RHC) and copied Ms. Whiting-Beale requesting ADR. Shortly thereafter, the parties spoke and agreed to attempt to settle the case with the assistance of an outside neutral. Complainant sent an email on November 19, 2008, to Ms. Whiting-Beale conveying the parties interest in using mediation to resolve this matter, and that they were in the process of arranging for an outside neutral. Complainant sent a letter, dated November 19, 2008, to the RHC and copied Ms. Whiting-Beale, confirming the parties agreement to negotiations with the assistance of an outside neutral.

By Prehearing Order (Order) dated December 2, 2008, the Court directed the parties to submit their prehearing exchanges as per the following schedule:

January 16, 2009 - Complainant's initial prehearing exchange;

February 6, 2009 - Respondents’ prehearing exchange, including any direct and/or rebuttal evidence; and

February 20, 2009 - Complainant’s rebuttal prehearing exchange.

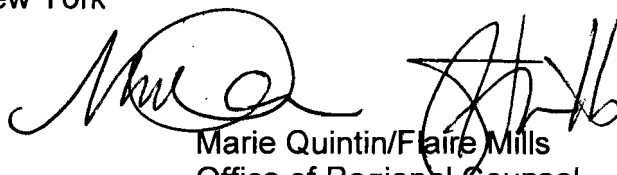
In accordance with 40 C.F.R. § 22.7(b), the parties believe that good cause is shown to satisfy granting this motion for an extension of time to file prehearing

exchanges. Complainant's and Respondents' counsels began arranging for a settlement conference to occur in October, 2008. When Respondents received the Court's offer to the parties of the opportunity to participate in an ADR process to facilitate settlement, the parties engaged in further discussions and agreed that the conference would not be as productive without an outside neutral party. Since then the parties have been working with the EPA Region 2 ADR Specialist, who is serving as a convener, to select a mediator to assist the parties. The parties have worked with the convener to establish criteria for hiring a mediator. Based upon the agreed upon criteria, including the criteria that the mediator be available for settlement meetings as soon as possible, the parties provided the convener with names of mediators. The convener contacted the mediators as well as additional mediators who satisfy the criteria, and obtained resumes from them which have been reviewed by both parties. The convener has established a schedule with the goal of interviewing and selecting a mediator prior to the holiday break, and scheduling a settlement conference for as early as possible in January, 2009.

It is in the interest of both parties and judicial economy to bring this matter to fruition prior to incurring costs in preparing and submitting prehearing exchanges. To date, no hearing has been scheduled and no dispositive or other substantive motions have been filed and neither party will be prejudiced by this additional period of time. Accordingly, the parties seek a 60-day extension of time, which is the time provided for by the ADR process when engaged in through the Office of Administrative Law Judges as stated in the November 5, 2008 letter from the Honorable Susan L. Biro offering an ADR process through the Office of Administrative Law Judges.

EPA respectfully moves the Court, pursuant to 40 C.F.R. §§ 22.4(c)(2), 22.7(b), 22.16(a) and 22.19(a), for an order amending the December 2, 2008 Order to extend each of the prehearing exchange dates set forth in said Order by a period of 60-days.

Dated: December 15, 2008  
New York, New York



Marie Quintin/Claire Mills  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> floor  
New York, New York 10007-1866  
212-637-3243/212-637-3198  
FAX: 212-637-3199

TO: Honorable Susan L. Biro  
Chief Administrative Law Judge  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Mail Code 1900L  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> floor  
New York, New York 10007-1866

Daniel Riesel, Esquire  
Sive, Paget & Riesel, P.C.  
460 Park Avenue  
New York, NY 10022

CERTIFICATE OF SERVICE

I certify that the foregoing **Motion For An Extension Of Time To File Prehearing Exchanges**, dated December 15, 2008, was sent this day in the following manner to the addressees listed below.

Original and One Copy By Hand Delivered to:

Karen Maples  
Regional Hearing Clerk  
U.S. EPA  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007-1866

Copy By Mail to:

Daniel Riesel, Esq.  
Sive, Paget & Riesel, P.C.  
460 Park Avenue  
New York, New York 10022

Copy By Pouch to:

The Honorable Susan L. Biro  
Chief Administrative Law Judge  
Office of Administrative Law Judges  
U.S. EPA  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Mail Code 1900L  
Washington, DC 20460

Dated: December 15, 2008

  
Orelia Lewis  
Branch Secretary