

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II

2012 SEP 18 P 3:14

September 14, 2012

REGIONAL HEARING
CLERK

By Federal Express

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II

2012 SEP 18 P 3:14

REGIONAL HEARING
CLERK

HARRIS BEACH PLLC
ATTORNEYS AT LAW

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Regional Hearing Clerk
United States Environmental Protection Agency
290 Broadway, 16th Floor
New York, NY 10007-1866

Re: In the Matter of NOCO Energy Corp.
Docket No. RCRA-02-2012-7503

Dear Sir/Madam:

We are counsel for NOCO Energy Corp, Respondent ("Respondent") in the above referenced matter. Enclosed please find the notice of motion and supporting affidavit on behalf of the Respondent seeking to enlarge the time in which Respondent answers or otherwise responds to the administrative complaint.

Please be advised that counsel for the United States Environmental Protection Agency in this matter, Stuart Keith, does not oppose Respondent's request to enlarge the time to answer or otherwise respond to the complaint. We are seeking to enlarge such time in order to give the parties time to resolve the matter by agreement without further proceedings.

Please return a copy of the enclosed in the enclosed prepaid envelope addressed to my office with a stamp indicating that it has been filed with the Clerk as required under the applicable rules.

Sincerely,



Joseph D. Picciotti

JDP:nac

Enclosures

cc: Stuart N. Keith, Esq. (w/enclosures)
Dore LaPosta, Director (w/enclosures)
Russ Brauksieck, NYSDEC (w/enclosures)
Raymond J. Stapell, Esq. (w/out enclosures)

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

NOCO Energy Corp.,

d/b/a Yazan, Inc.
NOCO Express S-5,
Karan & Anna, LLC,
NOCO Express 27,
Snap Mart (Pyramid II, Inc.),
Ronzo (Reham) Enterprises,
Express S-53,
NOCO Express S-30,
NOCO Express 29,
NOCO Express 32,
NOCO Express 35, and
NOCO Express S-36,

Respondent.

Proceedings under Section 9006 of the
Solid Waste Disposal Act, as amended.

Docket No. RCRA-02-2012-7503

NOTICE OF MOTION
TO ENLARGE THE TIME
FOR RESPONDENT TO
ANSWER OR OTHERWISE
RESPOND TO THE
ADMINISTRATIVE
COMPLAINT

REGIONAL HEARING
CLERK

2012 SEP 18 P 3:14

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II

MOTION BY:

Respondent, NOCO Energy Corp.

DATE, TIME AND PLACE OF HEARING:

September 17, 2012, or as soon after
as the Administrative Law Judge or
other appropriate judicial officer may
hear and make a determination on
this motion; no request for oral
argument or hearing on this motion
is made, and Respondent requests
that the motion be decided without
any such argument or hearing.

SUPPORTING PAPERS

Attached affidavit of Joseph D.
Picciotti, sworn to September 14,
2012 as counsel for Respondent.

RELIEF REQUESTED:

An Order from the Administrative
Law Judge or other appropriate
judicial officer in accordance with
Section 40 Code of Federal

Regulations Part 22 et seq. granting the Respondent's request that its time to answer or otherwise respond to the Administrative Complaint in this matter be extended up to and including September 28, 2012.

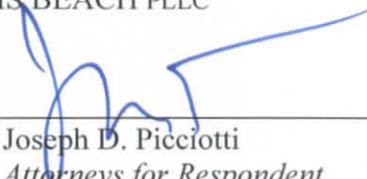
GROUNDS:

For the reasons set forth in the enclosed affidavit, including that the Environmental Protection Agency through counsel, Stuart N. Keith, does not oppose the request to enlarge time for the Respondent to answer or otherwise respond to the Administrative Complaint to allow the Respondent and the Agency to resolve this matter in an amicable manner as expeditiously as possible.

Pittsford, New York
September 14, 2012

HARRIS BEACH PLLC

By: _____


Joseph D. Picciotti
Attorneys for Respondent
99 Garnsey Road
Pittsford, New York 14534
(585) 419-8800

TO: Stuart N. Keith, Esq.
U.S. ENVIRONMENTAL PROTECTION AGENCY – Region 2
290 Broadway
New York, New York 1007-1866

DORE LaPOSTA, DIRECTOR
Division of Enforcement and Compliance Assistance
U.S. ENVIRONMENTAL PROTECTION AGENCY – Region 2
290 Broadway
New York, New York 10007-1866



cc: Russ Brauksieck
Chief
Facility Compliance Section
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION
625 Broadway, 11th Floor
Albany, NY 12233



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Docket No. RCRA-02-2012-7503

NOCO Energy Corp.,

d/b/a Yazan, Inc.
NOCO Express S-5,
Karan & Anna, LLC,
NOCO Express 27,
Snap Mart (Pyramid II, Inc.),
Ronzo (Reham) Enterprises,
Express S-53,
NOCO Express S-30
NOCO Express 29,
NOCO Express 32,
NOCO Express 35, and
NOCI Express S-36.

AFFIDAVIT IN SUPPORT
OF RESPONDENT'S MOTION
TO ANSWER OR OTHERWISE
RESPOND TO THE
ADMINISTRATIVE COMPLAINT

Respondent.

Proceedings under Section 9006 of the
Solid Waste Disposal Act, as amended.

STATE OF NEW YORK)
COUNTY OF MONROE) ss.:

JOSEPH D. PICCIOTTI, being duly sworn, deposes and says:

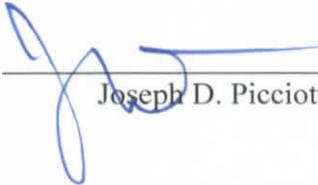
1. I am counsel for Respondent NOCO Energy Corp ("Respondent") in this matter, and I submit this affidavit in support of the attached Notice of Motion submitted by Respondent seeking to enlarge the time of Respondent to answer or otherwise respond to the Administrative Complaint. The Administrative Complaint in this matter was received by a person of responsibility with the Respondent sometime on or about July 6, 2012.



2. As indicated in the Notice of Motion, I have had communications with counsel for the Environmental Protection Agency in this matter (the "Agency"), Stuart Keith, Esq. concerning the date by which the Respondent's answer or other response to the Administrative Complaint is due. EPA counsel has stated that the Agency does not oppose this motion to enlarge the time for the Respondent to file its answer or otherwise respond to the Administrative Complaint. We are working with the Agency and its counsel to resolve the matter informally without the need to file an answer and litigate the matter further. We propose the deadline to answer or otherwise respond be changed to September 28, 2012.

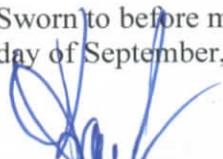
3. Respondent requests that this motion be granted extending Respondent's time to answer or otherwise respond to the Administrative Complaint to and including September 28, 2012 in order to allow Respondent and the Agency to resolve this matter by agreement without further litigation.

4. No further relief is requested by this application.



Joseph D. Picciotti

Sworn to before me this 14th
day of September, 2012.



Notary Public

DOUGLAS F. KALETA
Notary Public, State of New York
No. 01KA6058487
Qualified in Monroe County
Commission Expires May 14, 2015

