



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. 2  
2011 SEP 15 P 2:33  
REGIONAL HEARING  
CLERK

September 15, 2011

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

**In the Matter of Eastman Kodak Company, CAA-02-2011-1209**

Dear Judge Gunning:

Enclosed is a second joint motion for an extension of time to file the prehearing exchanges for the Eastman Kodak Company case. The parties have reached a settlement in principle. While the parties will be filing a consent agreement and final order, the parties are still finalizing the settlement details, which include, among other things, a supplemental environmental project. Therefore, the parties request a 45-day extension of time to complete the additional work.

Sincerely,

A handwritten signature in cursive script that reads "Kara E. Murphy".

Kara E. Murphy  
Assistant Regional Counsel

cc: Karen Maples ✓  
JoAnn Gould, Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. ENVIRONMENTAL PROTECTION AGENCY  
2011 SEP 15 P 2:33  
REGIONAL HEARING  
COURT CLERK

In the Matter of:

Eastman Kodak Company,  
Rochester, NY

Respondent

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-02-2011-1209

Hon. Barbara A. Gunning,  
Administrative Law Judge

**SECOND JOINT MOTION FOR AN EXTENSION OF TIME TO FILE  
THE 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 45-day extension of time for the parties to file their prehearing exchanges. Eastman Kodak Company (Respondent), through its counsel, JoAnn Gould, Esq. concurs upon this request. For the reasons set forth below, 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 (Complaint) against Respondent for alleged violations of Sections 112 and 114 of the Act, and the regulations promulgated pursuant

to these Sections, which for this case include 40 C.F.R. Part 63, Subpart FFFF, the national emissions standards for hazardous air pollutants for miscellaneous organic chemical manufacturing (MON MACT) and 40 C.F.R. Part 63, Subpart UU, National Emission Standards for Equipment Leaks – Control Level 2 Standards (MON LDAR). The Complaint also included alleged violations of the Facility's Title V Operating Permit, which includes the MON MACT and MON LDAR as applicable requirements. The total amount of the penalty proposed by Complainant is \$367,685. Respondent filed an answer and request for a hearing dated May 5, 2011. By Prehearing Order (Order) dated May 26, 2011, the Court directed the parties to submit their prehearing exchanges. On July 14, 2011, the parties filed a Joint Motion for an Extension of Time to File the Prehearing Exchanges (Initial Motion). On July 15, 2011, the Court orally granted the Initial Motion, which was followed-up by an e-mail from Mary Angeles, Legal Secretary for the Honorable Gunning. The e-mail indicated the following due dates for the prehearing exchanges:

- September 29, 2011 - Complainant's initial prehearing exchange;
- October 29, 2011 - Respondent's prehearing exchange, including any direct and/or rebuttal evidence; and
- November 14, 2011 - Complainant's rebuttal prehearing exchange.

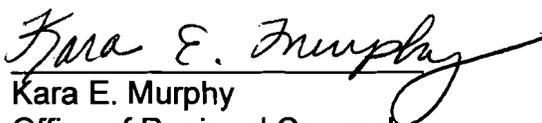
In accordance with 40 C.F.R. § 22.7(b), the parties believe that good cause is shown to satisfy granting this second joint motion for an extension of time to file the prehearing exchanges. On June 28, 2011, the parties agreed to a settlement in principle. While the parties are still finalizing settlement details, which include, among other things, a supplemental environmental project (SEP), the parties hope to have a signed consent agreement and final order (CAFO) with the additional extension of time.

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. In addition to the parties having agreed to a settlement in principle, no hearing has been scheduled, and thus neither party will be prejudiced by this additional period of time. Accordingly, the parties seek a 45-day extension of time to allow for additional time to resolve the settlement details, complete the CAFO, and obtain approval of and signatures for the CAFO from both parties.

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 July 15, 2011 Order to extend each of the prehearing exchange dates set forth in the Order by a period of 60-days.

Dated: September 15, 2011  
New York, New York

Respectfully submitted,



Kara E. Murphy  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> floor  
New York, New York 10007-1866  
212-637-3211/FAX: 212-637-3199

TO: Honorable Barbara A. Gunning  
Administrative Law Judge  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Mail Code 1900L  
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

JoAnn Gould, Esq.  
Senior Environmental Counsel  
Harter Secrest & Emery, LLP  
1600 Bausch & Lomb Place  
Rochester, NY 14604

CERTIFICATE OF SERVICE

I certify that the attached Second Joint Motion For An Extension of Time To File The Prehearing Exchanges, dated 09/15/2011 was sent in the following manner to the addressees listed below.

Original and One Copy Delivered by hand to Regional Hearing Clerk's Office: ✓

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

Copy by (*Overnight*) Mail to:

Honorable Barbara A. Gunning  
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, DC 20460-2001

*and copy to:*

JoAnn Gould, Esq.  
Senior Environmental Counsel  
Harter Secrest & Emery, LLP  
1600 Bausch & Lomb Place  
Rochester, NY 14604

Dated: September 15, 2011

  
Katherine Zuckerman  
Air Branch Secretary  
U.S. Environmental Protection Agency  
Office of Regional Counsel, Region 2