

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

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REGIONAL HEARING
CLERK

In the matter of:

Pan American Grain Co, Inc.
9 Claudia St.
Amelia Industrial Park
Guaynabo, Puerto Rico 00968

NPDES MSGP Number PRR05BT41

Respondent

Docket No. CWA-02-2011-3451

PROCEEDING PURSUANT TO SECTION
309(G) OF THE CLEAN WATER ACT, 33
U.S.C. § 1319(G), TO ASSESS CLASS II
CIVIL PENALTY

**MOTION REQUESTING EXTENSION OF TIME TO FILE RESPONDENT'S ANSWER
TO SECOND AMENDED COMPLAINT AND PREHEARING EXCHANGE**

TO THE HONORABLE PRESIDING OFFICER:

COMES NOW, respondent, Pan American Grain Manufacturing Company ("PAGM")
the undersigned attorneys, and very respectfully informs, states and prays as follows:

1. Since the filing of the Complaint, EPA and PAGM ("the Parties") have engaged in discussions relative to the possibility of settling the instant case. For this and other reasons, the Parties have filed a number of motions requesting extension of time, which have been kindly granted by the Honorable Presiding Officer.

2. Most recently, the Parties filed a Joint Request to Stay the Proceedings so as to allow the Parties continue to discuss settlement for the case at bar as well as for other allegations made by EPA in connection to three (3) other PAGM facilities for a global settlement.

3. On April 27, 2012, the Honorable Presiding Officer denied the motion to stay the proceedings yet found good cause to grant PAGM additional time to file its Prehearing Exchange until June 10, 2012. Said Order granted EPA's request for leave for second amended complaint

and ordered its service. The order also required that the Parties file a Joint Status Report by May 25, 2012 to inform the Honorable Presiding Officer of the developments concerning settlement.

4. On May 16, 2012, PAGM was served with the Second Amended Complaint. PAGM is now required to file its Answer to the Second Amended Complaint on or before June 6, 2012.

5. The Parties continue to be committed to finalize discussions relative to the possible resolution of the pending cases in a diligent manner. Actions undertaken to such ends were informed to the Honorable Presiding Officer in our Joint Status Report filed on May 25, 2012 include: EPA's presentation of a proposal for global settlement for the four facilities in question; PAGM's request for clarification on various respects; information and technical consideration exchanges; and submittal of PAGM's counterproposal considering various technical aspects of the allegations made and developments concerning one of the subject facilities. This counterproposal is being evaluated by EPA. Conversations and informational exchanges have continued to take place while the evaluation concludes, the most recent being last Thursday.

6. Based on the conversations held yesterday, PAGM does not foresee that the Parties will be able to reach a settlement and prepare a global consent agreement and final order ("CA/FO") by the date in which PAGM is required to answer the Second Amended Complaint (June 6, 2012) given the complexity associated to the number of facilities and recent developments concerning one of the facilities and despite the Parties' best efforts to do so.

7. PAGM anticipates that the Parties may need approximately thirty (30) additional days to finalize settlement discussions and hopefully reach a global CA/FO concerning the facilities being considered at this time.

8. During this period, PAGM would like to continue to focus its efforts and employing its resources in continuing the negotiations with EPA to hopefully reach a global settlement instead of in the litigation aspect of the instant case.

9. In view of the foregoing, and considering that there is no undue delay, bad faith or dilatory motive, PAGM requests the Honorable Presiding Officer to grant PAGM until to July 13 and July 20, 2012 to file its Answer to the Second Amended Compliant and Prehearing Exchange, respectively.

10. Complainant's attorney reviewed the present Motion and has no objection to the request being made herein.

11. **WHEREFORE**, PAGM respectfully requests this Honorable Presiding Officer to take notice of the aforementioned and, consequently, grant the extension of time requested herein above, that is, until by July 13 and July 20, 2012 to file its Answer to the Second Amended Complaint and Prehearing Exchange respectively.

RESPECTFULLY SUBMITTED.

I HEREBY CERTIFY: That on this same date, a true and exact copy of the foregoing document was sent, through regular mail and facsimile, to: Héctor L. Vélez-Cruz, Office of Regional Counsel, U.S. Environmental Protection Agency, Region 2, City View Plaza II, Suite 7000, 48 Road 165, Guaynabo, PR 00968-8069

In San Juan, Puerto Rico, this 4th day of June, 2012.

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GRETCHEN MENDEZ-VILELLA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

IN THE MATTER OF:

Pan American Grain Co, Inc.

RESPONDENT

REQUEST FOR EXTENSION OF TIME

DOCKET NUMBER CWA-02-2011-3451

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing **Request for Extension of Time**, dated June 4, 2012, and bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and copy by facsimile, **Overnight Mail** to:

Karen Maples
Regional Hearing Clerk
Region II
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, NY 10007-1866
Fax (212) 637-3202

Copy by facsimile, **Certified Mail/Return Receipt** to:

Attorney for EPA:
Héctor Vélez-Cruz, Esq.
US Environmental Protection Agency, R2
City View Plaza II, Suite 7000
48 Road 165
Guaynabo, PR 00968-8069
(787) 729-7748

Copy by facsimile, **Overnight Mail** to:

Administrative Law Judge
Honorable M. Lisa Buschmann
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1099 14th Street, N.W., Suite 350
Washington, D.C. 20005
Fax (202) 565-0044

6/4/12

Date


Name