

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Docket No. RCRA-08-2008-0005

2008 JUL 24 AM 8:31

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)
)
James K. Laducer and Debra Werner)
)
United C-Store)
BIA 7 South)
Belcourt, ND 58316)
EPA ID Number 3050006)
)
Respondents.)

MOTION FOR EXTENSION OF TIME

COMES NOW the Complainant, United States Environmental Protection Agency Region 8 ("EPA"), by and through its attorney, Dana J. Stotsky, who moves the Presiding Officer to grant the Complainant an extension of time of 20 days to file a responsive pleading to Respondent's response to Complainant's Motion to Amend Complaint.

As grounds therefore, the parties assert the following:

GROUND FOR MOTION

This motion is made pursuant to 40 C.F.R. section 22.7(b) and 40 C.F.R. section 22.16 of the CROP. Under CROP, a motion must be in writing, state the grounds for the motion with particularity, set forth the relief or order sought, and be accompanied by any evidence or legal memorandum relied upon. Also, as provided for by rule, the Presiding Officer may grant an extension of time for filing any document upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties, or upon its own initiative. Any motion for an extension of time shall be filed sufficiently in advance of the due date so as to allow other parties reasonable opportunity to respond and to allow the Presiding

Officer reasonable opportunity to issue an order. 40 C.F.R. section 22.7(b).

Respondent's response to Complainant's Motion to Amend makes an assertion regarding Mr. Mike Werner, to the effect that he should be 'left off' the caption and not a party to this proceeding. Complainant's attorney is about to be unavailable for ten days due to an overseas trip. Since receiving Respondent's response to Complainant's Motion to Amend, Complainant has diligently undertaken a records review to determine whether Mr. Mike Werner is an officer or director of United C Store or its parent, United Oil and Gas of Bottineau, North Dakota. Efforts to date have been inconclusive. Further, Respondent merely asserted that Mr. Mike Werner should be removed as a party from the proceeding. Respondent has supplied no indicia of law or fact (i.e. an affidavit) regarding support for, or belief in, the basis for its assertion that Mr. Mike Werner should be removed.

Complainant respectfully requests a brief extension of time to accommodate personnel availability and to review records so that it can determine whether Mr. Mike Werner is properly a party to this proceeding, or whether he should be removed.

United States Environmental Protection
Agency, Region 8



Date: July 23, 2008

By: _____

Dana J. Stotsky, Senior Enforcement Attorney
Legal Enforcement Program
U.S. EPA Region 8
1595 Wynkoop Street
Mail Code: 8ENF-L
Denver, Colorado 80202-1146
Colorado Bar # 14717
Phone: (303)-312-6905
FAX: (303) 312-6953
stotsky.dana@epa.gov

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the **MOTION FOR EXTENSION OF TIME** were hand-carried to the Regional Hearing Clerk, EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same was mailed by certified mail to:

Mr. Mike Werner and/or Ms. Debra Werner
United Oil and Gas of Bottineau
P.O. Box 386
Bottineau, ND 58318

and

James K. Laducer
Laducer & Associates, Inc.
201 Missouri Drive
Mandan, ND 58554

Date: July 23, 2008

By:


Dana J. Stotsky