

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Tri-Stella Development Group, Inc.

and

Dynamics Engineers, Corp.

Camino Verde II Development

RESPONDENTS

MOTION

DOCKET NUMBER CWA-02-2011-3454

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2011 DEC -8 P 12:15
REGIONAL HEARING
CLERK

**MOTION FOR LEAVE TO FILE PREHEARING EXCHANGE OUT OF TIME,
FIRST REQUEST FOR EXTENSION OF TIME TO FILE EXECUTED CONSENT
AGREEMENT AND FINAL ORDER AND TO STAY THE PROCEEDINGS**

COMES NOW the United States Environmental Protection Agency (Complainant) by and through the undersigned attorney, very respectfully avers, prays and requests as follows:

1. Pursuant to the October 11, 2011 Order issued by the Honorable Susan L. Biro, Chief Administrative Law Judge, Complainant had until November 18, 2011, to file its Initial Prehearing Exchange.
2. Due to other professional engagements (i.e. *Climate Change in the Caribbean Conference* held on November 15-16, 2011, that I was organizing

and which required most of my time since the week of November 7, 2011) concurrent to the deadline to file Complainant's Initial Prehearing Exchange, the undersigned attorney was delayed in the completion of the prehearing brief.

3. Counselors for Tri-Stella Development Group, Inc. and Dynamics Engineers, Corp. (Respondents) have been informed about this delay and about the undersigned attorney's intention to request the Presiding Officer until December 9, 2011, to file Complainant's Initial Prehearing Exchange. Respondents' counselors expressed no objection and agreed to the inclusion of Complainant's request in the filing of this motion.
4. In light of the above, and that there is no undue delay, bad faith or dilatory motive that can affect Respondents' rights under law, and there is no prejudice or additional burden to Respondents, Complainant requests the Honorable Chief Administrative Law Judge to grant the Complainant twenty-one (21) additional days from the November 18, 2011 deadline, until December 9, 2011, in order to file Complainant's Initial Prehearing Exchange.
5. Also, today, December 7, 2011, the Complainant and the Respondents reached an agreement in principle dispositive of all matters asserted in the Administrative Complaint, including a penalty.

6. The Parties are engaged in settlement discussions in order to reach an agreement as to the final language and terms of the Consent Agreement and Final Order (CA/FO). Once the CA/FO is finalized it will be placed into concurrence within several EPA officers located in Region 2's San Juan and New York offices for their review and concurrence. Also, in order to file a duly executed CA/FO, the signature of the Respondent and the signature of the Regional Administrator are required. Once this process concludes, the fully executed CA/FO will immediately be filed.

7. This Motion has been filed today in order to have the Chief Administrative Law Judge, Honorable Susan L. Biro, take notice of the agreement reached by the Parties and of the progress made in formalizing this agreement in a fully executed CA/FO.

8. Due to the complexity of the review and concurrence process within the Agency and between the Parties in order to finalize a fully executed CA/FO, the Complainant requests the Honorable Presiding Officer to stay the proceedings and allow the Parties sixty (60) days, until February 5, 2012, in order to file the duly executed CA/FO and notify its execution to the Presiding Officer.

9. This Motion was discussed today, December 7, 2011, with Michelle Renaud, Esq., attorney for Respondent Dynamics Engineers, Corp., and José A. Cepeda, Esq., attorney for Respondent Tri-Stella Development Group, Inc., who both agreed to the filing of this motion.

Respectfully submitted, in San Juan, Puerto Rico, this 7th day of December, 2011.



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

IN THE MATTER OF:

Motion

Tri-Stella Development Group, Inc.

DOCKET NUMBER CWA-02-2011-3454

and

Dynamics Engineers, Corp.
RESPONDENTS

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing *MOTION FOR LEAVE TO FILE PREHEARING EXCHANGE OUT OF TIME, FIRST REQUEST FOR EXTENSION OF TIME TO FILE EXECUTED CONSENT AGREEMENT AND FINAL ORDER AND TO STAY THE PROCEEDINGS*, dated December 7, 2011, 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, **Overnight Mail** to:

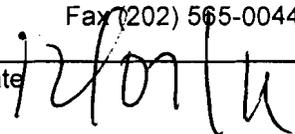
Attorney for Respondent:
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cepedapr@cepedalaw.com

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

Chief Administrative Law Judge
Honorable Susan L. Biro
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.

Date



Name

