

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REGION 2
2010 MAY 26 PM 3:59
REGIONAL HEARING
CLERK

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In the Matter of

U.S. Department of the Army
and
Army and Air Force Exchange Service

STATUS REPORT AND
MOTION FOR EXTENSION OF TIME

West Point Garrison

Respondents

Docket No. RCRA-02-2009-7507

Proceeding Under Section 9006
of the Solid Waste Disposal Act,
as amended

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STATUS REPORT

On May 13, 2010, this honorable court ordered the parties to file a fully executed Consent Agreement and Final Order ("CAFO") or their initial prehearing exchanges by May 27, 2010.

The parties have been working diligently to file a fully executed CAFO in the above-captioned matter by May 27, 2010. The CAFO document has been approved in principle by the parties and approved in fact at EPA by all but the Regional Administrator's office.

The CA/FO is circulating for concurrence and final signature up the chains of command of both Respondents. Respondents have made every effort to expedite this process, but cannot guarantee signatures any sooner than the end of this week. Upon return of the executed signature pages from both Respondents, the Final Order will be given to the Regional Administrator for approval and signature and filed with the Regional Hearing Clerk immediately thereafter.

MOTION FOR EXTENSION OF TIME TO FILE PREHEARING EXCHANGE

This motion is the parties' fourth request for an Order extending the time to file prehearing exchange. On March 3, 2010, the parties first requested 90 days to develop an SEP, draft the appropriate documents, and secure signatures through the multiple layers of concurrence at each entity. The Administrative Law Judge denied the request and instead granted an extension until April 8, 2010. Despite the parties' best efforts to comply with ALJ Moran's Order, additional requests for time were made, and subsequently granted for good cause shown,

on April 6th, April 29th, and May 12th. The parties are now literally days away from having a fully executed CAFO in hand, yet still short of the Court's most recent Order.

Section 22.7(b) of EPA's Consolidated Rules of Practice, 40 C.F.R. § 22.7(b), provides that

...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... .

With concurrence of counsels for both Respondents, I respectfully submit this motion for an additional extension of time to finalize and file the CAFO. The continued diligent efforts of all parties and the extreme likelihood of completion of the settlement within days constitute good cause. As this Court further noted in her May 13, 2010 Order, no hearing has been scheduled in this matter and no prejudice will accrue to the parties or the process if the parties are allowed to complete the settlement of this matter.

Respectfully submitted,



Naomi P. Shapiro
Assistant Regional Counsel, Region 2
Counsel for Complainant

Date: May 26, 2010
New York, NY

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing MOTION, bearing the below-referenced docket number, in the following manner to the respective addressees below:

Original and One Copy

by Hand:

Office of Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 2
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and
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Dated: May 26, 2010
New York, New York


