

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2**

In the Matter of: Andrew B. Chase, a/k/a
Andy Chase, Chase Services, Inc., Chase
Convenience Stores, Inc., and Chase
Commercial Land Development, Inc.,

Respondents.

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

Hon. Susan L. Biro, Presiding Officer

Docket No. RCRA-02-2011-7503

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
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Kw
REGIONAL HEARING
CLERK

MOTION FOR PARTIAL RECONSIDERATION OF THE ORDER OF DECEMBER 22, 2011

Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, EPA, Region 2 (EPA), through her attorney, moves this Court to reconsider part of the order establishing deadlines set forth in the December 22, 2011 “NOTICE OF HEARING AND SCHEDULING ORDER AND ORDER ON MOTION TO EXTEND FILING DEADLINE FOR DISPOSITIVE MOTIONS” (“December 22nd order”). Specifically EPA seeks reconsideration of the decision to schedule the hearing for the April 17th -20th period.

The history and operative facts underlying this proceeding were set out in detail in both Complainant’s December 21, 2011 motion and the December 22nd order, and will not be repeated here. The Court is respectfully referred to said motion and its recently issued order.

The December 22nd order states that “[t]he hearing in this matter shall begin promptly at 9:30 a.m. on Tuesday, April 17, 2012, and shall continue if necessary through April 20, 2012, in **Plattsburgh, New York**” (underscoring, bolded emphasis in original). Because of personal commitments previously scheduled, the undersigned respectfully requests that this Court move

the start of the hearing date ahead at least one week, to April 24, 2012, but preferably to May 15th. The undersigned deems sufficient good cause exists to warrant grant of the relief herein sought.

Why April 17th hearing state is not good

The undersigned respectfully urges the Court to move the hearing ahead at least one week because the presently scheduled dates (April 17th through April 20th) represents a conflict for the undersigned. The undersigned has a commitment to give a lecture on April 19th, a lecture that has been in the planning since approximately last spring. This is Region 2's annual Holocaust Memorial Lecture, to be given in the offices of EPA, Region 2 (New York City), and it is, as it has been for a number of years, open not just to Region 2 attorneys and other Region 2 personnel, but to employees (attorneys) of other federal agencies, of New York State agencies and of New York City agencies. In addition to Region 2 employees, personnel from these various agencies have attended in the past. The undersigned has given such an annual lecture since 2002 as part of the Continuing Legal Education lectures provided by Region 2; this would be the eleventh such lecture given.¹

For this reason, the undersigned respectfully requests that the start of the hearing be moved forward at least one week, to at least April 24, 2012.²

¹ The lecture is entitled, "Successes and Failures in America's Attempt to Remove Nazi Criminals and Collaborators: Challenges to Implementing the Holtzman Amendment." This lecture, as with the other CLE lectures given in Region 2, are organized by Region 2's CLE coordinator, Bruce Aber.

² The two weeks prior to April 17th would not be good, as that period coincides with the Passover/Easter holidays. Given the other deadlines established in the December order, an even earlier date for the hearing to be rescheduled to does not appear feasible.

Why a hearing in mid-May is preferred

The undersigned is an adjunct lecturer at Baruch College of the City University of New York, teaching an environmental policy course.³ The course will be taught Wednesday evenings, through mid-May. If at all possible, the undersigned wishes to avoid any conflict with the teaching schedule, and thus requests that the Court re-schedule the hearing so that it begins on Tuesday, May 22nd.⁴

Request for relief

Thus the undersigned respectfully requests this Court to re-schedule the hearing date for sometime after the week beginning April 16th, preferably for the week commencing May 21st, but, at the least, for the week commencing April 23rd. Accordingly, the undersigned, as counsel for Complainant in this matter, appeals to the equitable authority and concomitant discretion vested in this tribunal to request that, at the least, this Court re-schedule the hearing so that it does not occur during the period that includes Thursday, April 19, 2012.⁵

Respondents should not be prejudiced by any such proposed change. The undersigned has called counsel's office (Thomas Plimpton, 518-561-4400, but a recorded message indicates the office is closed today [Friday, December 23rd]).

Therefore, EPA respectfully moves this Court, pursuant to 40 C.F.R. §§ 22.1(c), 22.4(c)(10), 22.7(b), 22.16(a) and 22.21(c), for an order: **a)** reconsidering so much of the

³ PAF 9610, School of Public Affairs.

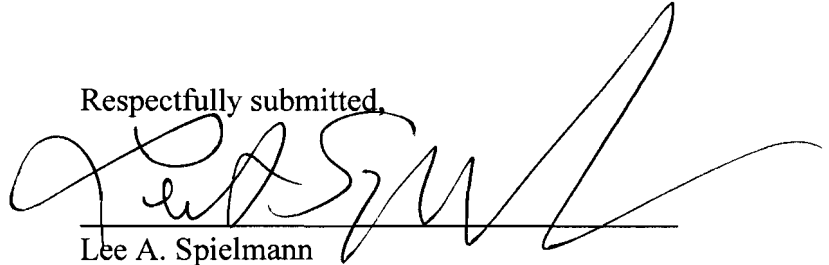
⁴ The undersigned wishes to emphasize: re-scheduling the hearing because of teaching concerns is of secondary concern. In the hierarchy of concerns and priorities, it is more important to the undersigned that the hearing not include the period that covers the scheduled April 19th lecture.

⁵ Of course, were the Court to deny any request made herein, the undersigned will comply with the Court's directive and seek to make the necessary accommodations.

December 22nd order that scheduled the hearing in this matter for the period April 17, 2012 through April 20, 2012, **b)** re-scheduling the dates for said hearing in accordance with the requests set forth above, and **c)** providing such other and further relief as this Court deems just and proper.⁶

Dated: December 23, 2011
New York, New York

Respectfully submitted,



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TO: Honorable Susan L. Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
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290 Broadway, 16th floor
New York, New York 10007-1866

Thomas W. Plimpton, Esq.
Stafford, Piller *et al.* (Counsel for Respondents)
One Cumberland Avenue
P.O. Box 2947
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⁶ The undersigned will not be in the office the week of December 26th.

In re Andrew B. Chase et al.
Docket No. RCRA-02-2011-7503

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing "MOTION FOR PARTIAL RECONSIDERATION OF THE ORDER OF DECEMBER 22, 2011," dated December 23, 2011, in the above-referenced proceeding in the following manner to the respective addressees listed below:

Original and One Copy
By Inter-Office Mail:

Office of Regional Hearing Clerk
U.S. Environmental Protection
Agency - Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

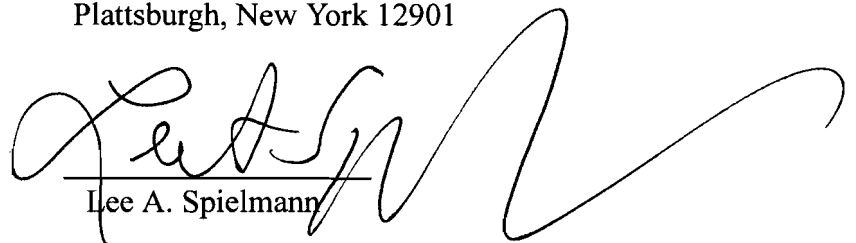
Copy by Fax Transmission,
202-565-0044, and Pouch Mail:

Honorable Susan L. Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1900 L
Washington, DC 20460

Copy by Fax Transmission,
518-561-4848 and Certified Mail,
Return Receipt Requested:

Thomas W. Plimpton, Esq.
Stafford Piller et al.
One Cumberland Avenue
P.O. Box 2947
Plattsburgh, New York 12901

Dated: December 23, 2011
New York, New York



Lee A. Spielmann