

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. M. Lisa Buschmann, Presiding Officer

Docket No. RCRA-02-2011-7503

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2012 JUL 25 A 7 19  
REGIONAL HEARING  
CLERK

MOTION FOR ADDITIONAL TIME TO FILE INITIAL BRIEF

Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, EPA, Region 2 (EPA or Agency), through counsel, respectfully requests this Court to grant her additional time — from August 6, 2012 to August 9, 2012 — to file and serve the initial brief on the penalty issues remaining in contention in this proceeding (for counts 1 through 16, 18, 19 and 21 of the complaint). EPA believes the circumstances outlined below demonstrate good cause exists for this Court to grant the relief Complainant seeks.

The July 13<sup>th</sup> order of this Court, “ORDER GRANTING JOINT MOTION TO CANCEL HEARING AND FOR THE COURT TO ISSUE AN INITIAL DECISION BASED ON THE WRITTEN RECORD,” provides, *inter alia*, that “Complainant shall file and serve its Initial Brief (and any accompanying affidavits, declarations, documents and memoranda), on or before August 6, 2012” (emphasis omitted). As part of its initial brief, EPA intends to file a declaration by Paul Sacker (Mr. Sacker submitted a declaration as well in support of EPA’s February motion for an accelerated decision on liability). Because of a recent development in which Mr. Sacker is

involved, EPA seeks the additional three days for the filing of its penalty papers,.

Mr. Sacker is presently involved in another underground storage tank matter pending before this Court, *In re Valvo Convenience and Gas*, docket number RCRA-02-2011-7507. The undersigned has been informed that one of the respondents in the *Valvo* case (the company) is presently involved in a bankruptcy proceeding, and that such respondent has moved in the bankruptcy court to have the penalty EPA is seeking in its administrative proceeding to be declared an unsecured debt. That motion is being opposed, the Department of Justice (DOJ) serving as counsel for the government. As part of the opposition, DOJ has requested that Mr. Sacker produce a declaration concerning the *Valvo* administrative proceeding, and his declaration must be filed by DOJ by the end of this week (Friday, July 27<sup>th</sup>).

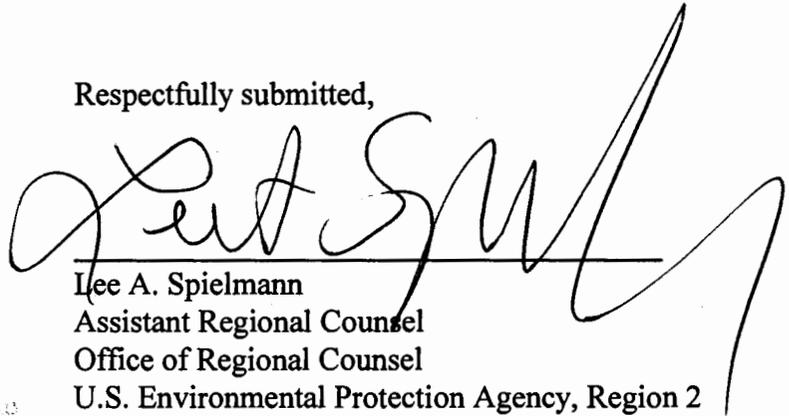
Thus in all likelihood it appears that Mr. Sacker will not have the time this week (and certainly far less time) to devote to preparing, drafting and reviewing his declaration in the *Chase* matter, as the undersigned had anticipated in originally requesting an August 6<sup>th</sup> deadline for the submission's of EPA's initial papers.

The undersigned has e-mailed Respondents' counsel, Thomas Plimpton, asking whether he has any opposition to the Agency seeking this three day extension (e-mail sent July 24<sup>th</sup>, at 4:59 PM). Mr. Plimpton has responded that he does not object to EPA seeking such an extension (responsive e-mail sent July 24<sup>th</sup>, at 4:59 PM).

Therefore, Complainant respectfully moves this Court, pursuant to 40 C.F.R. §§ 22.4(c)(10) and 22.7(b), for an order: **a**) vacating so much of the July 13, 2012 order requiring that Complainant file and serve her Initial Brief on or before August 6, 2012; and **b**) extending the time for the filing and service of such brief for three days, through August 9, 2012.

Dated: July 24, 2012  
New York, New York

Respectfully submitted,



Lee A. Spielmann  
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Office of Regional Counsel  
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New York, New York 10007-1866  
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TO: Honorable M. Lisa Buschmann  
Administrative Law Judge  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Mail Code 1900L  
Washington, DC 20460

Office of Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> 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  
Plattsburgh, New York 12901

***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 ADDITIONAL TIME TO FILE INITIAL BRIEF," dated July 24, 2012, 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

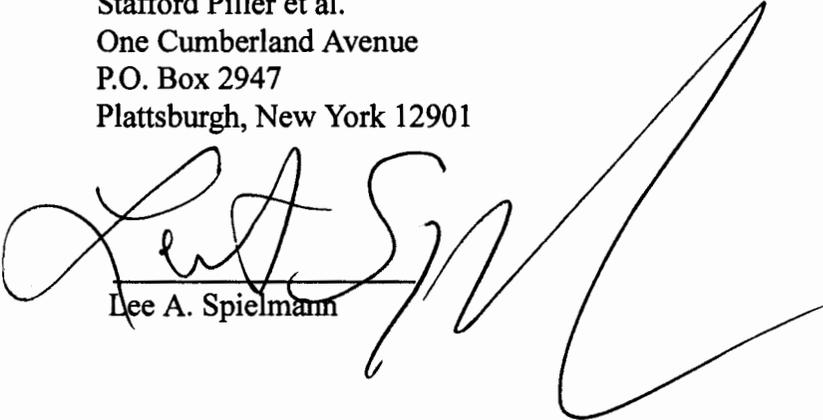
Copy by fax transmission,  
202-565-0044, and by Pouch Mail:

Honorable M. Lisa Buschmann  
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 first class mail:

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Plattsburgh, New York 12901

Dated: July 24, 2012  
New York, New York

  
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Lee A. Spielmann