

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

REGIONAL HEARING CLERK  
EPA REGION 5  
2011 JUN 27 AM 10:23

**In the Matter of:** )  
 )  
**Heritage-WTI, Inc.** ) **Docket No. CAA-05-2011-0012**  
**East Liverpool, Ohio,** )  
 )  
**Respondent.** )

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**JOINT MOTION FOR EXTENSION OF TIME TO FILE EXECUTED CAFO**

Complainant, the United States Environmental Protection Agency, Region 5, and Respondent, Heritage-WTI, Inc. (WTI), hereby move this Honorable Court for an extension of time until July 18, 2011, to file a fully-executed Consent Agreement and Final Order (CAFO). In support of its motion, Complainant states as follows:

1. On December 22, 2010, Plaintiff filed a complaint against Respondent, Heritage-WTI, Inc. (WTI) for violations at its hazardous waste incinerator in East Liverpool, Ohio, (Incinerator) of the Clean Air Act and the National Emission Standard for Hazardous Air Pollutants from Hazardous Waste Combustors (HWC MACT).
2. On February 10, 2011, Chief Judge Biro initiated the alternative dispute resolution (ADR) process to facilitate the possible settlement of EPA's allegations against WTI, with the Honorable Judge Nissen designated as neutral. The ADR process was automatically scheduled to terminate on April 11, 2011, but was subsequently extended to May 26, 2011.
3. The parties held a settlement conference in Chicago on March 15, 2011, during which they reached a tentative agreement in principle under which WTI would pay a cash penalty and perform a Supplemental Environmental Project.
4. During the March 15, 2011 Conference, WTI contended that the violations period ended no later than June 14, 2010, and produced evidence that as of June 14, 2010, the

Incinerator combustion gases were in compliance with the dioxin/furan and mercury emission limits in the HWC MACT by modifying its operations to conform with the Interim OPLs.

5. EPA believes that the evidence presented by WTI regarding compliance with the Interim OPLs is credible, and that WTI's violations of the dioxin/furan and mercury emission limits in the HWC MACT ended on June 14, 2010.

6. On June 3, 2011, Chief Judge Biro forwarded the Court's Initial Prehearing Order (Prehearing Order) to the Parties. In the Prehearing Order Chief Judge Biro ordered that the Parties should file a fully-executed CAFO no later than June 30, 2011.

7. On June 20, 2011, EPA filed a motion seeking leave to file an Amended Complaint reflecting that the violations period for WTI's violations of the dioxin/furan and mercury emission limits in the HWC MACT ended on June 14, 2010, when it began operating in compliance with the Interim OPLs.

8. WTI does not oppose EPA's motion, but concurs in the need to file an Amended Complaint. A copy of EPA's Amended Complaint is attached to this motion as Appendix A.

9. Should this Honorable Court grant EPA's Motion for Leave to File an Amended Complaint, WTI would still need to execute the CAFO agreed to by the Parties. EPA would then need to have the CAFO approved by upper management in its Air and Radiation Division, the Division Director would have to approve the CAFO and sign the Consent Agreement, and the Regional Administrator would have to approve the CAFO and sign the Final Order.


10. The Parties anticipate that because of the unanticipated need to file an Amended Complaint they will be unable to file the CAFO with the Court prior to June 30, 2011.

For the afore-mentioned reasons, Complainant and Respondent respectfully request that this Honorable Court grant their Motion for an extension of time until July 18, 2011, to file a fully-executed Consent Agreement and Final Order in this action.

Respectfully submitted,


**COUNSEL FOR COMPLAINANT:**

June 27, 2011  
Date

  
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John C. Matson  
Associate Regional Counsel  
U.S. Environmental Protection Agency  
Region 5

**COUNSEL FOR RESPONDENT:**

June 27, 2011  
Date

  
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Michael Scanlon  
Barnes & Thornburg LLP  
Counsel for Heritage-WTI, Inc.

**In the Matter of Heritage-WTI, Inc.**  
**Docket No. CAA-05-2011-0012**

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CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2011, a copy of Complainant's Motion for Leave to File an Amended Complaint was filed by hand delivery with:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

I further certify that on that date, I arranged for a copy of same to be sent via certified mail, return receipt requested, to the Respondent by placement of it in the custody of the United States Postal Service, addressed as follows:

Michael Scanlon, Esq.  
Barnes & Thornburg LLP  
11 South Meridian Street  
Indianapolis, Indiana 46204-3535

I further certify that on that date, I arranged for a copy of same to be sent via pouch delivery to:

Chief Administrative Judge Susan L. Biro  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Mail Code 1900L  
1200 Pennsylvania Ave., NW  
Washington D.C. 20460-2001

6-27-11  
Date

  
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