

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:

TONAWANDA COKE CORP.,

Respondent

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Docket No. RCRA-02-2010-7104

**ORDER GRANTING SECOND MOTION FOR EXTENSION OF TIME
TO FILE PREHEARING EXCHANGE**

A Prehearing Order was issued in this matter on March 17, 2010, directing the Complainant, Director of the Division of Enforcement and Compliance Assurance, EPA Region 2, to file a initial prehearing exchange on April 23, 2010, Respondent to file a prehearing exchange on May 14, 2010, and Complainant to file a rebuttal prehearing exchange on May 28, 2010. On April 20, 2010, Complainant submitted a Motion for Extension of Time to File Prehearing Exchange, proposing that the due date for its prehearing exchange be extended to June 18, 2010. An Order dated April 21, 2010 granted a six week extension, setting the due date of June 4, 2010 for Complainant's prehearing exchange and resetting Respondent's prehearing exchange accordingly. On June 1, 2010, Complainant submitted a second Motion for Extension of Time to File Prehearing Exchange, proposing that its prehearing exchange due date be extended to July 30, 2010. Complainant asserts that Respondent supports the Motion.

The Motion states that EPA has drafted a Consent Agreement and Consent Order (CAFO) but that the CAFO's injunctive relief section depends on further discussions between the parties, and Respondent's site presents a number of technical complexities. The Motion refers to vacations of various participants in the settlement process.

Good cause exists for granting an extension of time in that it is in the interest of the parties and judicial economy for the parties to settle this matter on mutually agreeable terms rather than litigate the matter to conclusion. In that a hearing in this case has not been scheduled, no prejudice will result from a brief delay. However, Complainant has requested a two month delay after it has already been granted a six week extension, and has made only vague assertions as to the need for such a lengthy delay. Another six week extension appears to be ample time to complete a settlement in the circumstances of this case.

Accordingly, Complainant shall file the fully executed Consent Agreement and Consent Order (CAFO) or its Initial Prehearing Exchange, on or before **July 16, 2010**. If the

CAFO is not yet filed beforehand, the Respondent shall file its Prehearing Exchange on or before **July 30, 2010**, and Complainant shall file its Rebuttal Prehearing Exchange by August 11, 2010.



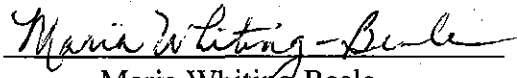
Susan L. Biro
Chief Administrative Law Judge

Date: June 2, 2010
Washington, D.C.

In the Matter of Tonawanda Coke Corporation, Respondent
Docket No. RCRA-02-2010-7104

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Granting Second Motion For Extension Of Time To File Prehearing Exchange**, dated June 2, 2010, was sent this day in the following manner to the addressees listed below.


Maria Whiting-Beale
Staff Assistant

Dated: June 2, 2010

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