



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

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In the Matter of:)
T.C. Dunham Paint Company, Inc.,) Docket No. RCRA-02-2013-7105
Respondent)

ORDER ON MOTION FOR EXTENSION OF TIME TO FILE PREHEARING EXCHANGES

On October 18, 2013, the Director of the Division of Enforcement and Compliance Assistance in U.S. Environmental Protection Agency Region 2 ("Complainant") initiated this action against T.C. Dunham Paint Company, Inc. ("Respondent") by filing a Complaint, Compliance Order and Notice of Opportunity for Hearing ("Complaint") with the Regional Hearing Clerk for Region 2. Respondent filed its Answer and Request for Hearing ("Answer") on December 6, 2013. On December 20, 2013, this Tribunal issued a Prehearing Order scheduling a series of deadlines to govern the parties' prehearing exchange of information. The Prehearing Order directs Complainant to file its Initial Prehearing Exchange no later than March 7, 2014, and Respondent to file its Prehearing Exchange no later than March 28, 2014.

On February 18, 2014, Complainant filed a Motion for Extension of Time to File Prehearing Exchanges ("Motion"). In the Motion, Complainant states that Respondent's counsel requires time to review certain photographs Complainant provided in the course of settlement discussions. After Respondent has reviewed the photographs, the parties intend to resume their discussion of a potential settlement. To avoid "unnecessary costs" associated with "reviewing and possibly preparing pre-hearing exchanges, Complainant" requests that the deadlines for filing prehearing exchanges be extended by sixty days. Complainant poses that this "should be sufficient for the parties to determine whether or not this matter can be settled." Complainant avers that it has conferred with Respondent and Respondent does not oppose the Motion.

The Rules of Practice that govern this proceeding, 40 C.F.R. Part 22, provide that the presiding officer may grant an extension of time for filing any document "upon timely motion . . . for good cause shown, and after consideration of prejudice to other parties; or upon its own

1 Complainant did not file the proof of service of the Complaint required by 40 C.F.R. § 22.5(b)(1)(iii), so the record does not show when service of process was accomplished. In a cover letter accompanying the Answer, Respondent's counsel indicates that the Complaint was not served on Respondent until November 8, 2013.

initiative.” 40 C.F.R. § 22.7(b). The Motion was timely, and there is no indication that either party will suffer undue prejudice if the filing deadlines are extended. In accordance with 40 C.F.R. § 22.7(b), for good cause shown, the Motion is hereby **GRANTED**. The parties are reminded that the requirements set out in the Prehearing Order issued by the undersigned on December 20, 2013, remain in effect with the exception of a revised prehearing exchange schedule as follows. The parties shall file their prehearing exchanges pursuant to the following schedule:

- | | |
|----------------------|--|
| May 6, 2014 | Complainant’s Initial Prehearing Exchange |
| May 27, 2014 | Respondent’s Prehearing Exchange |
| June 10, 2014 | Complainant’s Rebuttal Prehearing Exchange |

SO ORDERED.


Christine D. Coughlin
Administrative Law Judge

Dated: February 27, 2014
Washington, D.C.

**In the Matter of T.C. Dunham Paint Company, Inc., Respondent.
Docket No. RCRA-02-2013-7105**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Motion for Extension of Time to File Prehearing Exchanges**, dated February 27, 2014, was sent this day in the following manner to the addressees listed below.



Mary Angeles
Legal Staff Assistant

Original and One Copy by Hand Delivery to:

Sybil Anderson
Headquarters Hearing Clerk
U.S. EPA / Office of Administrative Law Judges
Mail Code 1900L
1200 Pennsylvania Ave., NW
Washington, DC 20460

One Copy by Electronic and Regular Mail to:

Carl H. Howard, Esq.
Assistant Regional Counsel
U.S. EPA, Region II
290 Broadway, 16th Floor
New York, NY 10007-1866
Email: howard.carl@epa.gov

One Copy by Electronic and Regular Mail to:

Frederick Eisenbud, Esq.
Law Office of Frederick Eisenbud
The Environmental Law Firm
6165 Jericho Turnpike
Commack, NY 11725-9800
Email: fe@li-envirolaw.com

**Dated: February 27, 2014
Washington, D.C.**