



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

In the Matter of: )  
 )  
August Mack Environmental, Inc., ) Docket No. CERCLA-HQ-2017-0001  
 )  
Requestor. )

**ORDER ON REQUESTOR’S UNOPPOSED MOTION FOR EXTENSION OF TIME TO RESPOND TO EPA’S MOTION IN LIMINE, RESPOND TO EPA’S REQUEST FOR SANCTIONS, AND FOR LEAVE TO FILE A REPLY IN SUPPORT OF MOTION TO COMPEL, AND REQUESTOR’S MOTION FOR REMOTE HEARING ON MOTIONS**

I previously issued an Order of Redesignation and Prehearing Order (Sept. 8, 2021) that set forth various deadlines for the prehearing exchange process, discovery, and the filing of dispositive motions in this matter. In late November 2021, the parties completed their prehearing exchanges. Since that time, the parties have filed various motions and requests for extensions therefor.<sup>1</sup> In turn, I granted the parties’ motions for additional time to respond to the various substantive motions. See Order on Motions for Extensions of Time (Dec. 29, 2021); Order on Requestor’s Unopposed Motion to Extend Dispositive Motion Deadline (Jan. 20, 2022).

On January 28, 2022, EPA filed a Motion in Opposition to Requestor August Mack Environmental’s Motion to Compel Discovery, for Sanctions, and Motion to Extend Case Management Deadlines; and Motion *in Limine* to Exclude Evidence and Testimony.

On February 3, 2022, August Mack filed Requestor’s Unopposed Motion for Extension of Time to Respond to EPA’s Motion in Limine, Respond to EPA’s Request for Sanctions, and for Leave to File a Reply in Support of Motion to Compel (“Motion for Extension of Time” and “Motion for Leave,” respectively). August Mack’s responses to the Agency’s January 28<sup>th</sup> motions would otherwise be due on February 7, 2022. August Mack states that, “[g]iven the breadth of EPA’s motion and significant relief which is requests, there is good cause to provide AME with a 14-day extension of time to prepare and file its response.” Mot. for Extension at ¶ 4. The Agency does not oppose either of these motions. Mot. for Extension at ¶¶ 5, 11, 12.

August Mack, on February 3<sup>rd</sup>, also filed Requestor’s Motion for Remote Hearing on

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<sup>1</sup> EPA’s Motion for Accelerated Decision (“AD Motion”) (Dec. 20, 2021); Requestor’s Motion to Compel Discovery, for Sanction, and Motion to Extend Case Management Deadlines (Dec. 23, 2021); EPA’s Motion for Extension of Time to Respond to Requestor August Mack Environmental’s Motion to Compel Further Discovery (Dec. 23, 2021); Requestor’s Motion for Extension of Time to Respond to EPA’s Motion for Accelerated Decision (Dec. 28, 2021); Requestor’s Unopposed Motion to Extend Dispositive Motion Deadline (Jan. 14, 2022).

Motion to Compel and Motion in Limine (“Motion for Remote Hearing”), which it represents that the Agency opposes. Mot. for Remote Hr’g at ¶ 11. August Mack avers that “once the pending motion to compel and motion in limine are fully briefed . . . . There is good cause to grant this motion so that counsel can present arguments on the motions.” Mot. for Remote Hr’g at ¶ 6 (citing 40 C.F.R. § 305.23(c)). August Mack emphasizes that “[t]he motions present significant issues, and the outcome of these motions will materially affect the pending case.” Mot. for Remote Hr’g at ¶ 7. The Agency has not responded to the Motion for Remote Hearing, but no response is needed.

The rules governing this proceeding provide that I “may grant an extension of time for the filing of any pleading, document or motion upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties[.]” 40 C.F.R. § 305.6(b). Further, “[o]ral argument on motions will be permitted in the discretion of the Presiding Officer.” 40 C.F.R. § 305.23(c). Here, given that a ruling on the pending motions may have significant ramifications on either parties’ case-in-chief, there is good cause to provide August Mack additional time to respond to the Agency’s arguments presented in its January 28<sup>th</sup> motions. This will not cause apparent prejudice to either party, especially considering the unopposed nature of this Motion. However, I do not find it necessary to hear oral argument on these issues as the parties have sufficient time to exhaustively comb through the record and identify relevant information that will elucidate the merits of their respective arguments.

Upon consideration, Requestor’s Unopposed Motion for Extension of Time to Respond to EPA’s Motion in Limine, Respond to EPA’s Request for Sanctions, and for Leave to File a Reply in Support of Motion to Compel is **GRANTED**, and the deadline to respond to EPA’s Motion in Limine and Request for Sanctions, and to file a reply in support of the Motion to Compel is extended through February 21, 2022. Requestor’s Motion for Remote Hearing on Motion to Compel and Motion in Limine is **DENIED**.

**SO ORDERED.**

  
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Susan L. Biro  
Chief Administrative Law Judge

Dated: February 4, 2022  
Washington, D.C.

In the Matter of *August Mack Environmental, Inc.*, Requestor.  
Docket No. CERCLA-HQ-2017-0001

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Order on Requestor's Unopposed Motion for Extension of Time to Respond to EPA's Motion in Limine, Respond to EPA's Request for Sanctions, and for Leave to File a Reply in Support of Motion to Compel, and Requestor's Motion for Remote Hearing on Motions**, dated February 4, 2022, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.



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Supervisory Attorney Advisor

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Dated: February 4, 2022  
Washington, D.C.