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BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

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.,

RCRA (9006) Appeal No. 13-04

Docket Number RCRA-02-2011-7503

MOTION TO MODIFY JULY 24, 2013 ORDER

Complainant, the Director of the Division of Enforcement and Compliance Assistance, EPA, Region 2 (the "Region"), requests the Environmental Appeals Board ("Board") issue an order to modify the "ORDER GRANTING MOTION TO MODIFY JULY 16, 2013 ORDER," dated and filed with the Clerk of the Board on July 24, 2013 (the "July 24th order"). The Region requests that this Board extend the October 15th deadline established in said order for nine days, *i.e.* to October 24th. For the reasons set forth below, Complainant submits good cause exists for granting the relief the Region seeks.

The July 24th order provides, *inter alia*:

Any party (or non-party participant) filing a response brief [to an appeal filed] must submit such brief on or before Tuesday, October 15, 2013.

Furthermore, if either party files a cross-appeal, such cross-appeal is due the same date responses are due, on Tuesday, October 15, 2013.

The Region is now seeking this additional time for a variety of reasons. Work obligations in fulfilling end-of-fiscal year commitments consumed more time than earlier had been

anticipated. There is the increasingly likely possibility of a shutdown of the federal government.¹ The October 15th deadline encompasses the Columbus Day holiday weekend. The situation is complicated because in preparing any response to Respondents' (collectively, "Chase") August 22, 2013 appeal and any cross-appeal, the Region must coordinate with EPA Headquarters in Washington. Thus, the Region seeks this additional time to attempt to accommodate to and prospectively address these considerations.

Other factors militate for this extension as well. The extension sought is relatively short (slightly more than one week). It is the first affirmative request for additional time made by the Region.² Chase counsel has indicated he does not object to the extension the Region is seeking.³

The Region thus submits good cause exists for the granting of this motion.

Therefore, the Region respectfully moves this Board, pursuant to 40 C.F.R. §§ 22.7(b), 22.16(a) and 22.30(a), for an order: **a**) modifying the July 24th order so as to extend the time until October 24, 2013 for the Region to submit a response brief to the Chase appeal (dated August 22, 2013) and/or cross-appeal; **b**) and granting such other and further as this Board deems just, lawful and proper.

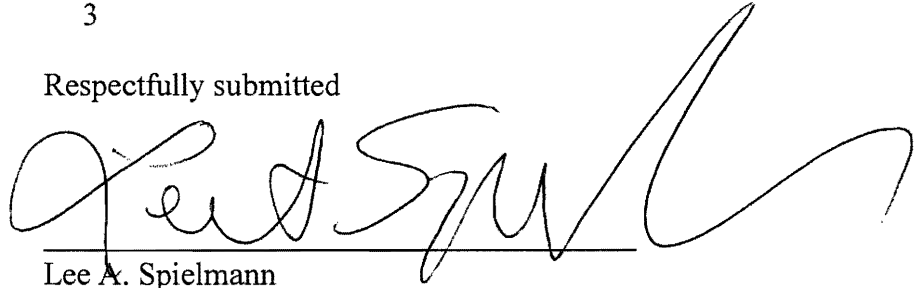
Dated: September 30, 2013
New York, New York

¹ See, e.g., Tom Cohen, "No negotiations as federal government shutdown draws near," posted on www.cnn.com, September 30, 2013 (updated 2:33 PM).

² The Region's July 18th motion sought additional time for filing a cross-appeal subsequent to Chase having requested additional time to file its appeal (an extension this Board did grant).

³ September 30th e-mail response of counsel Thomas Plimpton (1:15 PM) to earlier request by the undersigned (12:53 PM).

Respectfully submitted

A handwritten signature in black ink, appearing to read 'Lee A. Spielmann', written over a horizontal line.

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In re Andrew B. Chase et al.
RCRA (9006) Appeal No. 13-04

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing "MOTION TO MODIFY JULY 24, 2013 ORDER," in the above-referenced proceeding in the following manner to the respective addressees listed below:

Original and One Copy
By UPS OVERNIGHT:

Clerk of the Environmental Appeals Board
U.S. Environmental Protection Agency
1201 Constitution Avenue, N.W.
U.S. EPA East Building, Room 3334
Washington, DC 20004

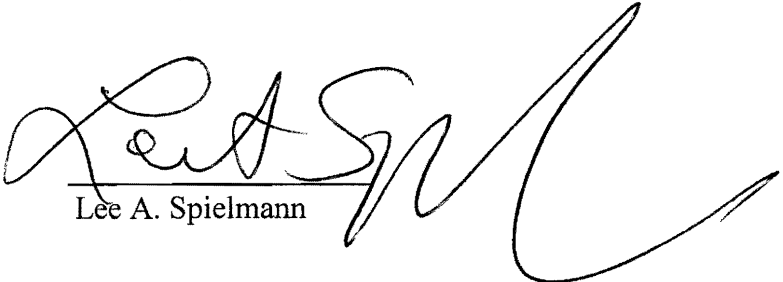
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Dated: September 30, 2013
New York, New York



Lee A. Spielmann