



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
LEGAL ENFORCEMENT PROGRAM
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NOTE:

Thank you.

Dana

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Attorney for Complainant-Appellee

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 BEFORE THE ENVIRONMENTAL APPEALS BOARD**

WASHINGTON, DC

IN THE MATTER OF

**Wasatch Propane
 201 West 2700 South
 South Salt Lake City, UT 84106**

Respondent

**COMPLAINANT-APPELLEE'S
 MOTION FOR EXTENSION OF
 TIME TO FILE REPLY BRIEF**

**Docket No. EPCRA-08-2004-0004
 Proceeding under Sections 312 and
 325 of the Emergency Planning
 and Community Right to Know
 Act of 1986 ("EPCRA"), 42 U.S.C.
 Sections 11022 and 11045, as
 amended**

MOTION FOR EXTENSION OF TIME TO FILE APPEAL BRIEF

Pursuant to Sections 22.7(b) and 22.16(a) of the Consolidated Rules of Practice
 Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or
 Suspension of Permits ("Rules of Practice"), 40 C.F.R. §§ 22.7(b) and 22.16(a), the United
 States Environmental Protection Agency ("Agency" or "EPA"), files this Motion for Extension

of Time to File Reply Brief and requests a ten-day (10) day extension to file its reply brief in this matter.

Respondent-Appellant filed its Notice of Appeal and Brief in Support on or about December 14, 2005.

The undersigned attorney for Complainant-Appellee met by phone yesterday, January 4, 2006, with Scott C. Rosevear, an attorney with Snell & Wilmer, LLP, attorneys representing the Respondent-Appellant, to determine whether Mr. Rosevear would oppose this motion. The undersigned states that opposing counsel in this matter does not object to this motion for a ten-day extension of time for the Complainant-Appellee to file its reply brief in this matter.

Under the Rules of Practice, the Environmental Appeals Board may grant an extension of time for filing any document upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to the other parties. See 40 C.F.R. §§ 22.7(b); 22.16(b). The Rules of Practice further provide that any motion for an extension of time must be filed sufficiently in advance of the due date to allow other parties a reasonable opportunity to respond, and to allow the Environmental Appeals Board an opportunity to issue an order. See 40 C.F.R. § 22.7(b). Under the Rules of Practice, a document is filed when it is received by the appropriate Clerk. See 40 C.F.R. § 22.5(a).

Respondent-Appellant filed its Notice of Appeal and Brief in Support just prior to the December holiday season. Various personnel with responsibilities in this matter employed by the Complainant-Appellee were on leave from their employment during this time period. Because of these absences it has been difficult for Complainant-Appellee to finalize its Reply Brief.

The Complainant-Appellee submits that, due to the seasonal timing of the appeal taken by Respondent-Appellant, the unavailability of key personnel employed by the Complainant-Appellee assigned to this matter, the short duration of the extension period which is being sought, and the affirmative lack of opposition to this request by attorneys for the Respondent-Appellant, there is good cause to grant EPA's request for a ten-day (10) day extension to file its Reply Brief in this matter. Granting this Motion for Extension of Time will not result in any prejudice to the Respondent-Appellant.

For the foregoing reasons, EPA submits that it has demonstrated good cause for this extension and requests an additional 10 days from the initial due date of Monday, January 9, 2006, in which to submit its Reply Brief, making its filing due on or before January 19, 2006.

Respectfully submitted,

Dana J. Stotsky
Senior Enforcement Attorney
Complainant-Appellee

By:

 1/5/2006

OF COUNSEL:

David Janik, EPA Region 8
Dean Ziegler, EPA HQS
Gary Jones, EPA HQS

CERTIFICATE OF SERVICE

I hereby certify that, on the 5th day of January, 2006, I caused a true and correct copy of the foregoing **COMPLAINANT-APPELLEE'S MOTION FOR EXTENSION OF TIME TO FILE REPLY BRIEF**, to be sent via telefax transmission (at the phone numbers indicated), as well as by first class mail, postage prepaid, upon the following:

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board (MC 1103B)
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001
(via FAX @ (202) 233-0121)

and

Scott C. Rosevear, Esq.
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(Fax #: 801-257-1800)

DATE: JAN. 5, 2006

BY:


Dana J. Stotsky