

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

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In the Matter of	:	
	:	
Oakite Products, Inc., d/b/a	:	Docket Number:
Chemetall Oakite,	:	<u>TSCA-02-2009-9148</u>
and Chemetall US, Inc.,	:	
	:	
	:	
Respondents.	:	<u>Hon. Barbara A. Gunning,</u>
	:	Presiding Officer
	:	
Proceeding under Section 16(a) of	:	
Toxic Substances Control Act,	:	
15 U.S.C. § 2615(a).	:	
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U.S. ENVIRONMENTAL
PROTECTION AGENCY-REGIONAL
2010 SEP -8 PM 3:39
REGIONAL HEARING
CLERK

STATUS REPORT AND MOTION FOR ADDITIONAL TIME

In compliance with the order of this Court, dated August 12, 2010 (“ORDER ON RESPONDENTS’ MOTION FOR ORDER SETTING SPECIFIC DEADLINES, SETTLEMENT COMPLETION, AND ADDITIONAL TIME FOR FILING PREHEARING EXCHANGE”), Complainant informs this Court that a draft consent agreement/final order has today been sent to Respondents¹ (PDF format via e-mail and hard copy via first class mail).

The August 12th order provides that “[t]he parties are given until October 4, 2010 to produce a fully executed” Consent Agreement/Final Order. Complainant now moves for additional time for the parties to generate a fully executed settlement document. For the reasons stated below, good cause exists for such motion.

The Consent Agreement today sent to Respondent contains two supplemental

¹ The answer to the complaint states, in relevant part, “Effective January 1, 2009, Oakite Products, Inc. changed its corporate name to Chemetall US, Inc. *** As a result, at law Oakite Products, Inc. and Chemetall US, Inc. are the same legal entity meaning there is only one Respondent in this matter.” In light of this admission, the singular term “Respondent” will be used throughout this document.

environmental projects (SEPs), and of the 18 pages (single-spaced) of the Consent Agreement, approximately 10 set forth the terms and conditions for the SEPs; it consists of almost 40 separate paragraphs of varying lengths, and some of the paragraphs consist of multiple sub-paragraphs. It is more lengthy and elaborate than initially presumed it would be. Given the breadth and complexity of the SEPs' provisions, and given the other Regional commitments for the end of the fiscal year, the undersigned believes that it would be exceedingly difficult for EPA to meet the October 4th deadline. Although EPA's August 6th "Response to Respondent's August 4, 2010 Motion" stated that Complainant "would not oppose this Court setting a deadline for the parties to have a signed CAFO" by October 4th, upon further reflection the undersigned believes in all likelihood that finalizing the settlement will take somewhat more time. The August 6th response was written prior to the completion of the drafting of the SEPs' provisions, and, consequently, the scheduled time projections likely were underestimated. For these reasons, Complainant believes additional time — three weeks, through October 25, 2010 — reflects a more realistic scheduling for the settlement process to run its course.² Simply put, in the estimation of Agency personnel who are involved in the concurrence process, given the circumstances of where the parties stand vis-a-vis concluding the settlement, a more workable time frame would include the additional time requested.

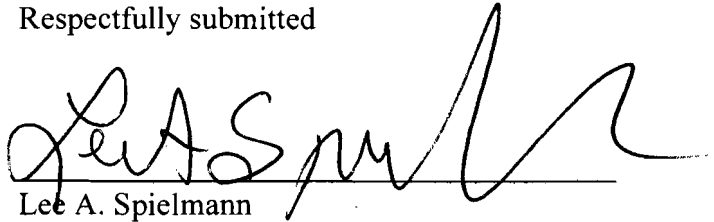
Therefore, EPA respectfully moves this Court, pursuant to 40 C.F.R. §§ 22.4(c)(2), 22.7(b), 22.16(a) and 22.18, for an order: **a)** vacating so much of the August 12th order directing

² An additional reason, albeit more personal to the undersigned, exists for the additional time. The undersigned will be off for personal reasons for the remainder of this week, and the undersigned has been summoned for jury duty commencing Monday, September 13th (Supreme Court of the State of New York, County of New York).

that the parties produce a fully executed CA/FO by October 4th; b) extending the time for the parties to produce said document through October 25, 2010; and c) correspondingly moving the other deadlines set forth in the August 12th order by three weeks.

Dated: September 8, 2010
New York, New York

Respectfully submitted

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

Lee A. Spielmann
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In re Oakite Products, Inc. et al.
Docket No. TSCA-02-2009-9148

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the enclosed "STATUS REPORT AND MOTION FOR ADDITIONAL TIME," dated September 8, 2010, in the following manner to the respective addressees listed below:

Original and One Copy
By Inter-Office Mail:

Office of Regional Hearing Clerk
U.S. Environmental Protection
Agency - Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

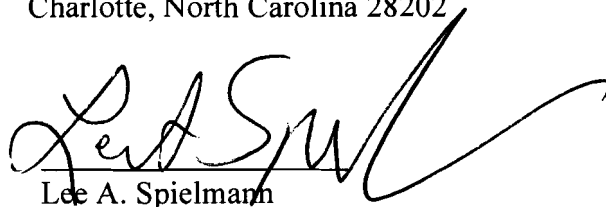
Copy by Fax Transmission,
202-565-0044, and
Pouch Mail:

Honorable Barbara A. Gunning
Administrative Law Judge
U.S. Environmental Protection Agency
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Mail Code 1900 L
Washington, DC 20460

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704-444-8739, and
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Dated: September 8, 2010
New York, New York


Lee A. Spielmann