

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CA 94105**

_____)	Docket No. TSCA-09-2016-0001
IN THE MATTER OF:)	
)	MOTION FOR EXTENSION OF
)	TIME TO FILE ANSWER
Rayco Development Solutions, Inc.,)	
)	
Respondent.)	
_____)	

Pursuant to the authority set forth in the Consolidated Rules of Practice, 40 C.F.R. § 22.16(a), the U.S. Environmental Protection Agency, Region 9 (“Complainant”) and Rayco Development Solutions, Inc. (“Rayco” or “Respondent”) jointly file this Motion for Extension of Time to File Answer from on or about November 19, 2015, until January 19, 2016, for the reasons stated herein.

BACKGROUND

On October 14, 2015, Complainant filed a Civil Complaint and Notice of Opportunity for Hearing (“Complaint”) against Respondent, which initiated the above-captioned matter under the Residential Lead-Based Paint Renovation, Repair and Painting Rule, 40 C.F.R. Part 745 Subpart E, promulgated pursuant to Sections 402 and 406 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2682 and 2686, (hereinafter “RRP Rule”), for alleged violations of the RRP Rule. Respondent accepted service of the Complaint on or about October 20, 2015. Under the Consolidated Rules of Practice, Respondent’s answer is currently due on or about November

19, 2015, which is 30-days after receipt of the complaint pursuant to 40 C.F.R. § 22.7(c).

ARGUMENT

The Regional Judicial Officer may grant an extension of time to file an answer upon filing of a timely motion, a showing of good cause, and after consideration of prejudice to other parties to the action. 40 C.F.R. §§ 22.7(b) and 22.16. This motion satisfies these criteria.

First, this motion is “timely,” having been filed prior to the November 19, 2015 deadline for Respondent’s answer to the Complaint.

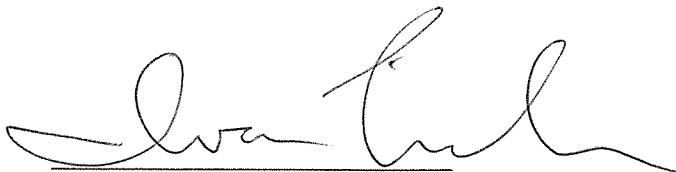
Second, this motion complies with the “good cause” requirement of 40 C.F.R. § 22.7(b). It is EPA’s policy to encourage settlement and avoid litigation when consistent with the provisions and objectives of the law at issue. See 40 C.F.R. § 22.18(b). The parties are in active negotiations to resolve the violations alleged in the Complaint. Moreover, Respondent has stated that it has limited ability to pay a penalty for the alleged violations, and seeks to provide financial document to EPA to review. It will take some time for Respondent to submit these documents to EPA, for EPA to review them, and for the parties to come to agreement on the terms of a settlement. Given that the parties are in active settlement discussions to resolve the alleged violations and given that Respondent has made an inability to pay claim that will take some time for EPA to review, the parties do not believe it is in their best interests to be expending resources on litigation. Therefore, the parties believe that “good cause” exists for an extension of time until January 19, 2016, which is a 60-day extension from the time that Respondent would otherwise have been required to file its answer.

Finally, granting this motion will not result in “prejudice,” as both parties are jointly seeking the extension. The parties believe that the requested extension should allow sufficient

time for EPA to review the financial documents to be submitted by Respondent and for the parties to complete negotiations and potentially file an executed consent agreement and final order ("CAFO").

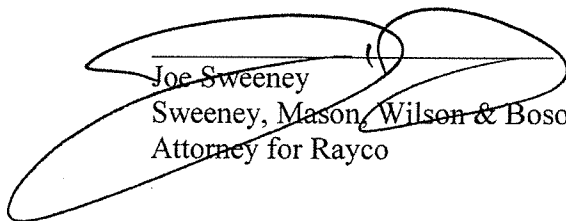
Respectfully submitted,

DATE: 11/9/15



Ivan Lieben
Assistant Regional Counsel
USEPA, Region 9

DATE: 11/6/15



Joe Sweeney
Sweeney, Mason, Wilson & Bosomworth
Attorney for Rayco

CERTIFICATE OF SERVICE

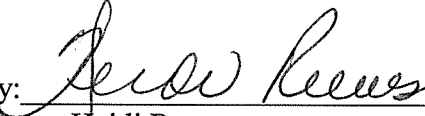
I certify that the original and a copy of the attached Motion for Extension of Time to File Answer was hand delivered to:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

and that a true and correct copy of the Motion was placed in the United States Mail, addressed to the following serving as counsel for Respondent:

Joseph M. Sweeney
Sweeney, Mason, Wilson & Bosomworth
983 University Avenue, Suite 104C
Los Gatos, CA 95032-7637

Dated: 11/9/15

By: 
Heidi Reeves
Office of Regional Counsel
USEPA, Region 9