

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**Region 2**

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.,

Respondents.

Proceeding Under Section 9006 of the  
Solid Waste Disposal Act, as amended.

Hon. M. Lisa Buschmann, Presiding Officer

Docket No. RCRA-02-2011-7503

MARCH 1, 2012 STATUS REPORT

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.II  
2012 MAR -2 A 6:57  
REGIONAL HEARING  
CLERK

This status report is being provided in compliance with the directive of this Court in the order dated December 22, 2011, "NOTICE OF HEARING AND SCHEDULING ORDER AND ORDER ON MOTION TO EXTEND FILING DEADLINE FOR DISPOSITIVE MOTIONS." As noted in the earlier (February 14<sup>th</sup> status report), this status report concerns EPA's 21-count complaint filed in April 2011 alleging that Respondents, in their operation/ownership of 19 underground storage tanks at six service stations located within five communities in New York State, violated a number of the requirements of the 40 C.F.R. Part 280 regulations governing the operation, maintenance and closure of such tanks. In EPA's February 10, 2012 motion for partial accelerated decision for liability (for 20 of the 21 counts of the complaint), the relative facts underlying this proceeding were set out in extensive detail, and this Court is respectfully referred to the motion papers for a full recitation of background and other relevant facts.

In anticipation of this status report, the undersigned sent two e-mails to Respondents' counsel, Thomas Plimpton (February 23<sup>rd</sup> and February 28<sup>th</sup>) and also attempted to reach him by phone on several occasions this week. The parties were unable to speak. The undersigned did, however, speak today to Mr. Plimpton's administrative assistant, a woman who has identified herself as Tracie. The following matters were raised in today's discussion with Tracie.

She was informed that if Respondents wish to settle on the basis of discussions held during last year's settlement conference, they need to provide documentation to EPA, as outlined in the February 23<sup>rd</sup> and February 28<sup>th</sup> e-mails. Tracie confirmed that Mr. Plimpton's office has already received EPA's motion to supplement its prehearing exchange (served February 22<sup>nd</sup>). Finally, the undersigned requested that Tracie bring to Mr. Plimpton's attention the possibility that EPA may request this Court to move the start of the hearing date one week (from June 12<sup>th</sup> to June 19<sup>th</sup>) because of a prior personal commitment on the part of the expected co-counsel for the hearing that would make it virtually impossible for him to give the matter the attention and effort necessary to prepare properly for a hearing.<sup>1</sup> Before moving for such an extension, EPA wishes to ascertain whether Mr. Plimpton would be available for the later start date(s); if his availability is not at issue, EPA further wishes to inform itself whether Mr. Plimpton would consent to either contemplated extension.

As the undersigned has informed both Mr. Plimpton and Tracie, EPA still wishes to pursue settlement, and the Agency is open to the parties holding another settlement conference in order to give the possibility of a negotiated agreement a *bona fide* chance to come to fruition. At

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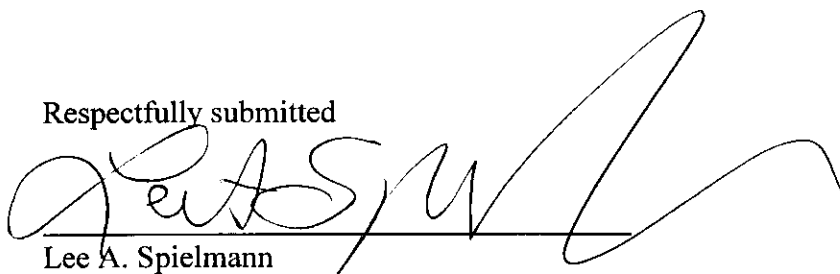
<sup>1</sup> On further reflection, a two-week extension might be sought in light of a subsequent discussion with likely co-counsel.

the least, EPA again renews its requests in the aforementioned e-mails for Mr. Plimpton to provide the Agency with the documentation identified therein.

If subsequent developments toward settlement merit this Court being informed thereof, the undersigned will so apprise this tribunal.

Dated: March 1, 2012  
New York, New York

Respectfully submitted



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TO: Honorable M. Lisa Buschmann  
Administrative Law Judge  
U.S. Environmental Protection Agency  
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***In re Andrew B. Chase et al.***  
**Docket No. RCRA-02-2011-7503**

**CERTIFICATE OF SERVICE**

I certify that I have this day caused to be sent the foregoing "MARCH 1, 2012 STATUS REPORT," dated March 1, 2012, in the above-referenced proceeding 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

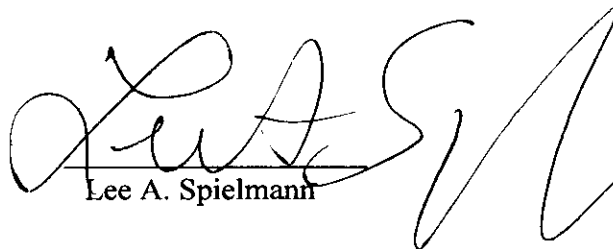
**Copy by Fax Transmission,**  
**202-565-0044, and Pouch Mail:**

Honorable M. Lisa Buschmann  
Administrative Law Judge  
U.S. Environmental Protection Agency  
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**Dated: March 1, 2012**  
**New York, New York**

  
Lee A. Spielmann