



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 17 2010

REPLY TO THE ATTENTION OF:

C-14J

**BY INTEROFFICE POUCH**

Honorable Barbara A. Gunning  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

**RE: *Kenneth Kosmoski and Kristin Gillan***  
**Docket No. TSCA-05-2010-0006**

Dear Judge Gunning:

Please find enclosed a copy of Complainant's Motion for Extension of Time to File Its Initial Prehearing Exchange.

Sincerely yours,

A handwritten signature in cursive script that reads "Ann L. Coyle".

Ann L. Coyle  
Associate Regional Counsel

Enclosure

cc: Lisa Paul  
Elizabeth Gamsky Rich

RECEIVED  
REGIONAL HEARING CLERK  
U.S. EPA REGION 5  
2010 SEP 17 PM 3:02

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. TSCA-05-2010-0006</b>
	)	
<b>Kenneth Kosmoski and Kristin Gillan</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Shorewood, Wisconsin,</b>	)	<b>Under Section 16(a) of the Toxic</b>
	)	<b>Substances Control Act,</b>
<b>Respondents.</b>	)	<b>15 U.S.C. § 2615(a)</b>
<hr/>	)	

**COMPLAINANT’S MOTION FOR EXTENSION OF TIME TO FILE ITS INITIAL  
PREHEARING EXCHANGE**

Pursuant to 40 C.F.R. §§ 22.7(b) and 22.16, Complainant, by and through his attorney, respectfully moves this court for an order granting a 30-day extension of time, or until October 20, 2010, to file its initial prehearing exchange in this matter. In support of this motion, Complainant states:

1. On February 3, 2010, EPA filed its Complaint in this matter.
2. On April 5, 2010, Respondent Kosmoski filed his Answer to the Complaint.
3. On April 12, 2010, Respondent Gillan filed her Answer to the Complaint.
4. In her May 20, 2010, Prehearing Order, the Presiding Officer ordered the parties to engage in settlement negotiations on or before June 25, 2010. In the event the matter is not settled, Complainant must file its initial prehearing exchange by September 20, 2010.
5. On August 20, 2010, the parties reached a settlement in principle.
6. On August 27, 2010, EPA electronically transmitted a draft CAFO to Respondents for review and explained the process and time frame necessary to file the CAFO by the Prehearing Order deadline. Attachment 1.

7. On September 7, 2010, EPA electronically resent the draft CAFO to Respondents and reminded them of Complainant's September 20, 2010, initial prehearing exchange filing deadline. Attachment 2.

8. On September 10, 2010, Respondent Kosmoski approved the CAFO. Attachment 3.

9. On September 17, 2010, EPA received notice that Respondent Gillan approved the CAFO. Attachment 4.

10. Respondents do not object to the filing of this Motion.

11. EPA mailed hard copies of the CAFO to Respondents for signature on September 17, 2010. After Respondents return the CAFO, it will be signed and executed by appropriate EPA officials and filed with the Regional Hearing Clerk. EPA needs additional time beyond September 20, 2010, to obtain Respondents' signatures and the signatures and approvals of EPA officials necessary to complete execution of the CAFO. Accordingly, EPA respectfully requests a 30-day extension of time (until October 20, 2010) to file and serve a fully executed CAFO.

12. This Motion requesting an extension of time to file the initial prehearing exchange is timely because the Presiding Officer's September 20, 2010, initial prehearing exchange filing deadline has not passed. Good cause exists to grant the Motion because the parties have reached a settlement in principle and negotiated the terms of a CAFO. Respondents will not be prejudiced by the granting of a 30-day extension because this Motion puts Respondents on notice of possible changes to the Prehearing Order scheduling deadlines.

**In the Matter of: Kenneth Kosmoski and Kristin Gillan**  
**Docket No.: TSCA-05-2010-0006**

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U.S. EPA REGION 5

2010 SEP 17 PM 3:01

**CERTIFICATE OF SERVICE**

I, Cynthia Dixon, certify that I filed the original of this COMPLAINANT'S MOTION FOR EXTENSION OF TIME TO FILE ITS INITIAL PREHEARING EXCHANGE with EPA Region 5's Regional Hearing Clerk on September 17, 2010. In addition, I delivered, by pouch mail, a true and accurate copy to:

Honorable Barbara A. Gunning  
Office of Administrative Law Judges (1900L)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

I also mailed true and accurate copies, by certified mail, return receipt-requested, to:

Lisa Paul  
309 North Water Street, Suite 160  
Milwaukee, WI 53202

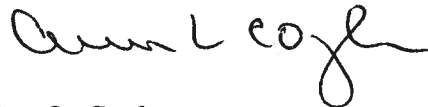
Elizabeth Gamsky Rich  
W6661 Sumac Road  
Plymouth, WI 53073-4547

dated: September 17, 2010

  
Cynthia Dixon, Secretary

WHEREFORE, Complainant respectfully moves this Court for an Order granting Complainant an extension of 30 days time, or until October 20, 2010, to file its initial prehearing exchange.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ann L. Coyle". The signature is fluid and cursive, with a large loop at the end of the last name.

Ann L. Coyle  
Associate Regional Counsel  
U.S. Environmental Protection Agency Region 5  
77 West Jackson Boulevard (C-14J)  
Chicago, Illinois 60604  
312.886.2248

## **ATTACHMENTS**

**Attachment 1: August 27, 2010, email from Ann Coyle to Lisa Paul and Elizabeth Rich, attachment excluded.**

**Attachment 2: September 7, 2010, email from Ann Coyle to Lisa Paul and Elizabeth Rich, attachment excluded.**

**Attachment 3: September 10, 2010, email from Lisa Paul to Ann Coyle, embedded email string deleted.**

**Attachment 4: September 17, 2010, email from Lisa Paul to Ann Coyle, portions of embedded email string deleted.**

## ATTACHMENT 1

### **Kosmoski and Gillan CAFO**

**Ann Coyle** to : lisapaul

Cc : erich

From: Ann Coyle/R5/USEPA/US  
To: <lisapaul@herlawfirm.com>  
Cc: erich@rich-law.com

Lisa and Elizabeth,

Attached below is the Kosmoski and Gillan CAFO for your review. Once we have agreed upon its terms, I will send three original copies to Lisa for Ken's signature. I would appreciate it if Lisa, you would then forward the originals to Elizabeth for Kris' signature. Elizabeth, you will return the signed originals to me and then the appropriate EPA officials will sign the CAFOs and we will file the original with the Regional Hearing Clerk. I will return a final, executed copy to each of you for your files.

As I've mentioned, we are up against a filing deadline of Sept. 20 for the Initial Prehearing Exchange. To avoid having to request an extension of time, I would appreciate your help in finalizing the terms of the agreement and getting the CAFOs signed and returned to EPA as quickly as possible.

Thanks,  
Ann



Kosmoski-Gillan CAFO.doc

Ann L. Coyle  
Associate Regional Counsel  
(312) 886-2248

## ATTACHMENT 2

**Re: Kosmoski and Gillan CAFO**

Ann Coyle to erich, lisapaul

From: Ann Coyle/R5/USEPA/US  
To: erich@rich-law.com, [lisapaul@herlawfirm.com](mailto:lisapaul@herlawfirm.com)

Lisa and Elizabeth,

Attached below is the draft of the CAFO resolving the Kosmoski-Gillan matter, which I sent to you on August 27. I would appreciate receiving any comments that you have on it by the end of the day tomorrow. If you have no comments, please send me an email indicating that. As noted below, I have a filing deadline on Sept. 20 and would like to avoid requesting an extension of time. I would appreciate your cooperation.

Please call me at the number below if you have any questions or concerns.

--Ann

Ann L. Coyle  
Associate Regional Counsel  
(312) 886-2248

From: Ann Coyle/R5/USEPA/US  
To: <[lisapaul@herlawfirm.com](mailto:lisapaul@herlawfirm.com)>  
Cc: erich@rich-law.com  
Date: 08/27/2010 09:16 AM  
Subject: Kosmoski and Gillan CAFO

Lisa and Elizabeth,

Attached below is the Kosmoski and Gillan CAFO for your review. Once we have agreed upon its terms, I will send three original copies to Lisa for Ken's signature. I would appreciate it if Lisa, you would then forward the originals to Elizabeth for Kris' signature. Elizabeth, you will return the signed originals to me and then the appropriate EPA officials will sign the CAFOs and we will file the original with the Regional Hearing Clerk. I will return a final, executed copy to each of you for your files.

As I've mentioned, we are up against a filing deadline of Sept. 20 for the Initial Prehearing Exchange. To avoid having to request an extension of time, I would appreciate your help in finalizing the terms of the agreement and getting the CAFOs signed and returned to EPA as quickly as possible.

Thanks,  
Ann



### ATTACHMENT 3

**RE: Kosmoski/Gillan**

**lisapaul** to Ann Coyle

Cc Egamskyrich

From: <lisapaul@herlawfirm.com>  
To: Ann Coyle/R5/USEPA/US@EPA  
Cc: egamskyrich@gmail.com

History: This message has been replied to.

Elizabeth and Ann:

This modification is fine with me, so you have my approval, Ann, to finalize the agreement. I'll try to confirm with Elizabeth today by phone if she is not checking emails. Thanks.

Lisa

Attorney Lisa C. Paul  
LISA C. PAUL LLC  
Renaissance on Water  
309 North Water Street, Ste. 160  
Milwaukee, WI 53202  
Phone: 414-378-6895  
Fax: 414-224-5105  
[lisapaul@herlawfirm.com](mailto:lisapaul@herlawfirm.com)

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**ATTACHMENT 4**

**[FWD: Re: Kosmoski/Gillan]**

**lisapaul** <sup>to</sup> **Ann Coyle**

**From:** <lisapaul@herlawfirm.com>

**To:** Ann Coyle/R5/USEPA/US@EPA

**Ann:**

**Here it is:**

----- Original Message -----

**Subject:** Re: Kosmoski/Gillan

**From:** Elizabeth Rich <egamskyrich@gmail.com>

**Date:** Sun, September 12, 2010 2:01 pm

**To:** "lisapaul@herlawfirm.com" <lisapaul@herlawfirm.com>

Lisa--I'm satisfied with this; you?

Elizabeth Gamsky Rich  
920-892-2449