

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.11  
2012 OCT 22 P 4: 02  
REGIONAL HEARING  
CLERK

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In the Matter of :  
Valvo's Convenience & Gas, Inc. :  
And Stephen Valvo, Individually :  
: :  
: :  
: :  
: :  
Proceeding under Section 9006 the :  
Solid Waste Disposal Act, as amended :  
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**MOTION FOR EXTENSION OF  
TIME FOR HEARING DATE**

Docket No. RCRA-02-2011-7507

Pursuant to 40 C.F.R. § 22.21(c), § 22.16, § 22.1(c), and § 22.4(c), Complainant respectfully moves for an extension of time for commencement of the hearing in this case for good cause shown, as explained herein. The hearing was scheduled to be held beginning on Tuesday, October 23, 2012 and continuing as necessary through October 26, 2012. Respondents join in Complainant's request for an extension of time for commencement of the hearing in this case for good cause shown.

The parties are pleased to formally report that they have reached a settlement in this case that was memorialized in a Consent Agreement and Final Order ("CA/FO"). Stephen M. Valvo signed the CA/FO for Respondent Valvo's Convenience & Gas, Inc., as President, and for himself, individually, on September 18, 2012. Complainant signed the CA/FO on September 21, and the Final Order was signed by the Regional Judicial Officer on September 24, 2012.

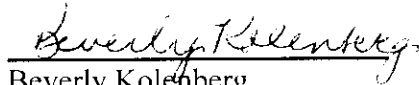
Attached to the CA/FO is a Stipulation and Order signed by the U.S. Department of Justice on behalf of EPA and by counsel for Valvo's Convenience & Gas, Inc. in the bankruptcy case titled *In Re: Valvo's Convenience & Gas, Inc., Debtor*, Bk. No. 09-13546-CLB Chapter 11. The Stipulation and Order authorizing the Debtor's settlement of EPA's administrative action by payment of the penalty as an administrative claim needs to be signed by the judge in the Bankruptcy Court for the Western District of New York. Counsel for the Debtor filed a "Notice of Motion of Stipulation and Order Compromising the Claim of the Environmental Protection Agency Against Debtor Valvo's Convenience & Gas, Inc." that will be presented to the Court on November 1, 2012. When the Court approves the settlement of the Debtor, the settlement will become final. In the event the Court rejects the settlement, the CA/FO "shall be null and void with respect to both Respondents," as agreed in paragraph 17 of the CA/FO, and Complainant and Respondents will need a hearing to resolve the claims in the administrative action.

Relief Sought

For the reason stated, above, Complainant respectfully moves this Court pursuant to 40 C.F.R. § 22.21(c), § 22.16, § 22.1(c), and 22.4(c) for an order that the hearing commence no earlier than the week of December 10, 2012, and granting such other and further discretionary relief as this Court deems just and proper.

Dated: October 22, 2012  
New York, New York

Respectfully submitted,



Beverly Kolenberg  
Assistant Regional Counsel  
Counsel for Complainant  
U.S. Environmental Protection Agency, Region 2  
290 Broadway  
New York, New York 10007-1866

Attachments

To: Honorable M. Lisa Buschmann  
Administrative Law Judge  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Mail Code 1900L  
Washington, DC 20460

Office of Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007-1866

Paul A. Chiaravalloti, Esq., for the Respondents  
1967 Wehrle Drive  
Suite 1  
Williamsville, New York 14221

**CERTIFICATE OF SERVICE**

This is to certify that I have this day caused to be mailed copies of the foregoing Motion for Extension of Time for Hearing Date, bearing the Docket Number RCRA-02-2011-7507 by pouch mail to Honorable M. Lisa Buschmann, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Mail Code 1900L, Washington, D.C. 20460-2001 and by regular mail to Paul A. Chiaravalloti, Esq., counsel for the Respondents, 1967 Wehrle Drive, Suite 1, Williamsville, N.Y. 14221.

I hand-carried the original and a copy of the foregoing Motion for Extension of Time for Hearing Date to the Office of Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Dated: October 23, 2012  
New York, New York

*Beverly Kolentz*

14. Respondents explicitly waive any right they may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the EPA Regional Administrator, Deputy Regional Administrator, or Regional Judicial Officer for Region 2, where the purpose of such discussion, memorandum or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

15. Each party hereto agrees to bear its own costs and fees in this matter.

16. Respondents consent to service upon Respondents of a copy of this CA/FO by an EPA employee other than the Regional Hearing Clerk.

17. If the Bankruptcy Court declines to approve the Stipulation and Order attached hereto, this CA/FO shall be null and void with respect to both Respondents and the parties shall not be bound hereunder; the parties shall have no liability to one another arising out of or in connection with this CA/FO, and this CAFO shall have no residual or probative effect or value and it shall be as if it had never been executed.

18. Pursuant to 40 C.F.R. §22.31(b), the Effective Date of the Final Order herein shall be the date when it is filed with the Regional Hearing Clerk of the United States Environmental Protection Agency, Region 2.

**RESPONDENT: Valvo's Convenience & Gas, Inc.**

BY: Stephen M. Valvo Date: 9/18/12

Name: STEPHEN M. VALVO

Title: President

**RESPONDENT: Stephen M. Valvo**

BY: Stephen M Valvo Date: 9/18/12

Name: STEPHEN M VALVO

Title: President

**COMPLAINANT: U.S. Environmental Protection Agency, Region 2**

BY: \_\_\_\_\_ Date: \_\_\_\_\_

Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency, Region 2  
290 Broadway  
New York, New York 10007-1866

**RESPONDENT:** Stephen M. Valvo

BY: Stephen M Valvo Date: 9/18/12

Name: STEPHEN M VALVO

Title: President

**COMPLAINANT:** U.S. Environmental Protection Agency, Region 2

BY: Dore LaPosta Date: 9/21/12

Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency, Region 2  
290 Broadway  
New York, New York 10007-1866

**In the Matter of Valvo's Convenience & Gas, Inc. and Stephen M. Valvo, individually  
Docket No. RCRA-02-2011-7507**

**FINAL ORDER**

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement, entered into by the parties to this matter, is hereby approved, incorporated herein, and issued as an Order pursuant to Section 9006 of RCRA and 40 C.F.R. § 22.18(b)(3). The Effective Date of this Order shall be the date of its filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York. 40 C.F.R. § 22.31(b).

BY: Helen Ferrara  
Helen Ferrara  
Regional Judicial Officer  
U.S. Environmental Protection Agency -  
Region 2  
290 Broadway  
New York, New York 10007-1866

DATE: September 24 2012