

orig.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

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In the Matter of	:	
	:	
Tonawanda Coke Corp.,	:	MOTION FOR EXTENSION OF TIME TO
	:	FILE PREHEARING EXCHANGE
	:	
Respondent.	:	Docket No. RCRA-02-2010-7104
	:	
Proceeding Under Section 9006	:	
of the Solid Waste Disposal Act,	:	
as amended	:	
-----X	:	

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REGION 2
2010 JUN -1 PM 1:35
REGIONAL HEARING
FBI

MOTION FOR EXTENSION OF TIME TO FILE PREHEARING EXCHANGE

Counsel for Complainant and Respondent have conferred on this Motion and counsel for Respondent has authorized counsel for Complainant to submit this Motion for Extension of Time to File Prehearing Exchange.

By your Honor's Prehearing Order dated March 17, 2010, Complainant was directed to file a status report on or before April 6, 2010. Complainant filed such a report on April 6, 2010 informing your Honor that the parties had met for a settlement conference and were making good progress toward a settlement. On April 12, 2010 Respondent submitted for EPA review a Draft Sampling and Analysis Plan. Since that time additional progress has been made. EPA sent its comments to Respondent and Respondent has revised and re-submitted the Plan to EPA. EPA approved the Plan, Respondent performed the work required under the Sampling Plan and based on the results of the sampling has submitted to EPA a Tank Removal Work Plan. EPA has some concerns about the removal work which it believes it can resolve with Respondent.

EPA has also drafted a Consent Agreement and Final Order. The parties remain committed to resolving this matter with a CAFO, and, as detailed above, are making good progress. The CAFO cannot be sent to Respondent yet as the CAFO's injunctive relief section depends on further discussions that the parties must hold. Respondent's site presents a number of technical complexities that the parties can resolve without the need for prehearing exchanges or litigation.

Based on the above, Complaint hereby respectfully requests the grant of additional time to file its Prehearing Exchange. This is the second request for an extension of time and the parties have made good use of the first extension. The parties intend to make expeditious progress toward settlement if your Honor will grant this extension. Respondent supports this Motion.

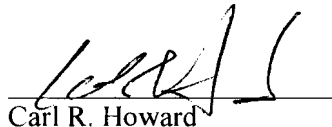
Given the vacations of certain participants in this settlement process, Complainant respectfully proposes that its Prehearing Exchange due date be extended to July 30, 2010.

**In the Matter of Tonawanda Coke Corp.,
Docket No. RCRA-02-2010-7104**

Respectfully submitted,

6-1-10

Dated



Carl R. Howard

Assistant Regional Counsel
Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007-1866
(212) 637-3216

**In the Matter of Tonawanda Coke Corp.,
Docket No. RCRA-02-2010-7104**

CERTIFICATE OF SERVICE

I certify that I have this day caused (or am causing) to be sent the foregoing Motion For Extension of Time to File Prehearing Exchanges to the following addressees listed herein in the manner listed below:

Copy by facsimile and
Pouch Mail:

The Honorable Susan L. Biro
Chief Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Original and One Copy
Hand Delivered to:

Ms. Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection
Agency, Region II
290 Broadway
New York, NY 10007-1866

Copy by Regular Mail to
Attorney for Respondent:

Rick W. Kennedy, Esq.
Hodgson Russ LLP
The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, NY 15202-4040

6-1-10
Date