

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

2012 MAR 16 P 3:51  
REGIONAL HEARING  
CLERK

IN THE MATTER OF )  
 )  
Dependable Towing & Recovery, Inc. )  
and David A. Whitehill, )  
 )  
Respondents. )

---


Docket No. CWA-02-2011-3601

**JOINT MOTION FOR EXTENSION OF THE SUBMISSIONS REQUIRED BY  
ORDER SCHEDULING HEARING**

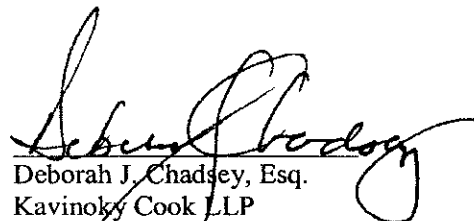
1. The Parties respectfully move for a thirty-day extension of the dates of the submissions and the hearing in the Order Scheduling Hearing, dated January 5, 2012.
2. Pursuant to the Scheduling Order, referenced above, the Parties are required to file today, March 16, 2012, a Joint Set of Stipulated Facts, Exhibits and Testimony. The Parties would like to request leave of thirty-days on this aforementioned Joint submission.
3. Complaint and Respondents have been in settlement negotiation for a number of weeks and have agreed on a form of consent order and some of the elements of a settlement.
4. The parties have not been able to agree on one significant element of the settlement regarding removal of alleged fill material. Yesterday, Respondent's environmental consultant submitted additional scientific and technical information to the agency.

5. The undersigned counsel for the Parties have been focusing their efforts and resources into attempting to reach a settlement that will save the parties the expenditures associated with the instant litigation, and rather ultimately develop a settlement that would allow to expend those resources towards the remediation of the violations alleged in the Complaint. As a result, the undersigned counsel have delayed focusing on the litigation proceedings set forth in the Scheduling Order.
6. Counsel for the parties, therefore, jointly request additional time to permit the agency to review the scientific information just submitted.
7. In sum, counsel for the parties jointly request an extension of thirty days to complete the Stipulated Facts, Exhibits and Testimony, required by the Scheduling Order to be filed today, as well as the pre-hearing briefs scheduled for March 30, 2012, and the re-scheduling of the hearing date currently scheduled for April 17, 2012.

Respectfully submitted,



Eduardo J. Gonzalez, Esq.  
Office of Regional Counsel  
U.S. EPA/Region II  
290 Broadway, 16th Floor  
New York, NY 10007-1866



Deborah J. Chadsey, Esq.  
Kavinoky Cook LLP  
726 Exchange Street, Suite 800  
Buffalo, New York 14210