

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Benjamin M. Cohan (3RC50)
Sr. Assistant Regional Counsel

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Honorable Susan L. Biro
Administrative Law Judge
EPA Office of Administrative Law Judges
1099 14th Street, NW
Suite 350, Franklin Court
Washington, DC 20005

JUN 10 2011

Re: *Mr. Thomas Caracio et. al.*
Docket No. CAA-03-2010-0408

Dear Judge Biro:

Please find enclosed a copy of Complainant's *Motion to Stay Proceedings* in the above captioned matter, the originals of which were filed today with the EPA Regional Hearing Clerk. Copies have been served upon the Respondents as described in the attached Certificate of Service.

Sincerely,



Benjamin M. Cohan
Sr. Assistant Regional Counsel

Enclosures

cc: Ms. Lydia Guy (3RC00)
Regional Hearing Clerk
Paul Logan, Esquire (Current Counsel for Scotta Equipment & Materials Sales, LLC)
Leonard N. Zito, Trustee (*Pro Se*)
Mathew Goodrich, Esq. (Counsel for Mr. Thomas Caracio)
Marcia E. Mulkey, Regional Counsel

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

1650 Arch Street

Philadelphia, Pennsylvania 19103
PHILADELPHIA, PA

IN RE:

Mr. Thomas Caracio
P.O. Box 218
Wind Gap, PA 18091

and

Mr. Leonard N. Zito, Trustee
641 Market Street
Bangor, PA 18013

and

Scotta Equipment & Materials Sales LLC
HC #1 P.O. Box 70
Saylorsburg, PA 18353

Respondents

Former Sandt's Market
1021 South Broadway
Wind Gap, PA 18091

Facility

Docket No. CAA-03-2010-0408

COMPLAINANT'S MOTION TO STAY PROCEEDINGS

I. Introduction

Pursuant to 40 C.F.R. § 22.16, and for the reasons set forth and discussed herein,
Complainant United States Environmental Protection Agency ("Complainant" or "EPA"), hereby

moves this Court to stay the proceedings in this matter for a brief period in order to enable Counsel for EPA to determine whether certain pending investigations will require disclosures to opposing Counsel and/or the Tribunal.¹

Counsel for EPA will proceed as promptly as practicable to evaluate this issue and will report to this Court as soon as possible following any such determination; and Counsel will, in any event, provide a status update no later than 30 days following any Stay Order. A draft Stay Order is attached for your consideration.

Respectfully Submitted,



Benjamin M. Cohan
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Of Counsel: Marcia E. Mulkey
Regional Counsel
U.S. EPA Region III

¹ Counsel fully understands that this Court's Prehearing Order dated May 9, 2011, requires that a moving party contact opposing Counsel to determine whether there is any objection to the granting of the relief sought in the motion. Because of the specific facts and circumstances which prompted this motion, it is being filed before such a step. In the next business days, undersigned Counsel will attempt to learn opposing Counsels' positions and insure that the Court is informed whether any Counsel wishes to oppose this motion.

of Civil Penalties and the Revocation/Termination or Suspension of Permits (40 C.F.R. Part 22), for good cause shown, it is hereby **ORDERED** that the Motion is **GRANTED** and these proceedings are hereby STAYED until further notice. Counsel for Complainant shall file a STATUS REPORT no later than 30 days after this ORDER FOR STAY OF PROCEEDINGS is issued by the Court.

SO ORDERED

Susan L. Biro
Chief Administrative Law Judge

Dated: _____
Washington, D.C.

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN RE:

Mr. Thomas Caracio
P.O. Box 218
Wind Gap, PA 18091

and

Mr. Leonard N. Zito
641 Market Street
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Docket No. CAA-03-2010-0408

CERTIFICATE OF SERVICE

I hereby certify that the original of Complainant's **Motion to Stay Proceedings** was hand delivered to Lydia Guy, Regional Hearing Clerk, EPA Region III, and that true and correct copies were mailed to each of the following persons in the following manner:

VIA UPS DELIVERY AND FACSIMILE TO:

Hon. Susan Biro
Administrative Law Judge
Mail Code 1900L
U. S. Environmental Protection Agency
401 M Street, S.W.
Washington, DC 20460

VIA UPS DELIVERY, TO:

Matthew Goodridge
Martino, Karasek, Martino and Lopiano-Reilly, LLP
641 Market Street
Bangor, Northampton County, PA 18013

Trustee Leonard N. Zito (Judge)
Northampton County Courthouse
669 Washington Street
Easton, PA 18042

Paul Logan, Esq.
475 Allendale Road
King of Prussia, PA 19406

VIA HAND DELIVERY

Marcia E. Mulkey
Regional Counsel
U.S. EPA Region III

JUN 10 2011

Date



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