

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

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In the Matter of:)
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Peter Galuszka,)
)

Respondent)
_____)

Docket No. ~~CWA-01-2008-0089~~ EPA ORC
REG. HEARING CLERK

**MOTION FOR EXTENSION OF
TIME TO SUBMIT
COMPLAINANT'S REBUTTAL
PREHEARING EXCHANGE**

1. Pursuant to 40 C.F.R. § 22.7(b), the United States Environmental Protection Agency ("EPA" or "Complainant") submits this motion for extension of time to submit Complainant's Rebuttal Prehearing Exchange for three weeks to September 3, 2009.
2. Currently, the Presiding Judge's Order issued on July 14, 2009, requires submission of Complainant's Rebuttal Prehearing Exchange by August 13, 2009.
3. On May 7, 2009, Complainant timely submitted its Initial Prehearing Exchange.
4. On July 30, 2009, Respondent submitted its Prehearing Exchange to the Regional Hearing Clerk.¹ Respondent's Prehearing Exchange includes 12 Exhibits related to Respondent's "ability to pay" the proposed penalty.

¹ Although Respondent submitted the written portion of its Pre-hearing Exchange via fax on July 30, 2009, Complainant did not receive a copy of Respondent's Exhibits until August 3, 2009.

5. Despite having repeatedly requested “ability to pay” information from Respondent on several occasions during settlement negotiations, Respondent has not provided EPA with the documents listed as Respondent’s Exhibits 3 through 12, prior to their submission with Respondent’s Pre-hearing Exchange.

6. EPA anticipates that the additional financial information may greatly influence what penalty EPA will seek at hearing, and may also allow the Parties to reach a negotiated settlement in this matter.

7. EPA’s financial analyst, Mary Medeiros, listed as a witness in Complainant’s Prehearing Exchange, needs sufficient time to review and prepare her report regarding Respondent’s ability to pay the proposed penalty, which would be submitted as part of EPA’s Rebuttal Prehearing Exchange.

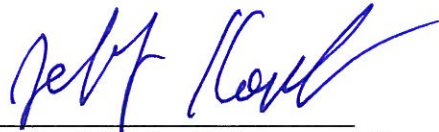
8. Therefore, pursuant to 40 C.F.R. § 22.7(b), for good cause shown, EPA requests that EPA’s Rebuttal Prehearing Exchange be due September 3, 2009.

9. In addition, because this additional financial information is particularly relevant to the penalty that Complainant will seek at hearing, Complainant requests that its description of how the proposed penalty was calculated, pursuant to 40 C.F.R. § 22.19(a)(4), be extended to September 3, 2009.

10. Counsel for EPA explained this Motion for Extension of Time to File Complainant's Rebuttal Prehearing Exchange to Mr. Richard Maynard, Counsel for Respondent, on August 4, 2009, and Mr. Maynard indicated that he assents to this motion.

Respectfully submitted,

Date: August 4, 2009



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CERTIFICATE OF SERVICE

I certify that the foregoing **MOTION FOR EXTENSION OF TIME TO SUBMIT COMPLAINANT'S REBUTTAL PREHEARING EXCHANGE** was sent to the following persons, in the manner specified on the date below:

Original and one copy
hand delivered:

Regional Hearing Clerk (RAA)
U.S. EPA, Region I
One Congress Street, Suite 1100
Boston, MA 02114-2023

Copy, via fax and Pouch Mail to:

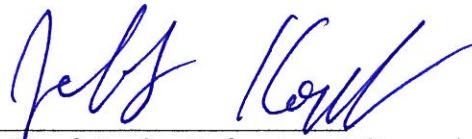
The Honorable Barbara A. Gunning
Administrative Law Judge
Office of Administrative Law Judges
Mail Code 1900L
1200 Pennsylvania Avenue, NW
Washington, D.C. 20005
Fax: 202-565-0044

Copy, via fax and regular mail to:

Richard H. Maynard, Esq.
Law Offices of Maynard & Associates
35 Bridge Street
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Date:

August 4, 2009



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