

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2008 FEB 14 AM 8:26
REGIONAL HEARING
CLERK

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In the Matter of :
 :
Deltech Resin Co., :
 :
Respondent. :
 : Docket Number RCRA-02-2007-7111
Proceeding under Section 3008 of the :
Solid Waste Disposal Act, as amended. :
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MOTION FOR A STAY OF ORDER TO FILE PREHEARING EXCHANGES

Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, EPA, Region 2 (EPA), through her attorney, requests this Court grant a two-month stay of the order directing the parties to file their prehearing exchanges.

Respondent's counsel has informed the undersigned that he does not object to the relief EPA seeks. For the reasons set forth below, EPA submits that good cause exists for granting this motion.

This is a case administratively prosecuted under Section 3008 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928, in which EPA seeks a civil penalty of \$29,510 for violations allegedly occurring at Respondent's facility in Newark, New Jersey. As noted in EPA's motion of January 22nd, the prehearing order of this Court, dated October 24, 2007, directed that Complainant's initial prehearing exchange be submitted by January 29, 2008, Respondent's by February 29th and Complainant's rebuttal prehearing exchange, if any, by March 14th. In response to that motion, this Court on or about January 28, 2008 granted (orally) the

relief it sought. Accordingly, the existing prehearing deadlines mandate that Complainant submit her initial prehearing exchange by February 29th, Respondent by March 29th and any EPA rebuttal prehearing exchange by April 14th.

The parties met for a settlement conference on August 16th and then held another one on December 17th. Since the Court granted the January 22nd motion, the parties have reached a settlement, agreeing to the material terms therefor. A consent agreement has been drafted and forwarded to Respondent's counsel. Upon receipt of Respondent's comments and then finalization of the language, the consent agreement will be circulated for final Regional approval. The undersigned anticipates that the entire process should be completed approximately within four to six weeks.

EPA accordingly seeks a two month stay of the present deadlines for the submission of the parties' prehearing exchanges. This time is sought to allow the parties a sufficient period to review the consent agreement, work out any possible language differences and then effect the execution of the document by the necessary parties. With settlement appearing imminent, the undersigned submits there is no need for the parties to expend time and resources preparing and submitting prehearing exchanges, and accordingly seeks two months' time for the parties to conclude this matter. Respondent agrees to the relief EPA seeks in this motion.

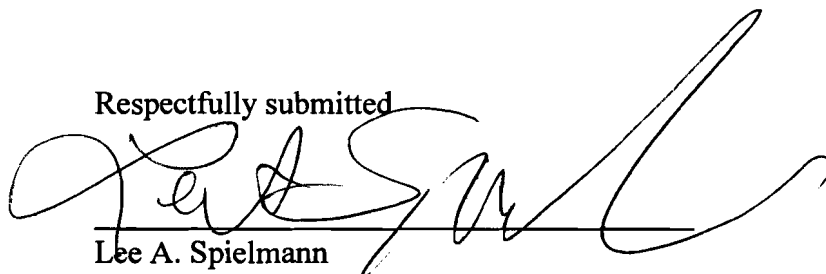
Complainant submits the above considerations demonstrate that the good cause requirement of 40 C.F.R. § 22.7(b) exists for the granting of this motion. As noted in the January 22nd motion, no hearing has been scheduled and no dispositive or other substantive motions have been filed. Neither party would be prejudiced by this relatively short stay, and indeed the parties should avail themselves of this time to expedite finalization of the settlement. The Court should

not be prejudiced either, if only because to date activities in this litigation have been, at most, minimal. For example, no schedule for a hearing has been set.

Therefore, EPA respectfully moves this Court, pursuant to 40 C.F.R. §§ 22.4(c)(2), 22.7(b), 22.16(a) and 22.19(a), for an order: a) staying for two months so much of the January 2008 oral order as directed the parties to serve their prehearing exchanges by February 29, 2008 (EPA's initial prehearing exchange), March 29, 2008 (Respondent's initial prehearing exchange) and April 14, 2008 (any rebuttal prehearing exchange) and b) extending the deadline for each submission set forth in said order by a period of sixty (60) days (April 29th, May 29th and June 14th, respectively).

Dated: February 13, 2008
New York, New York

Respectfully submitted



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In re Deltech Resin Co.
Docket No. RCRA-02-2007-7111

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing Complainant's Motion for a Stay of Order to File Prehearing Exchanges, dated February 13, 2008, in the following manner to the respective addressees listed below:

Original and One Copy
By Inter-Office Mail:

Office of Regional Hearing Clerk
U.S. Environmental Protection
Agency - Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

Copy by Pouch Mail:

Honorable Barbara A. Gunning
Administrative Law Judge
U.S. Environmental Protection Agency
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Dated: February 13, 2008
New York, New York



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