UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CA 94105

IN THE MATTER OF:	Docket No. EPCRA-09-2009-~~0001~~ 0016
Lubricating Specialties, Inc.	
Respondent	MOTION FOR EXTENSION OF TIME TO FILE ANSWER

Pursuant to the authority set forth in the Consolidated Rules of Practice, 40 C.F.R. § 22.16(a), the U.S. Environmental Protection Agency, Region 9 ("Complainant") and Respondent, Lubricating Specialties, Inc., jointly file this Motion for Extension of Time to File Answer from on or about December 7, 2009, until January 19, 2010, for the reasons stated herein.

BACKGROUND

On September 30, 2009, Complainant filed a Civil Complaint and Notice of Opportunity for Hearing ("Complaint") against Respondent, which initiated the above-captioned matter under Section 325 of the Emergency Preparedness and Community-Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11001 et seq., for alleged violations of the Form R reporting requirements of Section 313 of EPCRA. Respondent accepted service of the

Complaint on or about November 5, 2009. Under the Consolidated Rules of Practice, Respondent's answer is currently due on or about December 7, 2009, which is 30-days after receipt of the complaint pursuant to 40 C.F.R. § 22.7(c).

ARGUMENT

The Regional Judicial Officer may grant an extension of time to file an answer upon filing of a timely motion, a showing of good cause, and after consideration of prejudice to other parties to the action. 40 C.F.R. §§ 22.7(b) and 22.16. This motion satisfies these criteria.

This motion is "timely," having been filed well prior to the December 7, 2009, date for Respondent's answer to the Complaint.

This motion complies with the "good cause" requirement of 40 C.F.R. § 22.7(b). It is EPA's policy to encourage settlement and avoid litigation when consistent with the provisions and objectives of the law at issue. See 40 C.F.R. § 22.18(b). The parties are in active negotiations to resolve the violations alleged in the Complaint. Moreover, Respondent has claimed a desire to include a supplemental environmental project ("SEP") as part of settlement, and it will take some time to negotiate the details of an acceptable SEP. Given the active settlement discussions, the parties do not believe it

is in their best interest to be expending resources on litigation. Therefore, the parties believe that "good cause" exists for an extension of time until January 19, 2010, which is around a 45-day extension, for Respondent to file its answer in order to avoid the unnecessary use of resources by this forum and the parties on litigation when those resources would be better spent for the moment on efforts to resolve the matter.

Finally, granting this motion will not result in "prejudice," as both parties are jointly seeking the extension. The parties believe that the requested extension allows sufficient time for the completion of negotiations and hopefully the filing of an executed consent agreement and final order ("CAFO").

Respectfully submitted,

DATE: 11/25/09

Ivan Lieben
Assistant Regional Counsel
USEPA, Region 9

DATE: 11/23/09

Michael Ford
Bryan Cave LLP
Counsel for Lubricating Specialties, Inc.

CERTIFICATE OF SERVICE

I certify that the original and a copy of the attached Motion for Extension of Time to Respond to Complaint was hand delivered to:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

and that a true and correct copy of the Motion was placed in the United States Mail, addressed to the following serving as counsel for Respondent:

Michael Ford
Bryan Cave LLP
One Renaissance Square
Two North Central Avenue
Suite 2200
Phoenix, AZ 85004-4406

Dated: 11/25/09

By: C Tolentino
Corazon Tolentino
Office of Regional Counsel
USEPA, Region 9