

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2011 SEP 28 A 9 32
REGIONAL HEARING
CLERK

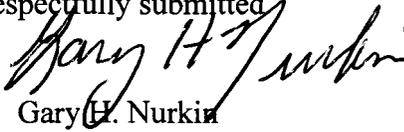
-----X
In the Matter of :
 :
 :
Cycle Chem Inc. : Docket Number RCRA-02-2011-7101
-----X

STATUS REPORT

This status report is in response to your order of August 26, 2011. In that order, “you directed the parties to hold a settlement conference on this matter on or before **September 20, 2011.**” You also directed Complainant “to file a status report regarding such conference and the status of settlement on or before **September 30, 2011.**” (emphasis in the original).

The parties held their first formal settlement meeting on September 15, 2011. Although the parties disputed issues relating to liability and penalty, both sides had a frank and honest discussion of these issues. Both sides agreed that it will be in their interest to resolve this matter without the need for a formal hearing before an Administrative Law Judge. After listening to the issues and arguments Respondent made, Complainant, only for purposes of settlement and consistent with the Fed. Rules of Evidence § 408, agreed to review and re-assess the penalty it was seeking. A reduced penalty amount, to encourage settlement, was made by the Complainant. Respondent agreed to consider this offer and if it was not acceptable to provide the Complainant with a counter-offer by telephone. Both sides agreed that future settlement meetings will be held by teleconference. Although a settlement was not reached, both sides agreed that they would continue to negotiate in the hope of resolving this matter before pre-hearing exchanges are due.

Respectfully submitted



Gary H. Nurkin
Assistant Regional Counsel
Waste & Toxic Substances Branch

Copy by Facsimile:

Honorable Barbara A. Gunning
Administrative Law Judge
U. S. Environmental Protection Agency
Mail Code 1900
1200 Pennsylvania Ave., N.W.
Washington, D.C., 20460

Copy by facsimile and email:

Mark C. Kelly, Esq.
Kelly & Hazen
Attorney for Respondent
122 E. 42nd Street
New York, NY 10168

Hand delivered:

Karen Maples
Regional Hearing Clerk
Office of Regional Counsel
290 Broadway, 16th Floor
New York, New York 10007-1866

Dated Sept. 28, 2011
New York, NY