

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105

FILED
2011 OCT 12 AM 11:30
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGIONAL HEARING CLERK

IN RE:)
)
KILAUEA CRUSHERS, INC.)
)
)
RESPONDENT)
)
_____)

DOCKET NO. CAA-9-2011-0004
MOTION TO EXTEND TIME
TO RESPOND TO COMPLAINT

TO THE REGIONAL JUDICIAL OFFICER:

Pursuant to the authority set forth in the Consolidated Rules of Practice, 40 C.F.R. Part 22, Complainant U.S. Environmental Protection Agency, Region 9 (“Complainant”) moves the Regional Judicial Officer to grant a 60-day extension of time to respond to the complaint in the above-entitled action (“Complaint”) to December 30, 2011. Complainant’s reasons for seeking an extension for time are set forth below.

BACKGROUND

On September 27, 2011, Complainant filed a civil administrative action against Respondent Kilauea Crushers, Inc. in the above-entitled action. The Complaint alleges violations of Regulation III, Rule 316 of Maricopa County Air Quality Department as incorporated into the State Implementation Plan for Arizona pursuant to Section 110 of the Act, 42 U.S.C. § 7410. Respondent was served with the Complaint on or about September 30, 2011.

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); 22.16. This motion satisfies these criteria.

This motion is timely, having been filed prior to the date for Respondent's response to the Complaint.

This motion also 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. 40 C.F.R. § 22.18(b). Representatives of EPA and Respondent are discussing settlement of the above captioned matter, and a 60-day extension of time to answer will facilitate such negotiations. Respondent does not oppose this motion.

Finally, granting of this motion will not result in prejudice. As noted above, the parties are involved in settlement discussions and the requested extension will provide EPA and Respondent sufficient time to reach and finalize settlement and fully resolve the matter.

CONCLUSION

For the reasons set forth above, Complainant respectfully requests that the Regional Judicial Officer grant Complainant's motion to extend time to file a response to and including December 30, 2011.

Dated at San Francisco, California on this 12th day of October, 2011.



David H. Kim

Assistant Regional Counsel
USEPA, Region 9