

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Docket No. CAA-08-2009-0013

JUN 16 PM 12:46

EPA REGION VIII
HEARING ROOM

IN THE MATTER OF:)	
)	
BERRY PETROLEUM COMPANY)	JOINT MOTION FOR A
)	SECOND EXTENSION OF
DENVER, CO 80202)	TIME FOR RESPONDENT TO
)	FILE ITS ANSWER
Respondent.)	
)	

COMES NOW the Complainant, United States Environmental Protection Agency Region 8 (EPA), by and through its attorney, Dana J. Stotsky, who moves the Presiding Officer to grant the Respondent a second extension of time of 30 days to file its Answer to the Complaint. The Presiding Officer, on May 12, 2009, issued an ORDER granting a Joint Motion for Extension of Time. This ORDER gave Respondent until June 22, 2009, to file its Answer.

As grounds therefore, I state the following:

GROUND FOR MOTION

This motion is made pursuant to 40 C.F.R. § 22.7(b) and 40 C.F.R. § 22.16 of the Rules. Under the Rules, a motion must be in writing, state the grounds for the motion with particularity, set forth the relief or order sought, and be accompanied by any evidence or legal memorandum relied upon. Also, as provided for by rule, the Presiding Officer may grant an extension of time for filing any document upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties, or upon its own initiative. Any motion for an extension of time shall be filed sufficiently in advance of the due date so as to allow other parties reasonable

opportunity to respond and to allow the Presiding Officer reasonable opportunity to issue an order. 40 C.F.R. § 22.7(b).

The parties in this matter have discussed in detail the merits of allegations contained in the Complaint in a series of phone calls over the past several weeks. Respondent has stated on numerous occasions that it would prefer to resolve this matter by settlement and avoid litigation, as well as avoid the necessity of filing an Answer.

Respondent has committed, on or before June 17, 2009, to provide Complainant with a letter containing a detailed narrative explanation of salient facts known to it and which address factual aspects of the proposed violations. The letter also is being provided for the purpose of giving Complainant a basis to adequately evaluate settlement options.

Since Respondent's commitment to provide this letter occurs so closely to the due date for Respondent's Answer to be filed, to the undersigned stated to Respondent's counsel that he would prepare this motion for the benefit of both parties in light of the above.

Discussions to date have been very positive in terms of identifying issues in dispute and identifying potential paths to an out-of-court resolution. Respondent requests a second 30-day extension of time to file its Answer. This is the second such request made in this matter. This request is a joint request. The parties anticipate continued and active meetings in the near future to continue productive settlement discussions. Finally, the parties expect this will be the last request for an extension of time for Respondent to file its Answer to the Complaint.

The relief requested is a revised due date for the Respondent to file its Answer, on or before July 24, 2009.

United States Environmental Protection
Agency, Region 8



Date: June 16, 2009

By: _____

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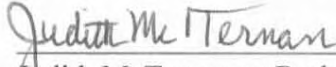
CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the JOINT MOTION FOR A SECOND EXTENSION OF TIME FOR RESPONDENT TO FILE ITS ANSWER, was hand-carried to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street; Denver, Colorado 80202-1129, and that a true copy of the same was sent via U.S. Postal Service, postage prepaid, to

William W. Carter, Esq.
Musick, Peeler & Garrett, LLP.
One Wilshire Boulevard, Suite 2000
Los Angeles, CA 90017

Date: June 16, 2009

By:



Judith McTernan or Barbara Hanna