

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. 11
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REGIONAL HEARING
CLERK

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

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IN THE MATTER OF: :
:
AUDUBON COMMUNITIES :
MANAGEMENT, LLC :
:
RESPONDENT :
:
-----X

DOCKET No: TSCA-02-2007-9168

**JOINT MOTION FOR AN EXTENSION OF TIME TO FILE PREHEARING
EXCHANGES AND STATUS REPORT**

The parties, Complainant and Respondent, in the above captioned matter, do hereby submit this Joint Motion for an Extension of Time to File Prehearing Exchanges and Status Report in response to Judge Biro's Order dated August 8, 2008.

Motion

By way of this motion, the parties request a brief two-week extension of time to comply with the Judge's Prehearing Order.

The parties submit the below Status Report to demonstrate that good cause exists for this motion.

Status Report

First, the parties are pleased to inform the Judge that they have reached a settlement that calls for the Respondent to perform an abatement supplemental environmental project (SEP) and lead clearance testing. Furthermore, the parties have memorialized the terms of the settlement in a Consent Agreement and Final Order (CA/FO), and have agreed to the language in the CA/FO. Under the terms of the CA/FO, the Respondent has agreed to acquire and install approximately one hundred nineteen (119) rear exterior doors and door jambs in its Audubon Place, Belleville, New Jersey property, one of two properties that are the subject of this enforcement action, and spend no less than \$138,000. According to the terms of the settlement, the Respondent has further agreed to pay a cash civil penalty in the amount of \$9,500. EPA senior management has approved the settlement.

Second, due to vacation and travel schedules around the extended holiday weekend, the Audubon principal was not able to sign the CA/FO until this week. Presently, the CA/FO is in the hands of Respondent's authorized representative for signature, which we expect in the very near future.

Third, as soon as the original CA/FO signed by the Respondent is received by EPA, it will be circulated for signature. However, even if Respondent submits the signed CA/FO to EPA via overnight mail, it is probable that EPA senior managers would not be able to sign the CA/FO by the current September 5, 2008 deadline.

As no hearing has been scheduled as yet in this matter, the parties respectfully beg the Court's indulgence and request a brief two-week extension of time to comply with the Judge's Prehearing Order, as noted below:

1. The parties are to engage in a settlement conference on or before **July 3, 2008**. **(Completed on July 1, 2008)**.
2. The Complainant shall file a status report regarding settlement on or before **July 10, 2008 (Completed on July 9, 2008)**.
3. If the case is settled, the Consent Agreement and Final Order signed by the parties should be filed no later than **September 19, 2008**.
4. Complainant's Initial Prehearing Exchange- **September 19, 2008**
5. Respondent's Prehearing Exchange, including any direct and/or rebuttal evidence **October 3, 2008**.
6. Complainant's Rebuttal Prehearing Exchange **October 17, 2008**.

For the foregoing reasons, Counsel for EPA and Counsel for Respondent request that the Court grant this joint motion for an extension, if it meets with your approval. Counsel for Respondent concurs on this Joint Motion for an Extension of Time to File Prehearing Exchanges and Status Report.

COUNSEL FOR COMPLAINANT

Dated: September 3, 2008

Respectfully submitted,

Melva J. Hayden By CHRF.

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In the Matter of Audubon Communities Management, LLC, Respondent
Docket No. TSCA-02-2007-9168

CERTIFICATE OF SERVICE

I certify that the foregoing Joint Motion to Request an Extension of Time to File Prehearing Exchanges and Status Report has been sent this day to the following addressees listed herein in the manner listed below:

Original and One Copy by Hand to:

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 2
290 Broadway – 16th Floor
New York, New York 10007-1866

Copy by Facsimile & Certified Mail/
Return Receipt Requested:

The Honorable Susan L. Biro
Chief Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Copy by Facsimile & Certified Mail/
Return Receipt Requested:

Derek D. Reed, Esquire
Levy, Ehrlich & Petriello, P.C.
60 Park Place, Suite 1016
Newark, NJ 07102

Dated: September 3, 2008
New York, NY


