

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

-----	:	Docket No. TSCA-01-2017-0037
In the Matter of:	:	
	:	
5 MF HOLDING, L.L.C.	:	Proceeding under Section 16(a) of the
110 Byfield St.	:	Toxic Substances Control Act,
Warwick, RI 02888	:	15 U.S.C. § 2615(a)
	:	
Respondent	:	

**RESPONDENT'S ASSENTED-TO SECOND MOTION FOR EXTENSION OF TIME IN
WHICH TO ANSWER ADMINISTRATIVE COMPLAINT**

I. NEED FOR AN EXTENSION

On March 7, 2017, 5MF Holding, LLC ("5MF" or "Respondent") was served with an Administrative Complaint and Notice of Opportunity for Hearing in the above-captioned matter. One day earlier, on March 6, 2017, Respondent's undersigned counsel was notified by counsel for the EPA, Kathleen Woodward, Esq. ("Attorney Woodward"), that the EPA had filed the Administrative Complaint against 5MF and was given a courtesy copy thereof *via* e-mail by Ms. Woodward. 5MF officially engaged counsel with respect to the Administrative Complaint on March 31, 2017, and, through its principal, Mr. Michael Drummond, authorized its counsel to pursue settlement negotiations in good faith with Attorney Woodward in connection with the Administrative Complaint. Respondent previously requested and was granted a Sixty Day extension of time in which to file its answer, up to and including June 4, 2017.

On or about April 7, 2017, Respondent's counsel and its principal met with Attorney Woodward at the EPA Region I Field Office in Boston, Massachusetts and commenced settlement negotiations. That as of even date, the parties have agreed upon the substantial terms of settlement of the within Complaint and are currently finalizing the appropriate documentation to effectuate the same. Specifically, a Supplemental Environmental Project Scope of Work Agreement ("SEP") and a Consent Agreement and Final Order ("CAFO"). 5MF hereby

respectfully requests an additional Thirty (30) Day extension of time, that is, up to and including **June 30, 2017**, within which to file its Answer to the EPA's Administrative Complaint. This extension of time is necessary in order to allow counsel for Respondent and counsel for the EPA to finalize the SEP and CAFO without expending undue litigation costs and attorneys' fees, as the preparation and filing of an Answer will be unnecessary to the extent that the parties have agreed upon the substantive terms of a settlement.

Counsel for Respondent has conferred with Attorney Woodward, who has assented to Respondent's request for an additional thirty-day extension of time.

II. AUTHORITY TO GRANT EXTENSION

Pursuant to 40 C.F.R. § 22.7(b), the Presiding Officer may grant the requested extension "upon timely motion of a party...for good cause shown, and after consideration of prejudice to other parties." Respondent has addressed the cause for the requested extension above and avers that the ability of the parties to pursue settlement negotiations in good faith without the additional expenditures of time and costs is sufficient "good cause." With respect to timeliness, the within Motion is made prior to the expiration of the first extension of time within which 5MF was granted to file its Answer to the Administrative Complaint. Finally, with respect to prejudice to other parties, Attorney Woodward has assented to the within Motion on behalf of the EPA, and the EPA would not be prejudiced if the requested extension was granted.

III. REQUEST FOR EXTENSION

For all the foregoing reasons, Respondent respectfully requests that the Presiding Officer grant the within Assented-To Motion and allow Respondent an additional Thirty (30) day extension of time, to **June 30, 2017**, within which to file its Answer to the Administrative Complaint.

Respectfully Submitted,
5MF Holding, LLC,
By and through its counsel,

/s/ Joanna M. Achille, Esq.
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Dated: June 1, 2017

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and accurate copy of the foregoing ASSENTED-TO MOTION FOR EXTENSION OF TIME IN WHICH TO ANSWER ADMINISTRATIVE COMPLAINT was served upon the following persons in the manner indicated:

via electronic mail (pursuant to Standing Order Authorizing Filing and Service By E-Mail):

Ms. Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency -- Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912
RI_Hearing_Clerk_Filings@epa.gov

copy via electronic mail:

Kathleen Woodward, Esq., Counsel for EPA
Woodward.Kathleen@epa.gov

Counsel for Respondent 5MF Holding, LLC

/s/ Joanna M. Achille, Esq..
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Dated: June 1, 2017