



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

U.S. ENVIRONMENTAL PROTECTION AGENCY-REG. II 2012 AUG 21 P 2:25 REGIONAL HEARING CLERK

In the Matter of: ) Municipality of Moca ) Respondent. ) Docket No. CAA-02-2011-1216 Dated: August 20, 2012

ORDER GRANTING MOTION FOR EXTENSION OF TIME AND POSTPONING HEARING

An Order Scheduling Hearing was issued on April 18, 2012 in this matter, ordering the parties to file a Joint Set of Stipulations by July 20, 2012 and scheduling the hearing in this matter to begin on August 28, 2012. On motion, the deadline for filing joint stipulations was extended to August 2, 2012, and then again to August 16, 2012. On August 16, 2012, the undersigned received Complainant's "Motion Requesting Ten (10) Day Extension to Submit CA/FO" ("Motion").

In the Motion, Complainant states that the parties agreed to the terms of a Consent Agreement and Final Order ("CAFO") "several days ago," but that Respondent's counsel was unable to sign the CAFO immediately because he had to "obtain a formal authorization from the Municipal Assembly . . ." Motion ¶¶ 1, 3. Respondent's counsel did obtain the necessary authorization and signed the CAFO on August 16, 2012. Motion ¶¶ 2, 4. Complainant requests ten additional days to allow it to obtain the necessary signatures from officials in EPA Region 2 and file the fully executed CAFO. Motion ¶¶ 4, 6.

The Rules of Practice that govern this proceeding, 40 C.F.R. Part 22, provide that the presiding officer may grant an extension of time for filing any document "upon timely motion . . . , for good cause shown, and after consideration of prejudice to other parties." 40 C.F.R. § 22.7(b). Strictly speaking, no deadline for filing an executed CAFO has been established in this matter. However, extending any deadline in this matter to August 27, 2012, as Complainant requests, will create uncertainty on the eve of hearing. Agency policy supports settlement, and it is in the interest of the parties and of judicial economy to resolve this dispute by mutual agreement. See 40 C.F.R. § 22.18(b). Where Respondent has signed a CAFO and the pending review and countersignature by Region 2 will fully resolve this proceeding, there is good cause to provide time for the parties to complete execution of the CAFO without losing their opportunity for a hearing in the event the CAFO is not approved. In the circumstances of this case, postponement of the hearing is appropriate. A hearing may be postponed for good cause if doing so will help maintain order and promote the fair and impartial adjudication of the issues. See 40

1 Complainant requests a ten day extension from August 16, 2012, but August 26, 2012 is a Sunday. The next business day would be August 27, 2012, the day before the hearing is scheduled to begin.

C.F.R. §§ 22.4(c), 22.21(c).

Accordingly, the Motion is hereby **GRANTED** for good cause in accordance with 40 C.F.R. § 22.7(b). Complainant is granted a few additional days to ensure adequate time for transmission, review, final execution and filing of the CAFO. The due date for the parties to file a duly executed Consent Agreement and Final Order in this matter is **August 30, 2012**.


If the parties are unable to meet this deadline, they shall prepare for a hearing in this matter. The hearing in this matter is hereby rescheduled to begin promptly at 9:30 a.m. on Tuesday, **October 30, 2012**, continuing if necessary, on October 31 through November 2, 2012, unless the parties file a fully executed Consent Agreement and Final Order first. The Hearing Clerk will make appropriate arrangements for a courtroom. The parties will be notified of the exact location and of other procedures pertinent to the hearing when those arrangements are complete.

Individuals requiring special accommodations at the hearing, including wheelchair access, should contact the Regional Hearing Clerk, as soon as possible so that appropriate arrangements can be made.

**RESPONDENT IS HEREBY ADVISED THAT FAILURE TO APPEAR AT THE HEARING, WITHOUT GOOD CAUSE BEING SHOWN THEREFOR, MAY RESULT IN A DEFAULT JUDGMENT BEING ENTERED AGAINST IT. COMPLAINANT IS HEREBY ADVISED THAT FAILURE TO APPEAR AT THE HEARING MAY RESULT IN DISMISSAL OF THIS MATTER.**

If either party does not intend to attend the hearing, or has good cause for not being able to attend the hearing as scheduled, it shall notify the undersigned at the earliest possible moment.

**SO ORDERED.**

  
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M. Lisa Buschmann  
Administrative Law Judge

**In the Matter of *Municipality of Moca*, Respondent.  
Docket No. CAA-02-2011-1216**

CERTIFICATE OF SERVICE

I hereby certify that true copies of this **Order Granting Motion for Extension of Time and Postponing Hearing**, issued by M. Lisa Buschmann, Administrative Law Judge, in Docket No. CAA-02-2011-1216, were sent to the following parties on this 20<sup>th</sup> day of August 2012, in the manner indicated:

  
\_\_\_\_\_  
Knolyn Jones  
Legal Staff Assistant

Original and One Copy by Email and Regular Mail to:

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**Dated: August 20, 2012  
Washington, DC**