

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2008 MAY 12 PM 3:08
REGIONAL HEARING
MERRICK

In the Matter of:

Stevenson Commons Associates, L. P.
Bronx, New York

&

Grenadier Realty Corp.
Brooklyn, New York

Respondents

In a proceeding under the Clean Air Act,
42 U.S.C. § 7401, et seq., 42 U.S.C.
§ 7413(d), Section 113(d)

CAA-02-2008-1220

Hon. Susan L. Biro
Chief Administrative Law Judge
Presiding Officer

MOTION FOR EXTENSION

Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, EPA, Region 2 (EPA), through her attorney, requests the Court grant a 30-day extension of time for the parties to file a Joint Set of Stipulated Facts, Exhibits, and Testimony and filing of all pre-hearing motions, an extension concurred upon by Stevenson Commons Associates, L.P. (Respondent Stevenson) and Grenadier Realty Corp. (Respondent Grenadier) (together Respondents), through their counsel, Daniel Riesel, Esq. For the reasons set forth below, the parties submit that good cause exists for granting the motion.

This is a case brought under Section 113(d) of the Clean Air Act (the Act). The Complaint and Notice of Opportunity to Request a Hearing (Complaint) CAA-02-2008-1220 in this matter alleges violations of 40 C.F.R. Part 60, Subpart A, the "Standards of

Performance New Stationary Sources NSPS (NSPS Subpart A), and 40 C.F.R. Part 60, Subpart Dc, 40 C.F.R. § 60.40c – 60.48c the “Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units” (NSPS Subpart Dc). Both of these subparts were promulgated pursuant to Sections 111 and 114 of the Act.

In an Order Setting Prehearing Procedures dated December 2, 2008, Chief Administrative Law Judge Susan L. Biro directed: Complainant to submit its opening prehearing exchange on or before January 16, 2009; Respondents to submit their prehearing exchange on or before February 6, 2009; and Complainant to submit their Rebuttal prehearing exchange on or before February 20, 2009.

On December 15, 2008, Complainant in this proceeding, through her attorney, filed a Motion for Extension of Time to File Prehearing Exchanges requesting the Court grant a 60-day extension of time for the parties to file their prehearing exchanges, an extension concurred upon Respondents, through their counsel. On December 18, 2008 Chief Administrative Law Judge Biro granted the Motion for Extension of Time to File Prehearing Exchanges in part. On December 19, 2008, Complainant submitted a Status Report, in accordance with the Prehearing Order dated December 2, 2008.

On January 8, 2009, the parties held a settlement conference. Respondents, through their counsel, submitted a response to Complainant's offer on January 23, 2009. A conference call with Respondent Grenadier and Mr. Riesel was held on January 26, 2009. During the call an agreement in principle was reached.

On January 29, 2009, Respondents in this proceeding filed a Motion for Extension of Time to File Prehearing Exchanges requesting the Court grant an additional 30-day extension of time for the parties to file their prehearing exchanges.

On February 13, 2009, Chief Administrative Law Judge Biro granted the Motion for Extension of Time to File Prehearing Exchanges directing: Complainant to submit its opening prehearing exchange on or before March 23, 2009; Respondents to submit their prehearing exchange on or before April 13, 2009; and Complainant to submit its Rebuttal prehearing exchange on or before April 27, 2009.

Respondents submitted a supplemental environmental project (SEP) proposal on February 11, 2009, with further information provided on March 5, 2009. Complainant reviewed the SEP proposal and it was approved by the Environmental Protection Agency's Office of Civil Enforcement on March 25, 2009.

On March 20, 2009, Complainant submitted its Prehearing Exchange. On April 9, 2009, Respondents submitted their Prehearing Exchange. Complainant submitted its Prehearing Exchange Rebuttal on April 22, 2009.

On May 7, 2009, Complainant sent the Consent Agreement and Final Order (CAFO), embodying the agreement in principle, to Respondents for signature. On May 11, 2009, Mr. Riesel notified Complainant that Respondents required at least two (2) weeks to review the CAFO. On May 12, 2009, the Complainant (on behalf of both parties) informed the staff attorney for the Honorable Chief Judge Biro, Lisa Knight, that an agreement in principle had been reached and that the parties requested an extension of time for Respondents to review the CAFO. Ms. Knight directed Complainant to file a joint motion for an extension until such time as the settlement is finalized.

Accordingly, the parties seek a 30-day stay to allow sufficient time for the preparation and execution of a CAFO.

The parties believe that the good cause requirement of 40 C.F.R. § 22.7(b) is satisfied for the granting of this motion.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Marie Quintin', written in a cursive style with a large loop and a long horizontal flourish extending to the right.

Marie Quintin
Office of Regional Counsel

Dated: May 12, 2009
New York, New York