

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
BEFORE THE ADMINISTRATOR

FILED
MAY 24 PM 2:59
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:

NUSTAR REFINING LLC

BEXAR COUNTY, TEXAS

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EPA DOCKET NO.
CAA-06-2012-3444

STATUS REPORT

1. Complainant, U.S. EPA Region 6 (EPA), files this Status Report pursuant to the requirements of the **Prehearing Order** issued on April 30, 2012.
2. EPA commenced this proceeding for the assessment of civil penalties pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), by filing a Complaint and Notice of Opportunity for a Hearing pursuant to 40 CFR §§ 22.13, and 22.34(b). On February 28, 2012, Respondent filed an Answer.
3. On April 11, 2012, Chief Administrative Law Judge Biro issued a letter requiring EPA to provide notice of whether it elected to pursue alternative dispute resolution (ADR). On April 25, 2012, EPA provided notice that it did not elect to pursue ADR because the Parties had reached an agreement in principle to settle this matter and were preparing a Consent Agreement and Final Order (CAFO).
4. The Parties have worked diligently to settle this matter and desire to complete the settlement without expending additional resources to conduct pre-hearing exchanges, dispositive motions or a formal administrative hearing. The CAFO currently is in the process of approval by EPA before it can be issued for execution and filed with the Regional Judicial Officer.

5. The Prehearing Order establishes deadlines for prehearing exchanges that begin with Complainant's Initial Prehearing Exchange on June 8, 2012.

6. Although the Parties have reached an agreement in principle and have progressed substantially to complete the CAFO document, EPA reasonably believes that it will not be able to obtain a final order ratifying the CAFO before June 8, 2012. Rather, additional time will be needed to finalize the CAFO, issue it for execution, file the executed CAFO with the regional judicial officer, and obtain the final order ratifying the CAFO to conclude the proceeding pursuant to 40 CFR § 22.18(b)(2) and (3).

7. An extension of the prehearing exchange deadlines, therefore, is necessary to avoid the expenditure of substantial additional resources to prepare and file pre-hearing exchanges when the parties have agreed to a settlement in principle and are in the process of completing the CAFO. EPA has conferred with Respondent about the need to extend these deadlines, and Respondent indicated that it does not oppose an extension. For this reason, EPA will file an Unopposed Motion for Extension of Prehearing Exchange Deadlines, requesting an extension of the deadlines in Section I.D. of the Prehearing Order for filing prehearing exchanges.

Respectfully submitted,



Jonathan Bull
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U.S. EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

[May 24, 2012]

CERTIFICATE OF SERVICE

I hereby certify that on the 24 day of May, 2012, a true and correct copy of the foregoing **Status Report** was filed stamped with the Regional Hearing Clerk and delivered in the following matter to the addressees listed below.

Original by Hand Delivery to:

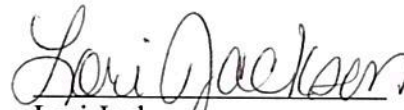
Lorena Vaughn
Regional Hearing Clerk
U.S. EPA Region 6
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COUNSEL FOR RESPONDENT

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The Honorable M. Lisa Buschmann
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