



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

In the Matter of:)
New York State) Docket No. CWA-02-2016-3403
Department of Transportation,)
Respondent.)

ORDER GRANTING MOTION FOR EXTENSION OF TIME TO FILE POST-HEARING BRIEFS

The hearing in this matter was conducted April 3-5, 2018, in Albany, New York. After the Headquarters Hearing Clerk received the official transcript of testimony taken at the hearing, electronic copies of this transcript were provided by email to counsel for the parties, and I issued an Order Scheduling Post-Hearing Submissions, which established deadlines for the parties to file post-hearing briefs, among other things. At the request of the parties, those deadlines have been extended multiple times for good cause shown, most recently by Order dated August 1, 2018. Pursuant to that Order, the deadline for Respondent’s initial post-hearing brief is September 21, 2018.

On September 14, however, Respondent filed a Motion for Extension of Time to File Post-Hearing Briefs (“Motion”), in which Respondent requests a one-week extension of that deadline, and the remaining deadlines for the parties’ post-hearing briefs, on account of Respondent’s counsel unexpectedly being away from the office due to an unforeseen surgical procedure and death in the family. Respondent represents that Complainant consents to the proposed extension.

This matter is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Rules of Practice”) set forth at 40 C.F.R. Part 22. The Rules of Practice provide that I “may grant an extension of time for filing any document: upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties; or upon its own initiative.” 40 C.F.R. § 22.7(b).

Here, the Motion was timely and shows good cause. Moreover, Complainant does not object to it. Accordingly, it is hereby GRANTED. As requested, the parties shall now file post-hearing briefs in accordance with the following schedule:

Respondent’s Initial Post-Hearing Brief September 28, 2018

Complainant's Reply Post-Hearing Brief

October 19, 2018

Respondent's Reply Post-Hearing Brief

November 9, 2018

SO ORDERED.



Susan L. Biro
Chief Administrative Law Judge

Dated: September 18, 2018
Washington, D.C.

In the Matter of *New York State Department of Transportation*, Respondent.
Docket No. CWA-02-2016-3403

CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing **Order Granting Motion for Extension of Time to File Post-Hearing Briefs**, issued by Chief Administrative Law Judge Susan L. Biro, were sent this day to the following parties in the manner indicated below.

Jennifer Almase
Attorney-Advisor

Original and One Copy by Hand Delivery to:

Mary Angeles
Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Ave., NW
Washington, DC 20004

Copy by Electronic Mail to:

Christopher Saporita, Esq.
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007
Email: saporita.chris@epa.gov
For Complainant

Jason P. Garelick, Esq.
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007
Email: garelick.jason@epa.gov
For Complainant

Alicia McNally, Esq.
Assistant Counsel
Division of Legal Affairs
New York State Department of Transportation
50 Wolf Road, 6th Floor
Albany, NY 12232
Email: Alicia.McNally@dot.ny.gov
For Respondent

Dated: September 18, 2018
Washington, D.C.