

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

In the matter of:

Dimmid, Inc.,

Respondent.

Proceeding Under Section 16(a) of the Toxic  
Substances Control Act, as amended, 15  
U.S.C. § 2615(a).

**Docket No. TSCA-02-2023-9226**

**MOTION FOR EXTENSION OF JANUARY 19, 2024 DEADLINE**

Complainant, the now-Acting Director<sup>1</sup> of the of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region 2 (hereinafter, “Complainant” or “EPA”), moves this Tribunal for an order extending the January 19, 2024 deadline regarding the filing of a fully executed consent agreement and final order for two weeks (through to February 2, 2024). The circumstances compelling the making of this motion, including Respondent indicating it does not oppose EPA making this request, should be sufficient for this Tribunal to grant the relief herein sought, as such relief would benefit both parties, thereby satisfying the Part 22 operative standard of “good cause.”<sup>2</sup>

Responsive papers from Respondent, if any, are to be filed in accordance with the provisions of 40 C.F.R. § 22.16(b).

The background to this proceeding was set forth in Complainant’s November 7, 2023 “Motion for Extension of Prehearing Exchange Deadlines” and will not be repeated here. The

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<sup>1</sup> Complainant upon whose signature the matter was initiated has retired, effective the end of October 2023.

<sup>2</sup> In part, 40 C.F.R. § 22.7 authorizes the Presiding Officer to “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....”

Tribunal is respectfully directed thereto for such background information.

The November 13, 2024 “ORDER ON COMPLAINANT’S MOTION TO EXTEND PREHEARING EXCHANGE DEADLINES” extended the deadlines established in the October 10, 2023 Prehearing Order. The November 13<sup>th</sup> order provided, in part, “If the case is settled, a fully executed Consent Agreement and Final Order shall be filed with the Regional Hearing Clerk no later than January 19, 2024, and a courtesy copy filed with the Headquarters Hearing Clerk. In the event that a fully executed Consent Agreement and Final Order is not filed on or before January 19, 2024, the parties must prepare for hearing and shall strictly comply with all other requirements of the Prehearing Order.” One such requirement of the Prehearing Order was that Complainant file her initial prehearing exchange by November 17, 2023, which deadline the November 13<sup>th</sup> order extended to January 19, 2024.

On January 4<sup>th</sup>, the undersigned e-mailed Respondent’s representative, Michael Vernovsky (Respondent is proceeding *pro se*) to inquire whether it would object to or oppose EPA moving to extend the January 19<sup>th</sup> deadline for either two or three weeks. That day, Mr. Vernovsky replied, “We do not oppose your request.”

Accordingly, Complainant hereby moves this Tribunal, pursuant to 40 C.F.R. §§ 22.4(c)(2), 22.4(c)(10), 22.7(b) and 22.16(c), for an order vacating so much of the November 13<sup>th</sup> order that established the January 19<sup>th</sup> deadline and further directing that such deadline be extended through to, and including, February 2, 2024. A settlement document has been drafted and revised, and it is presently circulating for further review within EPA and should shortly be sent to Mr. Vernovsky for his review. This extension should provide both parties with a full and fair opportunity to review and evaluate the settlement document without having to concern themselves with an upcoming and soon-to-be imminent deadline. Since the parties’ agreement has already been secured for an appropriate settlement amount, it is now only a question of properly memorializing that agreement and the parties concomitantly agreeing to the precise language doing so. Clearly such an extension

would be to the benefit of both parties; as Respondent has not objected to the proposed extension, it should suffer no prejudice if this extension were granted. Moreover, since the parties have agreed in principle to settle for a sum certain and all that remains is for the settlement to be finalized and executed, there is no need for prehearing matters (PHE exchange, motion practice) to be effected or for a hearing to be scheduled; under such circumstances, it appears that this Tribunal's scheduling obligations and commitments should not be adversely impacted by a two-week extension of the January 19<sup>th</sup> deadline.

For the reasons outlined above, EPA deems the "good cause" threshold for the granting of this motion has been amply demonstrated and respectfully requests this Tribunal grant the additional two-week time herein sought.

Dated: January 6, 2024  
New York, New York

Respectfully submitted,

*Lee Spielmann*

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Lee A. Spielmann

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day electronically sent the foregoing “MOTION FOR EXTENSION OF JANUARY 19, 2024 DEADLINE,” electronically signed and dated January 6, 2024, together with this Certificate of Service, to the addressees listed below:

By Electronic Mail via  
[https://yosemite.epa.gov/OA/EAB/EAB-ALJ\\_Upload.nsf/amain\\_menu?OpenForm](https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf/amain_menu?OpenForm)

Mary Angeles  
Headquarters Hearing Clerk  
U.S. Environmental Protection Agency  
Washington, DC  
(through EPA’s E-Filing system)

By Electronic Mail:

Dimmid, Inc.  
Brooklyn, New York  
[dimmidmv@gmail.com](mailto:dimmidmv@gmail.com)  
[dimmidinc@aol.com](mailto:dimmidinc@aol.com)

Dated: January 6, 2024  
New York, New York

*Lee Spielmann*

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Lee A. Spielmann