

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

In the Matter of:

Clean Air Environmental Services, Inc.
215 ½ North Perry Street
Johnstown, New York 12095

Respondent

In a proceeding under Section 16(a) of the
Toxic Substances Control Act, 15 U.S.C. §
2615(a)

Docket No. TSCA-02-2024-9276

**COMPLAINANT’S MOTION
FOR AN EXTENSION OF TIME
ON THE REMAINING
PREHEARING FILING DEADLINES**

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COMES NOW, the United States Environmental Protection Agency (“EPA” or “Complainant”), pursuant to the Consolidated Rules of Practice, 40 C.F.R. § 22.16(a), and respectfully submits this Motion for an Extension of Time on the remaining prehearing filing deadlines set forth in The Honorable Michael B. Wright’s Order granting Complainant’s Unopposed Motion for an Extension of Time on October 21st, 2024, and in accordance with 40 C.F.R. § 22.27 of the Consolidated Rules of Practice.

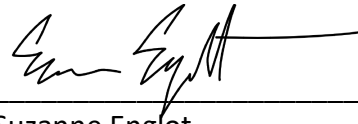
1. On July 24th, 2024, Complainant and Respondent engaged in a settlement conference in compliance with the Order. On July 26th, 2024, and July 29th, 2024, counsel for Complainant and Respondent had further discussions, and following the discussions, the Parties exchanged documents that moved them closer to settlement.
2. On August 19th, 2024, Complainant submitted an Unopposed Motion for an Extension of Time to the Court, reporting the Parties’ progress and requesting a 60-day extension. Judge Wright issued an Order on August 20th, 2024 granting Complainant’s motion, and the Parties continued negotiating.
3. Following Respondent’s submittal of a draft compliance plan on October 18th, 2024, Complainant filed an Unopposed Motion for an Extension of Time to the Court in order to have more time to review the submitted plan, in the hopes that the additional two weeks of time would lead to an agreement in principle, and possibly even the execution of a settlement agreement. This motion was granted in the Order issued by the Court on October 21st, 2024.
4. Complainant and Respondent have now finalized the compliance plan, and have reached a settlement agreement in principle. A settlement agreement has been drafted, and is currently being reviewed by the Parties. Once Respondent confirms its approval of the agreement, Complainant anticipates it will go into concurrence this week, and that a fully-executed Consent Agreement and Final Order can be presented to the Court the following week.
5. Complainant MOVES, with Respondent’s consent, pursuant to 40 C.F.R. § 22.16(a), to respectfully request that the Honorable Michael B. Wright vacate the remaining prehearing deadlines set forth in the October 21st Order, and set forth the following new proposed prehearing filing schedule:

- a. November 18th, 2024 for the submittal of either a fully-executed Consent Agreement and Final Order, or Complainant's Initial Prehearing Exchange;
- b. December 9th, 2024 for Respondent's Prehearing Exchange; and
- c. December 23rd, 2024 for Complainant's Rebuttal Prehearing Exchange.

All other deadlines referenced in the Order, including Joint Motions for the Appointment of a Neutral, and all Dispositive and Non-dispositive Motions, would therefore be extended to the corresponding periods of time set forth in the Order following the date Complainant's Rebuttal Prehearing Exchange is filed.

6. Pursuant to 40 C.F.R. § 22.7(b), this Tribunal "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." The regulation further states that "[a]ny motion for an extension of time shall be filed sufficiently in advance of the due date so as to allow other parties reasonable opportunity to respond and to allow the Presiding Officer or Environmental Appeals Board reasonable opportunity to issue an order."
7. Complainant's Motion for an Extension of Time is as timely as the settlement negotiations have been able to accommodate, given the facts and circumstances of the proceeding to date. The Parties have been in regular contact and substantial progress has once again been made in the extension provided.
8. Further, Complainant and Respondent, by reaching an agreement in principle and being close to resolution, demonstrate that there is good cause for the requested extension of deadlines. This extension allows Respondent time to properly evaluate the draft settlement agreement, allows Complainant time to move through concurrence, and allows the Parties to finalize and execute the settlement agreement.
9. Additionally, Complainant's Motion for an Extension of Time does not prejudice Respondent, as it will allow Respondent additional time to review and approve the draft settlement agreement, which is based on the agreement in principle it has reached with Complainant.
10. Complainant respectfully avers that the additional time it seeks should not, in its estimation, unduly interfere with or significantly disrupt the Court's scheduling of events in this matter. If granted, this motion could preclude the need for the Court to expend any further resources by progressing this case past its current early stage. Complainant therefore believes the extensions proposed are reasonable, and beneficial to the efficiency of this Court, as they are proposed to give the Parties their best chance at reaching settlement.
11. For the foregoing reasons, Complainant respectfully requests that this Tribunal issue an Order granting Complainant's Motion for an Extension of Time, extending the prehearing filing deadlines set forth in the Honorable Michael B. Wright's October 21st, 2024 Order to those proposed by Complainant, and granting such other and further relief as the Tribunal deems just and proper.

RESPECTFULLY SUBMITTED this 4th day of November 2024.



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CERTIFICATE OF SERVICE

I certify that, on the date noted below, I caused to mail, by electronic mail, a copy of the foregoing Complainant's Unopposed Motion for an Extension of Time on the Remaining Prehearing Filing Deadlines to the following persons at the addresses listed below:

Jeffrey Francisco
Francisco Law Firm
Jfrancisco.law@gmail.com

Mary Angeles
Headquarters Hearing Clerk
Via OALJ E-filing System

Dated: November 4th, 2024



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