

**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 UNOPPOSED
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 prior Unopposed Motion for an Extension of Time on August 20th, 2024, and in accordance with 40 C.F.R. § 22.27 of the Consolidated Rules of Practice. Complainant sought the consent of Respondent prior to filing this Motion, and Respondent affirmatively agrees to the relief sought herein.

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.
3. Following the Order issued August 20th, 2024 granting Complainant's motion, the Parties have continued negotiating. On the afternoon of October 18th, 2024, Respondent submitted a draft compliance plan. If upon reviewal Complainant approves this plan, the Parties will have reached a settlement agreement in principle, and it will only remain that they finish drafting and concur on a Consent Agreement and Final Order to present, fully-executed, to the Court.
4. 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 August 20th Order, and set forth the following new proposed prehearing filing schedule:
 - a. November 5th, 2024 for the submittal of either a fully-executed Consent Agreement and Final Order, or Complainant's Initial Prehearing Exchange;
 - b. November 26th, 2024 for Respondent's Prehearing Exchange; and
 - c. December 10th, 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.

5. 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."
6. Complainant's Unopposed Motion for an Extension of Time is timely, given the facts and circumstances of the proceeding to date. The Parties have been in regular contact and substantial progress has been made in the extension provided. Complainant confirmed Respondent's consent to the filing of this motion on Friday, October 18th.
7. Further, Complainant and Respondent, by being close to an agreement in principle, demonstrate that there is good cause for the requested extension of deadlines. This extension allows Complainant time to properly evaluate the draft compliance plan submitted by Respondent, and the Parties to finalize and execute an agreement.
8. Additionally, Complainant's Unopposed Motion for an Extension of Time does not prejudice Respondent, as Complainant consulted with Respondent prior to the filing of this Motion, and both parties are in favor of and have consented to this extension of time.
9. 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. This proceeding is still in an early stage, no hearing date has yet been established, and Complainant 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.
10. For the foregoing reasons, Complainant respectfully requests that this Tribunal issue an Order granting Complainant's Unopposed Motion for an Extension of Time, extending the prehearing filing deadlines set forth in the Honorable Michael B. Wright's August 20th, 2024 Order to those proposed by Complainant, and agreed to by Respondent, and granting such other and further relief as the Tribunal deems just and proper.

RESPECTFULLY SUBMITTED this 18th day of October 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: October 18th, 2024



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