

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

In the Matter of:

TONAWANDA COKE CORP.,

Respondent

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)

Docket No. RCRA-02-2010-7104

**ORDER ON MOTION FOR EXTENSION OF TIME
TO FILE PREHEARING EXCHANGE**

A Prehearing Order was issued in this matter on March 17, 2010, directing the Complainant, Director of the Division of Enforcement and Compliance Assurance, EPA Region 2, to file a initial prehearing exchange on April 23, 2010, Respondent to file a prehearing exchange on May 14, 2010, and Complainant to file a rebuttal prehearing exchange on May 28, 2010. On April 20, 2010, Complainant submitted a Motion for Extension of Time to File Prehearing Exchange, proposing that the due date for its prehearing exchange be extended to June 18, 2010. The Motion states that counsel for Respondent "has authorized counsel for Complainant to submit this Motion."

The Motion states that the parties are making good progress toward settlement, that Respondent submitted for EPA review a Draft Sampling and Analysis Plan on April 12, that EPA will send comments on it to Respondent on or about April 20, and that Complainant has drafted a Consent Agreement and Final Order, to be forwarded to Respondent for review after EPA's internal review. The Motion states that filing of the prehearing exchange should not be necessary.

Good cause exists for granting an extension of time in that it is in the interest of the parties and judicial economy for the parties to settle this matter on mutually agreeable terms rather than litigate the matter to conclusion. In that a hearing in this case has not been scheduled, no prejudice will result from a brief delay. However, Complainant has requested a two month delay, and has not shown any need for such a lengthy delay. A six week extension appears to be ample time to complete a settlement in the circumstances of this case.

Accordingly, Complainant shall file the fully executed Consent Agreement and Consent Order (CAFO) or its Initial Prehearing Exchange, on or before **June 4, 2010.** If the

CAFO is not yet filed beforehand, the Respondent shall file its Prehearing Exchange on or before **June 18, 2010**, and Complainant shall file its Rebuttal Prehearing Exchange by June 30, 2010.



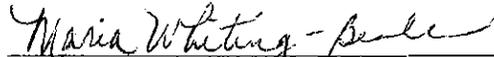
Susan L. Biro
Chief Administrative Law Judge

Date: April 21, 2010
Washington, D.C.

In the Matter of Tonawanda Coke Corporation, Respondent
Docket No. RCRA-02-2010-7104

CERTIFICATE OF SERVICE

I certify that the foregoing **Order On Motion For Extension Of Time To File Prehearing Exchange**, dated April 21, 2010, was sent this day in the following manner to the addressees listed below.



Maria Whiting-Beale
Staff Assistant

Dated: April 21, 2010

Original And One Copy By Pouch Mail To:

Karen Maples
Regional Hearing Clerk
U.S. EPA
290 Broadway, 16th Floor
New York, NY 10007-1866

Copy By Pouch Mail To:

Carl Howard, Esquire
Office of Regional Counsel
U.S. EPA
290 Broadway, 16th Floor
New York, NY 10007-1866

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Rick W. Kennedy, Esquire
Hodgson Russ LLP
The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, NY 14202-4040

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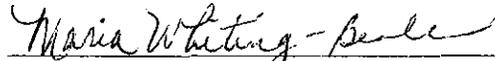
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