

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

IN THE MATTER OF:

BASF Corporation,

Respondent.

Docket No. CWA-05-2018-0008

**RESPONDENT BASF CORPORATION’S MOTION FOR AN EXTENSION OF TIME
TO FILE THE PREHEARING EXCHANGE**

Respondent BASF Corporation (“BASF”), through its undersigned attorneys Bressler, Amery & Ross, P.C., respectfully requests a 60-day extension of time for BASF to file its Prehearing Exchange. Complainant, the United States Environmental Protection Agency (“EPA”), has stated in past discussions that it would not oppose such a request by BASF. While BASF sent Complainant’s Counsel an e-mail dated November 14, 2018 seeking his formal consent, BASF has not received a response from Complainant’s Counsel to said request. As set forth below, this request is being sought for good cause to allow BASF to (i) continue settlement discussions, and (ii) to review, evaluate, and respond to Complainant’s recently received Pre-Hearing Exchange.

Complainant, the United States Environmental Protective Agency (“EPA” or “Complainant”), initiated this action on or about July 26, 2018, with service of the Complaint on BASF. On or about September 24, 2018, BASF served its Answer to the Complaint, Affirmative Defenses & Request for Hearing in this proceeding. On September 28, 2018, this Court entered a Prehearing Order setting forth that Complainant’s Prehearing Exchange shall be filed on November 9, 2018, and Respondent’s Prehearing Exchange is to be filed on November 30, 2018.

As attested in Complainant's Status Report and Preliminary Statement, filed on or about October 19, 2018, EPA and BASF have discussed settlement. BASF has indicated to Complainant that it wanted to schedule additional settlement meetings, and the parties have maintained an ongoing correspondence. However, from BASF's perspective, further settlement discussions were dependent upon its receipt of information from the Complainant regarding the calculation of the penalties sought in the above captioned matter. On or about November 9, 2018, Complainant served its Prehearing Exchange with thirty-four (34) appended exhibits. Complainant's Prehearing Exchange included additional information and documents as to the administrative penalty calculation. BASF would appreciate an opportunity to further explore settlement given its receipt of the recently received information on damages.

In addition to the above, BASF needs additional time to: (i) review the voluminous exhibits and information recently provided by Complainant, (ii) investigate and conduct research regarding the claims therein, and (iii) prepare its Prehearing Exchange. This includes conferring with critical BASF personnel who are unavailable due to the Thanksgiving holiday season.

Section 22.7(b) of the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits provides that the Court may grant an extension of time for filing any document upon timely motion, for good cause shown, and after consideration of prejudice to other parties. 40 C.F.R. §22.7(b).

This motion for an extension is timely, as it was filed more than two weeks prior to the deadline for BASF's Prehearing Exchange, which is currently due on November 30, 2018. The only other party to this matter, EPA, has previously represented through counsel, during a

telephone call, that it will not oppose a motion filed by BASF for an extension of the time in which to file its Prehearing Exchange. As noted above, the undersigned sent Complainant's Counsel an e-mail dated November 14, 2018 seeking to confirm his continued consent to this motion.

For all of the above reasons, BASF respectfully requests that the Court extend the date by which BASF's Prehearing Exchange is due by sixty (60) days.

DATED: November 15, 2018

Respectfully submitted,

/s/ Yelena S. Ferreira
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CERTIFICATE OF SERVICE

I hereby certify that today I filed with the Office of Administrative Law Judge E-Filing System at www.epa.gov/alj, and thus also provided the Presiding Officer Administrative Law Judge Christine Donelian Coughlin a copy of **RESPONDENT BASF'S MOTION FOR AN EXTENSION OF TIME TO FILE THE PREHEARING EXCHANGE.**

I hereby certify that today I also issued to Jeffery M. Trevino, Counsel to Complainant, via e-mail at trevino.jeffery@epa.gov a copy of this **RESPONDENT BASF CORPORATION'S MOTION FOR AN EXTENSION OF TIME TO FILE THE PREHEARING EXCHANGE.**

Dated: November 15, 2018

/s/ Yelena S. Ferreira

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