UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF	)	
	)	
U.S. Department of Veterans Affairs	)	DOCKET NO. RCRA-02-2008-7507
	)	
	)	
RESPONDENT	)	
	)	

ORDER GRANTING MOTION FOR EXTENSION OF TIME
TO FILE PREHEARING EXCHANGE

This proceeding arises under the authority of Section 9006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act ("RCRA") and the Hazardous and Solid Waste Amendments of 1984 ("HSWA"), 42 U.S.C. § 6901 et seq, and is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (the "Rules of Practice"), 40 C.F.R. §§ 22.1-32.
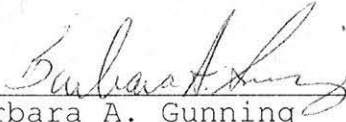
In a Prehearing Order entered on June 18, 2009, the parties were directed to file their respective prehearing exchange, commencing with Complainant's filing on September 25, 2009.

On September 22, 2009, Complainant filed a Motion for Extension of Time to File Prehearing Exchange. In this Motion, Complainant requests that the deadlines for filing the prehearing exchange be extended three (3) months. In support of its motion for an extension, Complainant states that the parties, two large federal agencies, are making substantial progress in reaching a settlement that involves a Supplemental Environmental Project (SEP). Both parties are seeking internal approvals of the SEP in advance of a Consent Agreement and Final Order. Based on these representations, sufficient cause is shown to grant the requested extension. Accordingly, the Motion for Extension of Time is **Granted**.

If the case is settled, the fully ratified Consent Agreement and Final Order should be filed no later than **December 21,**

2009,[1] with a copy sent to the undersigned. If the case is not settled by that date, Complainant's prehearing exchange shall be filed on or before **December 21, 2009.** Respondent's prehearing exchange is due **January 19, 2010,** and Complainant's rebuttal, if any, is due **February 1, 2010.** The procedures directed in my Prehearing Order of June 18, 2009, remain in effect.

If the case is not settled, I expect the parties to meet the prehearing deadlines set by this order. A further extension of time will not be granted absent a showing of extraordinary circumstances. The desire to continue settlement discussions, or an averment that a settlement in principle has been reached, will not constitute extraordinary circumstances sufficient to warrant further extensions. Of course, the parties, if they choose, may continue their settlement discussions after the service of the prehearing exchange.

_____
Barbara A. Gunning
Administrative Law Judge

Dated: September 22, 2009
       Washington, DC

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[1] Before the end of the three (3) additional months granted, the parties shall forward an executed consent agreement and a proposed final order to the Regional Administrator whenever settlement or compromise is proposed. No settlement or consent agreement disposes of any proceeding without a final order from the Regional Administrator. *See* 40 C.F.R. § 22.18(b)(2)-(3).

In the matter of *U.S. Department of Veterans Affairs,* Respondent.
Docket No. RCRA-02-2008-7507

<u>CERTIFICATE OF SERVICE</u>

I hereby certify that the foregoing **Order Granting Motion for Extension of Time to File Prehearing Exchange,** dated September 22, 2009, was sent this day in the following manner to the addressees listed below.

_____
Mary Angeles
Legal Staff Assistant

Original and One Copy by Pouch Mail to:

Karen Maples
Regional Hearing Clerk
US EPA, Region II
290 Broadway, 16th Floor
New York, NY 10007-1866

One Copy by Pouch Mail to:

Carl R. Howard, Esq.
Assistant Regional Counsel
U.S. EPA Region II
290 Broadway, 16th Floor
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One Copy by Regular Mail to:

Joy Vilardi Rizzuto, Esq.
Senior Attorney
Dept. of Veterans Affairs
Office of Regional Counsel
VA Caribbean Healthcare System
10 Casia Street
San Juan, PR 00921-3201

Dated: September 22, 2009
Washington, D.C.