



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

**In the Matter of:** )  
 )  
**August Mack Environmental, Inc.,** ) **Docket No. CERCLA-HQ-2017-0001**  
 )  
**Requestor.** )

**ORDER ON MOTIONS FOR EXTENSIONS OF TIME**

I previously issued an Order of Redesignation and Prehearing Order (Sept. 8, 2021) that set forth various deadlines for the prehearing exchange process, discovery, and the filing of dispositive motions in this matter. The parties completed their prehearing exchanges, and on December 20, 2021, U.S. Environmental Protection Agency Region III (“Agency” or EPA”) filed a Motion for Accelerated Decision (“AD Motion”) contending that no material facts are in genuine dispute and that the Agency is entitled to judgment as a matter of law.

On December 23, 2021, Requestor August Mack Environmental, Inc. filed a Motion to Compel Discovery, for Sanctions, and to Extend Case Management Deadlines (“Motion to Compel”) alleging that EPA “has refused to engage in even basic discovery” and arguing that the AD Motion should be held in abeyance until August Mack is able to complete discovery. Mot. to Compel at 1, 4. The motion seeks to compel EPA’s response to certain discovery requests and to sanction it for conduct in this proceeding.

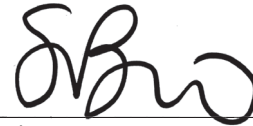
The same day that August Mack submitted its Motion to Compel, the Agency requested a 35-day extension of time to respond, citing August Mack’s “extraordinary allegations” and “very burdensome, very broad” discovery requests during a time when Agency counsel and personnel are on holiday leave. *See* EPA’s Motion for Extension of Time to Respond to Requestor August Mack Environmental’s Motion to Compel Further Discovery at 2-3 (Dec. 23, 2021). The Agency’s response would otherwise be due January 3, 2022. August Mack does not oppose the Agency’s requested extension.

On December 28, 2021, August Mack moved for an extension of time to respond to the AD Motion, reasserting its argument that requiring a response “before discovery takes place would be unduly prejudicial and unfair.” *See* Requestor’s Motion for Extension of Time to Respond to EPA’s Motion for Accelerated Decision at 3. August Mack’s response to the AD Motion would be due December 30, 2021. The Agency has not responded to August Mack’s request for extension, but no response is needed.

The rules governing this proceeding provide that I “may grant an extension of time for the filing of any pleading, document or motion upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties[.]” 40 C.F.R. § 305.6(b). Here, good cause exists to extend the time for the Agency to respond to the Motion to Compel given the nature of the allegations and contested discovery issues. Similarly, good cause exists to extend the time for August Mack to respond to the AD Motion until these discovery disputes are resolved. This will cause no apparent prejudice to either party.

Accordingly, EPA’s Motion for Extension of Time is **GRANTED**, and the time for the Agency to respond to the Motion to Compel is extended through **February 7, 2022**. The deadline for August Mack to file its response to the AD Motion is extended to a date that will be set after I have ruled upon its Motion to Compel or the discovery dispute is otherwise resolved. To that extent, August Mack’s Motion for Extension of Time is **GRANTED in part** and **DENIED in part**.

**SO ORDERED.**



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Susan L. Biro  
Chief Administrative Law Judge

Dated: December 29, 2021  
Washington, D.C.

In the Matter of *August Mack Environmental, Inc.*, Requestor.  
Docket No. CERCLA-HQ-2017-0001

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Order on Motions for Extensions of Time**, dated December 29, 2021, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.

  
\_\_\_\_\_  
Matt Barnwell  
Attorney Advisor

Copy by OALJ E-Filing System to:  
Mary Angeles, Headquarters Hearing Clerk  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Ronald Reagan Building, Room M1200  
1300 Pennsylvania Ave., NW  
Washington, DC 20004

Copies by Electronic Mail to:  
Bradley R. Sugarman, Esq.  
Philip R. Zimmerly, Esq.  
Jackson L. Schroeder, Esq.  
Bose McKinney & Evans LLP  
111 Monument Circle, Suite 2700  
Indianapolis, IN 46204  
Email: bsugarman@boselaw.com  
Email: pzimmerly@boselaw.com  
Email: jschroeder@boselaw.com  
*For Requestor*

Benjamin M. Cohan, Esq.  
Sr. Assistant Regional Counsel  
US EPA Region III (3RC43)  
1650 Arch Street  
Philadelphia, PA 19103  
Email: cohan.benjamin@epa.gov

Erik S. Swenson, Esq.  
United States Environment Protection Agency  
Office of General Counsel  
1200 Pennsylvania Avenue NW

WJC Building North Room: 6204M  
Washington, DC 20460  
Email: [swenson.erik@epa.gov](mailto:swenson.erik@epa.gov)  
*For the Agency*

Dated: December 29, 2021  
Washington, D.C.