

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

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In the Matter of :
 : Hon. Susan L. Biro, Presiding Officer
Caribbean All Metal Recyclers Corp., :
 :
 Respondent. :
 : Docket Number RCRA-02-2016-7103
Proceeding under Section 3008 of the :
Solid Waste Disposal Act, as amended. :
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Motion For Extension Of Time

The May 3rd order of this tribunal modified the March 2nd order such that the parties were required to submit a fully executed consent agreement/final order (CA/FO) by June 9, 2017, and, if they were unable to do so, to begin the prehearing exchange (PHE) process by Complainant filing her initial PHE by June 9th. Complainant now moves for a one-month extension of the deadline in the May 3rd order to allow the parties to file a fully executed CA/FO by July 7th. Respondent's counsel has indicated he does not oppose or object to the relief herein being sought.

The parties have already reached a settlement in principle of this case alleging two counts of violations of the export requirements pertaining to hazardous waste, and this settlement has been memorialized in the draft consent agreement.¹ The settlement is straightforward, *i.e.* it involves a one-time payment of case, with no further substantive actions or independent undertakings Respondent need perform (such as carrying out the terms of a supplemental

¹ The background to this proceeding has been extensively detailed in prior submissions to this Court, for example Complainant's February 7th motion.

environmental project).² The draft has been circulated internally for Regional concurrence with the request that review be expedited, and the draft has also been forwarded for Respondent's review.

The parties, however, will be unable to meet the deadline for effecting settlement established in the Court's most recent order. What remains only is for the concurrence process to run its course, *i.e.* review of the proposed draft settlement agreement to secure formal approval. It should be noted that many of its provisions of the consent agreement parallel the allegations made in the complaint, and many of the settling provisions in the "Agreement On Consent" section reflect longstanding and well-established settlement principles. Based on discussions with Respondent's counsel and with middle-level management at Region 2, the undersigned expects this settlement to be readily accepted and to proceed apace to fruition, especially given that both parties have repeatedly articulated the view that this proceeding should appropriately be resolved through a negotiated settlement and not through an adversarial administrative proceeding. It is anticipated that this settlement should be concluded within the next few weeks, certainly no later than the end of June or, at the latest, the middle of July. Even if the latter occurred, the settlement would still be concluded within less than one year of issuance of the complaint (issuance occurred in late September 2016, Respondent having been served early the next month).

² The consent agreement notes that Respondent is in compliance with applicable requirements governing the export of hazardous waste, a condition with which Respondent must independently comply irrespective of any condition set forth in the consent agreement.

Given these circumstances, Complainant now seeks,³ with the consent of Respondent, a month-long 30-day extension of time in the deadlines set forth in the May 3rd order. Therefore, Complainant respectfully now moves this Court, pursuant to 40 C.F.R. §§ 22.4(c)(2), 22.7(b), 22.16(a) and 22.19(a), for an order:

(a) vacating the settlement/PHE deadlines set forth in such order; and

(b) extending each of those deadlines as follows: (1) the parties must file a fully executed settlement document by July 6, 2017; (2) if the parties fail to do so, Complainant must submit her initial prehearing exchange by July 6, 2017; (3) Respondent then to submit its PHE by July 20, 2017; (4) Complainant to submit any rebuttal PHE by July 27, 2017; and (5) any motion for accelerated decision or dismissal to be filed no later than August 24, 2017.

Complainant submits that good cause exists for this motion to be granted. The circumstances underlying this proceeding justify the parties being given this additional time, especially since both parties support such relief. The relief is sought to allow the parties to complete the formalities of a settlement process that is well underway, and thereby avoid the unnecessary and wasteful expenditure of resources in litigation neither party wishes to pursue. The extension sought herein should not unduly impinge or interfere with this Court's schedule.

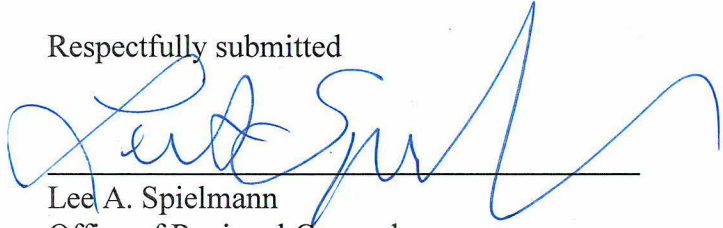
Complainant therefore respectfully requests this Court grant the relief herein sought and that it also grant such other and further relief as it deems just, proper and lawful.⁴

Dated: June 1, 2017
New York, New York

³ The motion is now being served in part because the undersigned was out of the office much of the prior week because of illness.

⁴ In accordance with Agency policy to save resources and Regional policy to limit paper usage, two-sided printing is being used for this document. The undersigned will continue to do so unless the Court directs otherwise.

Respectfully submitted



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In re Caribbean All Metal Recyclers, Corp.
Docket No. RCRA-02-2016-7103

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing “/Motion for Extension of Time,” dated June 1, 2017, in the above-referenced proceeding in the following manner to the respective addressees listed below:

Original and one copy by
UPS Overnight:

Headquarters Hearing Clerk
Office of Administrative Law Judges
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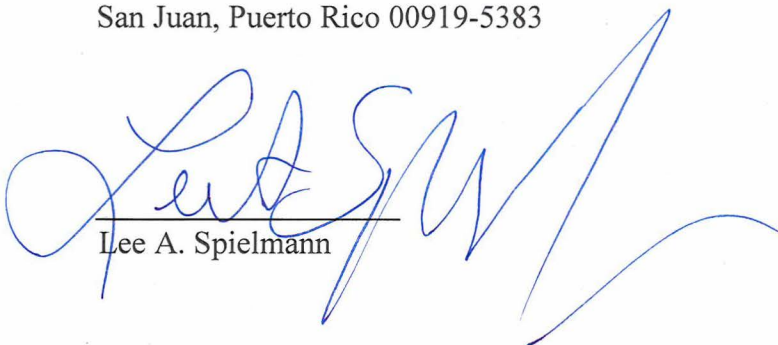
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Dated: June 2, 2017
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