

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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Status Report//Motion For Extensions Of Time

In compliance with the Court's March 2, 2017 order, Complainant submits the following status report. In addition, For the reasons set forth in this status report, Complainant seeks a 30-day (one month) extension of time for the deadlines established in the March 2nd order, and Complainant seeks this relief with the express consent of counsel for Respondent.¹

The background to this proceeding has been set forth in Complainant's February 7th motion. As noted in Complainant's status report of March 2nd, the parties held a settlement conference on February 15th, and subsequent thereto, the parties have exchanged communications (mostly e-mail exchanges) discussing settlement. In addition, as previously reported, Complainant requested information from Respondent, which has been provided and analyzed. Based upon the documentation provided and subsequent communications, the parties have reached a settlement in principle for a sum certain. While the settlement remains tentative (insofar as any settlement agreement in Region 2 remains tentative until formal and final upper management approval has been secured), it has been approved by Region 2 mid-level

¹ E-mail communication from Carlos C3lon Franceschi, April 25, 2017, at 8:27 PM.

management. What remains is for the parties to accept the final language in the settling document.

While the drafting of a consent agreement has begun, a final, executed document will not be ready by the May 8th deadline set in the Court's March 2nd order. Once mid-level management approval has been obtained, a draft will be sent to Respondent's counsel for his review. Given that this is a straightforward cash settlement without any complicating factors such as a supplemental environmental project, and the settlement document follows the format of previously employed and approved settlement documents, which includes the provisions prescribed in 40 C.F.R. § 22.18, once a document has been sent to Respondent for review all that would remain would be for the parties to work out any nuances in the final language; to the undersigned, any potential or foreseeable impediments to a settlement being effected appear minimal. Moreover, that the total amount sought in this case is relatively small (\$30,400), consensus exists that such a matter appropriately merits closure through a negotiated settlement and not through a large investment in time and resources that would necessarily be expended in pursuing resolution through litigation.

Accordingly, Complainant now seeks, with the consent of Respondent, a 30-day extension of time in the deadlines set forth in the March 2nd order for the parties to submit a fully executed settlement document and, failing that, to commence the prehearing exchange process. Therefore, Complainant respectfully 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 deadlines set forth in such order; and
- (b) extending each of those deadlines for 30 days, as follows: (1) the parties must

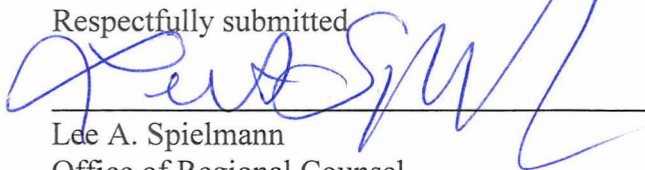
file a fully executed settlement document by June 5, 2017; (2) if the parties fail to do so, Complainant must submit her initial prehearing exchange (PHE) by June 5, 2017; (3) Respondent then to submit its PHE by June 19, 2017; (4) Complainant to submit any rebuttal PHE by June 26, 2017; and (5) any motion for accelerated decision or dismissal to be filed no later than July 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 finalize a settlement to which they have agreed in principle, and it would not be the optimal expenditure of their resources and time if the parties, under these circumstances, were compelled to meet litigation deadlines. While the undersigned recognizes that this tribunal's schedule is likely very tight, nonetheless it does not appear that a 30-day extension is that onerous that it cannot be reasonably accommodated when the parties stand so close to settlement.

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.²

Dated: April 26, 2017
New York, New York

Respectfully submitted



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² 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.

TO: The Honorable Susan L. Biro
Chief Administrative Law Judge
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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 "Status Report/Motion for Extension of Time," dated April 26, 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
U.S. Environmental Protection Agency
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Washington, DC 20004

Copy by UPS Overnight:

Honorable Susan L. Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
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Dated: April 26, 2017
New York, New York



Lee A. Spielmann

