

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:

August Mack Environmental, Inc.,

Requestor.

Docket No. CERCLA-HG-2017-0001

**REQUESTOR’S UNOPPOSED MOTION FOR EXTENSION OF TIME TO
RESPOND TO EPA’S MOTION IN LIMINE, RESPOND TO EPA’S
REQUEST FOR SANCTIONS, AND FOR LEAVE TO FILE A
REPLY IN SUPPORT OF MOTION TO COMPEL**

Pursuant to 40 C.F.R. Part 305, Requestor August Mack Environmental, Inc. (“AME”) files its unopposed motion for extension of time to respond to Environmental Protection Agency’s (“EPA”) motion in limine, respond to EPA’s request for sanctions, and for leave to file a reply in support of AME’s motion to compel discovery, for sanctions, and motion to extend case management deadlines (“motion to compel”). In support of its motion, AME states the following:

1. On January 28, 2022, EPA filed its Motion in Limine to Exclude Evidence and Testimony (“motion in limine”).
2. AME’s deadline to respond to the motion in limine is February 7, 2022, and this time has not expired. *See* 40 C.F.R. § 305.23(b).

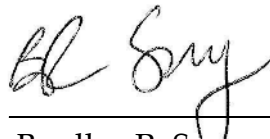
3. AME seeks an extension of time of fourteen (14) days, up to and including February 21, 2022 to file its response to the motion in limine, and EPA does not object to this extension of time.
4. There is good cause to grant this extension of time. EPA seeks to exclude all but one of the 328 exhibits that AME listed on its Prehearing Exchange and Supplemental List of Exhibits and Documents in Response to EPA's Prehearing Exchange. (Mot. in Limine, pp. 3-5.) Further, EPA seeks to exclude the anticipated testimony of all of the witnesses that AME listed on its Prehearing Exchange. (*Id.* at pp. 5-8.) Given the breadth of EPA's motion and significant relief which it requests, there is good cause to provide AME with a 14-day extension of time to prepare and file its response. *See* 40 C.F.R. § 305.6(b).
5. The requested extension of time will not prejudice EPA. EPA does not oppose this extension, and this matter has not been set for hearing. *See* 40 C.F.R. § 305.6(b).
6. EPA also filed its Motion in Opposition to EPA's motion to compel on January 28, 2022.
7. Therein, EPA asked the Tribunal to sanction AME. (EPA Mot. in Opp., p. 31.)
8. The deadline to respond to EPA's Motion in Opposition and request for sanctions is February 7, 2022, and this time has not expired. *See* 40 C.F.R. § 305.23(b).

9. AME seeks an extension of time of fourteen (14) days, up to and including February 21, 2022 to file its response to EPA's Motion in Opposition and request for sanctions, and EPA does not object to this extension of time.
10. There is good cause to grant this extension of time. EPA's Motion in Opposition is 38 pages long, asks the Tribunal to sanction AME, and seeks to deprive AME of the ability to depose EPA's witnesses and employees and secure responses to the written discovery that AME served months ago. Given the breadth and significance of the pending motion, there is good cause to provide AME with a 14-day extension of time to prepare and file its response. *See* 40 C.F.R. § 305.6(b).
11. The requested extension of time will not prejudice EPA. EPA does not oppose this extension, and this matter has not been set for hearing. *See* 40 C.F.R. § 305.6(b).
12. Alternatively, if EPA's Motion in Opposition and request for sanctions is deemed a response, not a motion, then AME requests leave to file a reply in support of motion to compel on or before February 21, 2022. EPA does not oppose AME's motion for leave, and there is good cause and no prejudice in granting this motion for the reasons stated previously.

WHEREFORE, Requestor August Mack Environmental, Inc. moves for an extension of time of 14 days, up to and including February 21, 2022, to file its response to EPA's Motion in Limine and Motion in Opposition to Motion to Compel. Alternatively,

if EPA's Motion in Opposition is deemed a response, AME seeks leave to file a reply in support of motion to compel on or before February 21, 2022.

Respectfully submitted,

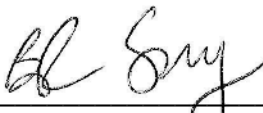


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Certificate of Service

I certify that the foregoing was filed and served on the Chief Administrative Law Judge Biro on February 3, 2022 through the Office of Administrative Law Judge's e-filing system, and that a copy of this document was also served on opposing counsel at the following e-mail addresses: cohan.benjamin@epa.gov and Swenson.erik@epa.gov.



Bradley R. Sugarman

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

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Docket No. CERCLA-HG-2017-0001

**ORDER GRANTING REQUESTOR'S UNOPPOSED MOTION FOR EXTENSION
OF TIME TO RESPOND TO EPA'S MOTION IN LIMINE, RESPOND TO EPA'S
REQUEST FOR SANCTIONS, AND FOR LEAVE TO FILE A
REPLY IN SUPPORT OF MOTION TO COMPEL**

Requestor, August Mack Environmental, Inc. ("AME"), having filed its Unopposed Motion for Extension of Time to Respond to EPA's Motion in Limine, Respond to EPA's Request for Sanctions, and for Leave to File a Reply in Support of Motion to Compel, and the Tribunal, having reviewed the motion and being duly advised, hereby GRANTS Requestor's motion.

EPA shall have up to and including February 21, 2022 to file its response to EPA's Motion in Limine and response/reply to EPA's Motion in Opposition and request for sanctions.

SO ORDERED

Date: _____

Susan L. Biro
Chief Administrative Law Judge

Distribution: All counsel of record.