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BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III
1650 Arch Street
Philadelphia, PA 19103

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ENVIR. APPEALS BOARD

In the Matter of

Smith Farm Enterprises, L.L.C.,

Respondent.

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Docket No.: CWA-032001-0022

**UNCONTESTED MOTION FOR EXTENSION OF TIME TO FILE
RESPONDENT'S APPEAL BRIEF AND ACCOMPANYING REQUEST
BY THE EPA FOR EXTENSION TO FILE ITS BRIEF**

NOW COMES Respondent, Smith Farm Enterprises, L.L.C. ("Respondent"), by counsel, and for its uncontested motion for extension of time to file Respondent's appeal brief and accompanying request by the EPA for extension of time to file its brief, states as follows:

1. Respondent moves for a 90-day extension of time from July 28, 2008 (the date the Respondent's brief is currently due) to and including October 24, 2008 within which to file the Respondent's Appeal Brief.
2. The extension is requested because the factual background of the case is complex and technical and requires consideration of the records of two proceedings. In addition, the legal issues implicated revolve around the *Rapanos* decision which remains a very unsettled area of the law. Respondent believes the additional time will permit full consideration of the issues and will permit settlement discussions to continue.
3. Counsel for the EPA has no objection to the requested extension and furthermore has requested that its brief be due on December 12, 2008.
4. Counsel for Respondent has no objection to the EPA's request for extension.

5. For good cause shown and by agreement of counsel, it is respectfully requested that this Court grant the mutual extensions of time.

WHEREFORE, Respondent, Smith Farm Enterprises, LLC respectfully requests an extension of time within which to file its Appeal Brief to October 24, 2008. It is also respectfully requested that the Complainants' responsive brief be due on December 12, 2008.

SMITH FARM ENTERPRISES, L.L.C.

By Beth V. McMahon
Of Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on this 11 day of July 2008, the foregoing *Uncontested Motion for Extension of Time to File Respondent's Appeal Brief and Accompanying Request by the EPA for Extension to File its Brief* was furnished:

Via Federal Express (the original and five copies):

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

Via Federal Express:

Stefania D. Shamet, Esquire
United States Environmental Protection Agency
Region III
1650 Arch Street
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Via Federal Express:

Ms. Lydia Guy, Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III
1650 Arch Street (3RC00)
Philadelphia, PA 19103


Beth V. McMahon