

# KAUFMAN & CANOLES

— | A Professional Corporation | —  
**Attorneys and Counselors at Law**

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150 West Main Street  
Suite 2100  
Norfolk, VA 23510

March 31, 2009

KC No.: 0058296

## Via Federal Express

U.S. Environmental Protection Agency  
Clerk of the Board, Environmental Appeals Board  
1341 G Street, NW  
Suite 600  
Washington, DC 20005

Re: ***In the Matter of VICO Construction Corporation, Smith Farm Enterprises, LLC***  
**CWA Appeal No.: 08-02; Docket No.: CWA-03-2001-0022**

Dear Sir or Madam:

Enclosed for filing on behalf of the Respondent in the captioned matter are an original and five copies of the following documents:

- a. Uncontested Motion for Extension of Time to File Respondent's Appeal Brief; and
- b. Notice of Appearance.

Please call me if you have questions. Otherwise, thank you for your assistance in this regard.

Very truly yours,



Hunter W. Sims, Jr.

HWS/lsw

Enclosures

cc: Ms. Lydia Guy, Regional Hearing Clerk (*via* Federal Express w/encs.)  
Stefania D. Shamet, Esquire (*via* Federal Express w/encs.)

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**BEFORE THE ENVIRONMENTAL APPEALS BOARD**  
United States Environmental Protection Agency  
Washington, D.C.

08-02-13

ENVIRONMENTAL APPEALS BOARD

In the Matter of	)	
	)	
Smith Farm Enterprises, L.L.C.,	)	CWA Appeal No.: 08-02
Docket No.: CWA-03-2001-0022	)	
Respondent.	)	

**UNCONTESTED MOTION FOR EXTENSION OF TIME TO FILE  
RESPONDENT'S APPEAL 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, states as follows:

1. Respondent moves for a nine (9) day extension of time from April 8, 2009 (the date the Respondent's brief is currently due) to and including April 17, 2009 within which to file the Respondent's Appeal Brief.

2. The extension is requested because the factual background of this 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.

3. The additional nine (9) days requested is occasioned by the workload of Respondent's counsel. Two partners who have had major roles in this case have left the Respondent's law firm to take other positions. One, Beth V. McMahon, now holds a position at the United States District Court in Norfolk, Virginia. When Ms. McMahon left the firm, Mary Jane Hall assumed Ms. McMahon's role in this case. In March of this year, 2009, Ms. Hall was

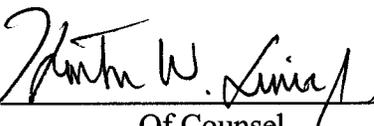
appointed as a Judge of the Norfolk Circuit Court, the Virginia state court of record. At that point, another attorney with Respondent's law firm, Christie L. Murphy, took Ms. Hall's place and will be the attorney primarily responsible for preparing the Appeal Brief. Given the size of the record and the fact that she has not previously worked on the matter, and given the fact that she still has responsibilities for other unrelated matters, one of which has an April 7, 2009 deadline, Ms. Murphy needs the requested nine (9) day extension to April 17, 2009 to have sufficient time to prepare and file the Respondent's Appeal Brief.

4. The EPA does not object to the requested extension and does not request any additional time to file its Reply Brief, which is due on June 2, 2009. Therefore, if the Respondent's requested extension is granted, the Board's consideration of this matter will not be delayed.

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

WHEREFORE, Respondent, Smith Farm Enterprises, LLC respectfully requests an extension of time within which to file its Appeal Brief to April 17, 2009.

**SMITH FARM ENTERPRISES, L.L.C.**

By   
Of Counsel

Hunter W. Sims, Jr., Esquire  
Marina Liacouras Philips, Esquire  
Christie L. Murphy, Esquire  
Kaufman & Canoles, P.C.  
150 West Main Street, Suite 2100  
Norfolk, VA 23510  
Phone: 757-624-3000  
Fax: 757-624-3169

**CERTIFICATE OF SERVICE**

I hereby certify that on this 31<sup>st</sup> day of March 2009, the foregoing *Uncontested Motion for Extension of Time to File Respondent's Appeal 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  
Philadelphia, PA 19103-2029  
Fax: (215) 814-2603

Via Federal Express:

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

  
\_\_\_\_\_  
Hunter W. Sims, Jr.

# KAUFMAN & CANOLES

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**Attorneys and Counselors at Law**

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March 31, 2009

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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

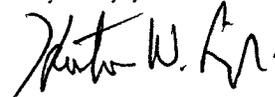
Re: ***In the Matter of Smith Farm Enterprises, LLC***  
Docket No.: CWA-03-2001-0022

Dear Ms. Guy:

Enclosed are an original and one copy of a Notice of Appearance which I ask you to file on behalf of the Respondent in the captioned case.

Please call me if you have any questions. Otherwise, thank you for your assistance in this regard.

Very truly yours,



Hunter W. Sims, Jr.

HWS/lsw

Enclosure

cc: Clerk of the Board, Environmental Appeals Board (*via* Federal Express w/enc.)  
Honorable William B. Moran (*via* Federal Express w/enc.)  
Stefania D. Shamet, Esquire (*via* Federal Express w/enc.)

1460954

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**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

Region III  
1650 Arch Street  
Philadelphia, PA 19103

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2001 APR -1 10 10  
2001 APPEALS BOARD

In the Matter of )  
 ) Docket No.: CWA-03-2001-0022  
Smith Farm Enterprises, L.L.C., )  
 )  
Respondent. )

**NOTICE OF APPEARANCE**

PLEASE TAKE NOTICE that Christie L. Murphy, an attorney with Kaufman & Canoles, P.C., will appear as one of the attorneys for Respondents, Smith Farm Enterprises, LLC (the "Respondent") and furthermore, that Mary Jane Hall, who has appeared in this matter on behalf of the Respondent, has retired from Kaufman & Canoles, P.C. and will no longer serve as co-counsel of record.

Respectfully submitted,

**SMITH FARM ENTERPRISES, LLC**

By  \_\_\_\_\_  
Hunter W. Sims, Jr.

Hunter W. Sims, Jr., Esquire (VSB # 09218)  
Marina Liacouras Phillips, Esquire (VSB # 39944)  
Christie L. Murphy, Esquire (VSB # 73253)  
Kaufman & Canoles, P.C.  
150 West Main Street, Suite 2100  
Norfolk, Virginia 23510  
Phone: (757) 624-3000  
Fax: (757) 624-3169

**CERTIFICATE OF SERVICE**

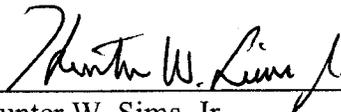
I hereby certify that on this 31<sup>st</sup> day of March 2009, a true and correct copy of the foregoing *Notice of Appearance* was served:

Via Federal Express to:  
Honorable William B. Moran  
U.S. Environmental Protection Agency  
Office of the Administrative Law Judges  
Franklin Court, Suite 350  
1099 14<sup>th</sup> Street, N.W.  
Washington, DC 20005

Via Federal Express to:  
Stefania D. Shamet  
United States Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
Fax: (215) 814-2603

Original and One Copy via Federal Express to:  
Ms. Lydia Guy, Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region III  
1650 Arch Street (3RC00)  
Philadelphia, PA 19103

One Courtesy Copy via Federal Express to:  
U.S. Environmental Protection Agency  
Clerk of the Board, Environmental Appeals Board  
1341 G Street, NW, Sixth Floor  
Washington, DC 20005  
Fax: (202) 233-0121

  
\_\_\_\_\_  
Hunter W. Sims, Jr.