

**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

In re: )  
)  
)  
Gene A. Wilson )  
)  
)  
Docket No. SDWA 04-2005-1016 )

SDWA Appeal No. 08-09

HEARING CLERK

2009 JAN 23 PM 3:54

ENVIRONMENTAL APPEALS BOARD

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**MOTION FOR LEAVE TO FILE BRIEF OUT OF TIME**

Comes the Respondent, Gene A. Wilson, and states the following:

1. On December 9, 2008, EAB granted Respondent an additional fifteen (15) days to file his Brief on or before January 15, 2009.
2. The Order granting additional time to file Appeal Brief was sent certified mail from Washington, DC on December 9, 2008 and received by Respondent two (2) days later on December 11, 2008.
3. Respondent mailed his nineteen (19) page Appeal Brief by Certified Mail on January 8, 2009 to EAB; however, checking on Thursday, January 15, 2009, it was noted the Brief was not posted on the EAB's web page.
4. On Monday, January 19, 2009, by United States Postal Service, Tracking & Confirmation, the Brief was received on January 18, 2009, (ten (10) days after mailing) by the Washington, D.C. Post Office. See attached tracking record marked Exhibit "A".
5. The Brief was also mailed on January 8, 2009, to the Regional Hearing Clerk, in Atlanta, Georgia with copies going to the Presiding Officer, Hon. Susan B. Schub and

EPA's two (2) attorneys of record Zylpha Pryor, Esq. and Paul Schwartz, Esq. Mr. Schwartz advised today his copy of the Brief was received on January 13, 2009. Further, Mr. Schwartz stated that there is no objection to granting Respondent additional time to file Brief since it was clear that it was timely mailed on January 8, 2009.

6. It appears the Pre-Inaugural activities in Washington affected mail deliveries with some gentleman answering the Hearing Clerk's telephone in Washington, D.C. today with "hello" and advised all offices were closed today (Inauguration Day).

WHEREFORE it is prayed the EAB grant an additional six (6) days extension for filing Respondent's Appeal Brief with EAB since it is currently at the Washington, D.C. Post Office, and for any and all other relief Respondent may be entitled.

Respectfully Submitted



Gene A. Wilson  
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**CERTIFICATE OF FILING AND SERVICE**

The undersigned does hereby certify that the Original of this Motion For Leave To File Brief Out Of Time was faxed and mailed for filing, Express Mail, to the U.S. Environmental Protection Agency, Clerk of the Board, Environmental Appeals Board, 1341 G Street, N.W., Suite 600, Washington, D.C. 20005; and that a copy was served by U.S. First Class Mail on (1) Ms. Patricia A. Bullock, Regional Hearing Clerk, U.S. EPA, Region 4, 61 Forsyth Street, S.W., Atlanta, GA 30303-8960; (2) USEPA Presiding Officer Susan B. Schub, Regional Judicial Officer, U.S. EPA, Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303-8960; (3) Counsel Ms. Zylpha Pryor, Associate Regional Counsel, U.S. EPA, Region 4, 61 Forsyth Street, S.W., Atlanta, GA 30303-8960; (4) Counsel Mr. Paul Schwartz, Associate Regional Counsel, U.S. EPA, Region 4, 61 Forsyth Street, S.W., Atlanta, GA 30303-8960; and (5) Mr.

Nicholas N. Owens, National Ombudsman, U.S. Small Business Administration, 409 3<sup>rd</sup> Street, SW, MC 2120, Washington, DC 20416-0005, on this 20th, day of January, 2009.

Dated: January 20, 2009



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