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2011 NOV -1 P 400:23
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October 28, 2011

Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

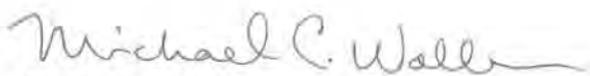
**RE: EPA v. Gowan Construction, Inc. and NDDOT
Administrative Complaint and Notice of Opportunity for a Hearing
Docket #: CWA-08-2011-0039
Our File #: 70-453-008**

Dear Clerk:

Enclosed for filing is the Joint Motion for Extension of Time for Respondent to File Answer.

Please let me know if you have any questions or concerns. Thank you.

Sincerely,


Michael C. Waller

MCW/ss

Enc.

cc: Sheldon Muller (w/ enc.)
DeWayne Johnston (w/ enc.)

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)	JOINT MOTION FOR EXTENSION
)	OF TIME FOR RESPONDENT
Gowan Construction, Inc.)	TO FILE ANSWER
P.O. Box 228)	
Oslo, MN 56744)	Proceedings to Assess a Civil Penalty
and)	Under Section 309(g)
North Dakota Dept. of Transportation)	of the Clean Water Act.
608 E. Boulevard Ave.)	33 U.S.C. § 1319(g)
Bismarck, ND 58505)	
)	Docket No. CWA-08-2011-0039
Respondents.)	

The Respondents, Gowan Construction, Inc. and North Dakota Department of Transportation, by and through their respective attorneys, jointly move the Presiding Officer to grant the Respondents an extension of time to the 30-day period provided by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. § 22.15(a), to file their answers. As grounds therefore, the movants assert the following:

GROUNDS FOR MOTION

I. This motion is made pursuant to 40 C.F.R. § 22.7(b) and 40 C.F.R. § 22.16 of the Consolidated Rules. Pursuant to 40 C.F.R. § 22.16, a motion must be in writing, state the grounds for the motion with particularity, set forth the relief sought, and be accompanied by any affidavit, certificate, other evidence or legal memorandum relied upon. Pursuant to 40 C.F.R. § 22.7(b), the Presiding Officer may grant an extension of time for filing any document upon timely motion of a party to the proceeding, for good cause shown, and after consideration of

prejudice to other parties, or upon its own initiative. Any motion for an extension of time must be filed sufficiently in advance of the due date so as to allow other parties reasonable opportunity to respond and to allow the Presiding Officer reasonable opportunity to issue an order. 40 C.F.R. § 22.7(b).

2. The complaint in this matter was filed on September 30, 2011, and was separately received by each Respondent on October 3, 2011. Pursuant to the Consolidated Rules, Respondents have until November 2, 2011, to file their answers.

3. Due to prior commitments and the press of other matters, Respondents have only recently been able to discuss the matters alleged in the Complaint and evaluate the reasonable likelihood of an amicable resolution prior to hearing.

4. Respondents have discussed the possibility of reaching an amicable settlement of the issues contained in the Complaint and believe a resolution will be achieved prior to hearing.

5. Respondents have consulted with counsel for Complainant and he has advised that Complainant does not object to the motion for a 30-day extension.

6. Respondents' request for an extension of time is made in good faith and not for the purpose of delay. The extension will afford the parties a reasonable opportunity to resolve the matter prior to hearing.

Accordingly, Respondents respectfully request that the deadline for Respondents to file their answers be extended to December 2, 2011.

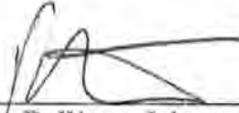
GOWAN CONSTRUCTION, INC.

Respondent.

Date:

October 28, 2011

By:



DeWayne Johnston (ND ID# 05763)
Attorneys for Gowan Construction, Inc.
Johnston Law Office
221 S. 4th Street
Grand Forks, ND 58201
Phone: (701) 775-0082

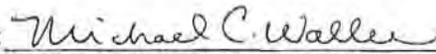
NORTH DAKOTA DEPARTMENT
OF TRANSPORTATION

Respondent.

Date:

October 28, 2011

By:



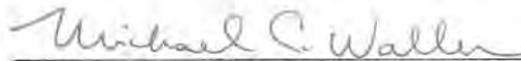
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was on the 28th day of October, 2011, mailed and emailed to the following:

Sheldon H. Muller
Senior Enforcement Attorney
U.S. EPA, Region 8
1595 Wynkoop St.
Denver, CO 80202-1129

DeWayne Johnston
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