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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

FILED  
EPA REGION VIII  
HEARING CLERK

IN THE MATTER OF: ) Docket No. CWA-08-2009-0035  
)  
Avista Utilities, Inc. ) **JOINT MOTION TO EXTEND**  
1411 East Mission ) **ALTERNATIVE DISPUTE RESOLUTION**  
Spokane, WA 99202-3727, )  
)  
(Noxon Rapids Hydroelectric )  
Development Facility )  
Sanders, County, Montana, )  
)  
Respondent. )

Avista Utilities, Inc., and the Environmental Protection Agency, by and through their undersigned counsel, hereby move for an Order granting the parties an extension of time to participate in the Alternative Dispute Resolution process initiated by the Honorable Susan L. Biro, Chief Administrative Law Judge, pursuant to her Order Initiating Alternative Dispute Resolution Process and Appointing Neutral (ADR Order) dated November 10, 2009.

As grounds for this Motion, the parties state the following:

1. The ADR Order provides that "the ADR process shall automatically terminate on January 11, 2010, unless terminated earlier at the request of either party. An extension of up to 60 days may be granted by the Chief ALJ upon request of the ADR neutral, but in no event shall ADR continue for longer than 4 months."

2. The parties have acted in good faith to initiate ADR in this matter. Specifically, beginning on November 13, 2009, and on November 18<sup>th</sup>, December 7<sup>th</sup>, and

December 8<sup>th</sup> thereafter, the parties provided their collective availability for an ADR teleconference.

3. Despite the parties' efforts and for reasons beyond their control, the initial ADR teleconference was not scheduled until December 16, 2009.

4. While they continue to discuss potential settlement informally, the parties would like to reserve the use of ADR to facilitate resolution of this matter.

5. The parties therefore jointly seek to extend the ADR process in this matter for an additional 60 days to and including March 12, 2010, as permitted by the ADR Order and 40 C.F.R. § 22.18. Subject to the Order of the Chief ALJ and unless a fully-executed Consent Agreement is filed, the parties will submit a joint settlement report to the assigned ADR neutral, Spencer T. Nissen, on or before February 10, 2010. The purpose of the joint settlement report shall be to provide an update regarding the parties' voluntary settlement efforts in sufficient time as to allow Judge Nissen to facilitate further settlement discussions prior to the revised ADR termination date of March 12, 2010.

6. This Motion is timely filed, as the current termination date for ADR is scheduled for January 11, 2010.

7. This extension will not conflict with any scheduling or other order of the assigned ADR neutral or Court.

WHEREFORE, Avista Utilities, Inc., and the Environmental Protection Agency respectfully request that the Court enter an Order granting the Joint Motion to Extend Alternative Dispute Resolution, up to and including March 12, 2010.

Dated December 18, 2009.

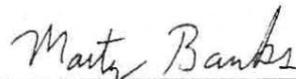
U.S. EPA REGION 8,  
COMPLAINANT,



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AVISTA UTILITIES, INC.,  
RESPONDENT,



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Telephone: (801) 578-6975

### CERTIFICATE OF SERVICE

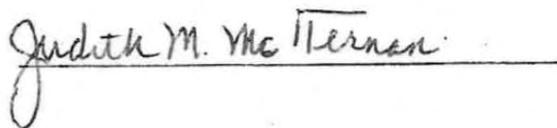
The undersigned hereby certifies that on December 21, 2009, the original and one copy of the **JOINT MOTION TO EXTEND ALTERNATIVE DISPUTE RESOLUTION** was hand-carried to Tina Artemis, Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, CO, and that a true copy of the same was sent to the following:

Via Pouch Mail:

The Honorable Spencer T. Nissen, Administrative Law Judge  
Office of the Administrative Law Judge  
999 18th Street, Suite 200  
Denver, CO 80202

Via Electronic and Regular Mail:

Martin K. Banks, Esquire  
Stoel, Rives LLP  
201 S. Main Street, Suite 1100  
Salt Lake City, UT 84111

  
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