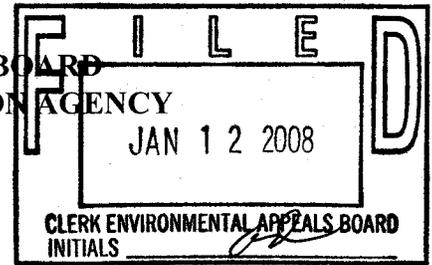


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re: _____)
)
Smith Farm Enterprises, LLC)
)
)
Docket No. CWA-03-2001-0022)
_____)

CWA Appeal No. 08-02

ORDER GRANTING THIRD EXTENSION OF TIME

On July 14, 2008, Smith Farm Enterprises, LLC (“Smith Farm”) filed a notice of appeal from the decision upon remand and supplemental decision issued by Administrative Law Judge William B. Moran. At that time, Smith Farm also filed a motion requesting an extension of time to file its appellate brief and an extension of time for U.S. EPA Region 3 (the “Region”) to file a its reply brief in response to Smith Farm’s appellate brief. By order dated July 24, 2008, the Board granted the requested extensions of time, setting October 24, 2008, as the deadline for Smith Farm’s brief and December 12, 2008, as the deadline for the Region’s reply brief. The parties subsequently requested a second extension of these filing deadlines, which the Board granted by order dated October 2, 2008. That order set January 23, 2009, as the due date for Smith Farm’s brief and March 6, 2009, as the deadline for the Region’s reply brief.

Before the Board at this time is the joint motion (filed on January 7, 2009) of both Smith Farm and the Region requesting a third extension of time to file their briefs. The joint motion states that the parties have “held numerous settlement discussions and exchanged offers and

counter-offers.” They state that while they have made significant progress, the Parties have not yet achieved an agreement-in-principle. They state further that they have tentatively scheduled a “final” settlement meeting for January 30, 2009. To facilitate these further settlement discussions, the parties request an additional extension of time to file their briefs until March 6, 2009, for Smith Farm and April 10, 2009, for the Region.

Upon consideration, the parties’ joint motion is hereby granted. Smith Farm shall file its brief in support of its notice of appeal on or before Friday, March 6, 2009, and the Region shall file its brief responding to Smith Farm’s appeal on or before Friday, April 10, 2009. In addition, on or before Friday, February 6, 2009, the parties shall file a joint report regarding the status of this appeal, which shall include a detailed summary of the issues resolved, remaining issues, and projected time necessary for any further settlement discussions.¹

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: Jan. 12, 2009

By: Charles J. Sheehan
Charles J. Sheehan
Environmental Appeals Judge

¹ After receiving the status report, the Board may choose to set a conference call with the parties to better assess the status of the case.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Granting Third Extension of Time in the matter of Smith Farm Enterprises, LLC, CWA Appeal No. 08-02, were sent to the following persons in the manner indicated:

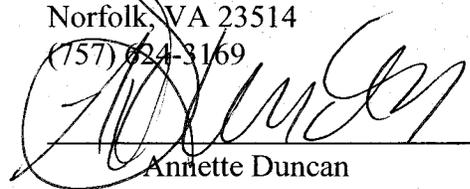
By Facsimile and Pouch Mail:

Stefania D. Shamet
U.S. EPA, Region 3
Office of Regional Counsel
1650 Arch Street
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Kaufman & Canoles
150 West Main Street
Suite 2100
Norfolk, VA 23514
(757) 624-3169

Dated: JAN 12 2009



Annette Duncan
Secretary