

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

In re: _____)	
Smith Farm Enterprises, L.L.C.,)	CWA Appeal No. 08-02
Docket No. CWA-03-2001-0022)	
_____)	

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JOINT MOTION FOR EXTENSION OF TIME

The Parties hereby jointly move for a third extension of time to file their appeal briefs in this matter. In support of this Motion, the Parties state:

1. The Initial Decision in this matter was served June 27, 2008.
2. On September 30, 2008, the Parties filed a joint motion seeking a second extension of time. In that motion, the Parties represented:

"During the past several months the Parties have engaged in the most serious and productive settlement discussions of the very long (since 1999) history of this matter. The settlement discussions are complex. The settlement discussions also require participation by senior Regional management, U.S. Environmental Protection Agency headquarters staff and the U.S. Army Corps of Engineers Norfolk District."

3. A second extension of time was granted on October 2, 2008. The Respondent/Appellant's brief is currently due January 23, 2009, and Region III's brief is due March 6, 2009.

4. The Parties have held numerous settlement discussions and exchanged offers and counter-offers. Region III has coordinated with EPA Headquarters, the Department of Justice, and the U.S. Army Corps of Engineers Norfolk District. Unfortunately, while the Parties have made significant progress, the Parties have not yet achieved an

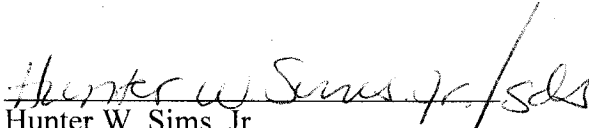
agreement-in-principle to which all parties (including all relevant Federal agencies) agree.

5. The Parties continue to believe that it is in the best interest of both Parties and in the public interest to resolve this matter without further litigation. To that end, the Parties have tentatively scheduled a final settlement meeting. Attendees include representatives of both Parties and the U.S. Army Corps of Engineers, Norfolk District. Unfortunately, due to various travel commitments by necessary meeting attendees, including the representative of Respondent/Appellant, the meeting is scheduled for January 30, 2008.

6. Further briefing will cause Respondent/Appellant to incur significant expense because the attorney who had primary responsibility for drafting the brief has departed Respondent/Appellant's firm, and a new attorney will have to learn the extensive record, which comprises two hearings and hundreds of exhibits.

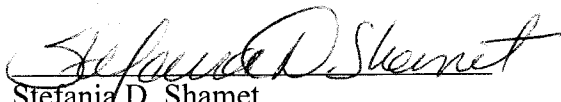
Accordingly, to allow the Parties to make one final effort to resolve this matter without further litigation and for good cause shown, the Parties respectfully request a third extension of time to file their briefs. The Parties respectfully request until March 6, 2009 for Respondent/Appellant's brief and April 10, 2009 for Region III's brief.

Respectfully submitted,


Hunter W. Sims, Jr.
Kaufman & Canoles, PC

Counsel for Respondent/Appellant

Date: 1/6/08


Stefania D. Shamet
Senior Assistant Regional Counsel

Counsel for Complainants

Date: 1/6/08

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused the foregoing Joint Motion for Extension of Time to File Appeal and Reply Briefs in the Matter of Smith Farm Enterprises, LLC, CWA Appeal No. 08-02 to be served in the following manner:

BY Facsimile and First Class Mail:

Hunter W. Sims
Kaufman & Canoles
150 West Main Street
Suite 2100
Norfolk, VA 23514


BY HAND DELIVERY:

Lydia Guy, Regional Hearing Clerk
EPA Region III (3RC00)
1650 Arch Street
Philadelphia, PA 19103

Original and Five Copies by Federal Express:

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board
Colorado Building
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

1/6/08
Date


Stefania D. Shamet