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January 15, 2008

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202-233-0121

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

Re: **Robert J. and Andrew Heser / Appeal No. CWA 07-(03)**

Dear Clerk:

Enclosed please find an original and five copies of Response to Motion for Extension of Time in the above case filed by Robert J. Heser and Andrew Heser in the above matter.

Please file the original document and return a file-stamped copy to me in the enclosed stamped, self-addressed envelope. If you have any questions, please give me a call.

Very truly yours,

Charles J. Northrup

CJN:blf

Enclosures

cc: Sonya Brooks-Woodard, U.S. EPA, Chicago, IL, via Fed Ex
Honorable William B. Moran, U.S. EPA
Thomas J. Martin, US EPA, Senior Attorney

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

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ENVIR. APPEALS BOARD

In re:

Robert J. Heser and Andrew Heser

Docket No. CWA 05-2006-0002

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Appeal No. CWA 07-(03)

OBJECTION AND RESPONSE TO MOTION FOR EXTENSION OF TIME

NOW COMES Robert J. Heser and Andrew Heser by Bradley W. Small, of Mathis, Marifian, Richter and Grandy, Ltd., and Charles J. Northrup of Sorling, Northrup, Hanna, Cullen & Cochran, Ltd., their attorneys, and in RESPONSE to the Motion for Extension of Time as filed by Region 5 of the Environmental Protection Agency (hereinafter referred to as EPA, do state as follows:

1. On December 19, 2007, the Presiding Officer filed his initial decision in the above captioned matter concerning the applicability of the Statute of Limitations. Both the EPA as well as the Hesers filed briefs concerning the same with the Presiding Officer.

2. From December 19, 2007 to present, the EPA knew or should have known, that it had 30 days in which to file its Notice of Appeal and brief.

3. The factual and legal issues concerning the State of Limitations argument have not changed since the filing of the initial briefs with the Presiding Officer.

4. EPA requests an additional 45 days as it has a "need for coordination between various offices within EPA and the Corps".

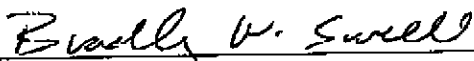
5. The U.S. Army Corps of Engineers ("Corps") are not a party to this action.
6. There is no just reason to grant EPA's request for additional time merely because

EPA would like more time to draft its brief.

7. Thirty days, as provided by regulation, is sufficient time for EPA to "coordinate between various offices within EPA" and to draft a brief, as EPA has previously submitted a brief on the same issues to the Presiding Officer.

WHEREFORE, Respondents respectfully request that this Board deny U.S. EPA's Motion for Extension of Time.

Respectfully submitted this 15th day of January, 2008.


BRADLEY W. SMALL *by CA*


CHARLES J. NORTHRUP

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Andrew Heser

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Response to Motion for Extension of Time in the matter of Robert J. Hesel and Andrew Hesel, Appeal No. CWA 07-(03), were sent to the following persons in the manner indicated:

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First Class Mail: Honorable Williams B. Moran
Administrative Law Judge
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Mail Code 1900 L
Washington, D.C. 20460

Dated this 15th day of January, 2008

