



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

RECEIVED
U.S. EPA
2008 NOV -4 PM 4:01
ENVIR. APPEALS BOARD

REPLY TO THE ATTENTION OF:

FAX REQUEST

THIS FACSIMILE IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND/OR EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW.

TO: Eurika Durr, Clerk of the Board, U.S. EPA

FAX NUMBER: (202) 233-0121

TELEPHONE NUMBER: (202) 233-0122

FROM: Cynthia N. Kawakami, Associate Regional Counsel

TELEPHONE NUMBER: (312) 886-0564

DATE: 11-4-08

NUMBER OF PAGES
(INCLUDING THIS ONE) 7



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

RECEIVED
U.S. EPA
2008 NOV -4 PM 10:00
ENV. APPEALS BOARD

REPLY TO THE ATTENTION OF.

November 4, 2008

C-14J

Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
Colorado Building
1341 G Street, N.W., Suite 600
Washington, D.C. 20005
Facsimile Number: (202) 233-0121.

VIA FACSIMILE at: (202) 203-0121

In Re: Rocky Well Service, Inc. & E. J. Klockenkemper; SDWA Appeal Nos. 08-02 & 08-03

Dear Ms. Durr:

Attached, please find Appellee's Motion for an Extension of Time To File Its Responses to Respondents'/Appellants' appeal briefs in the above-mentioned matter, for filing with the Environmental Appeals Board.

Sincerely,

Cynthia N. Kawakami
Associate Regional Counsel
U.S. Environmental Protection Agency
Region 5
77 West Jackson Blvd. (C-14J)
Chicago, IL 60604-3590
Telephone No.: (312) 886-0564
Facsimile No.: (312) 886-0747

Enclosures

cc: Felipe Gomez, Esq.
Richard Day, Esq.

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

In Re:)

Rocky Well Service, Inc. &)
E. J. Klockenkemper)

Docket No. SDWA-05-2001-002)

SDWA Appeal Nos. 08-02 & 08-03

**APPELLEE'S UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE ITS
RESPONSES TO APPELLANTS'/RESPONDENTS' APPEAL BRIEFS**

Pursuant to 40 C.F.R. §§ 22.16(b) and 22.30(e) of 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*" or "*CROP*"), the United States Environmental Protection Agency, Region 5 ("Appellee/Complainant"), files the instant Appellee's Motion for an Extension of Time to File Its Responses to Respondents'/Appellants', E. J. Klockenkemper's and Respondent/Appellant's, Rocky Well Service, Inc.'s appeal briefs.

On or about October 31, 2008, Appellant/Respondent Klockenkemper filed his 221-page appellate brief, ("*Appellant Klockenkemper's Brief*"), after having been granted two separate extensions of time by the Environmental Appeals Board ("*EAB*" or "*the Board*"). On or about October 30, 2008, Appellant/Respondent Rocky Well Service, Inc. submitted for filing its 5-page appellate brief, ("*Appellant Rocky Well's Brief*"), pursuant to the two extensions of time granted it by the EAB.

On November 4, 2008, Appellee's counsel, Mary McAuliffe indicated to the undersigned

ENVIRONMENTAL APPEALS BOARD

NOV 11 10 10 AM '08

RECEIVED
EAB

that she had spoken on the telephone with Felipe Gomez, Esq., counsel for Appellant/ Respondent Klockenkemper, on that day. According to Ms. McAuliffe, Mr. Gomez indicated to her in the telephone conversation that he had previously spoken with Richard Day, Esq., counsel for Appellant/Respondent Rocky Well, regarding additional time for Appellee/Complainant to respond to their briefs, and that Appellants/Respondents agreed that they had no objection to a motion by Appellant/Complainant seeking a 60-day extension of time to respond to their appeal briefs.

Given the sheer volume of Appellant/Respondent Klockenkemper's brief, Appellee/Complainant will require more than the twenty days allowed under the CROP, 40 C.F.R. § 22.30(a)(2), to respond, and a 60-day extension would allow Appellee/Complainant sufficient time to evaluate and address the issues raised by Appellant/Respondent. In addition, because Appellee/Complainant will need to devote a substantial amount of time and effort to respond to Appellant/Respondent Klockenkemper's brief, it anticipates that it will need more than the twenty days provided for the CROP to address the issues in Appellant/Respondent Rocky Well's brief. A 60-day extension of time will provide Appellee/Complainant with the time to properly respond to the issues raised by Appellant/Respondent Rocky Well in its brief. Lastly, because of the number of holidays that occur during November, December and January, and the personal commitments of Appellee's/Complainant's counsel and its management during this holiday period, a 60-day extension of time would not be unreasonable under the circumstances.

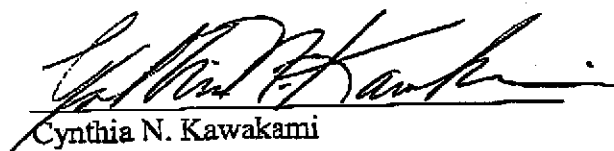
For the reasons set forth above, Appellee/Complainant respectfully requests that the EAB grant its motion for an additional 60 days to file its response briefs to Appellant's/Respondent's

Klockenkemper's and Appellant's/Respondent's Rocky Well's appeal briefs, and issue an order setting a new deadline for the filing of Appellee's/Complainant's response briefs.¹

Respectfully Submitted,

Date:

November 4, 2008



Cynthia N. Kawakami
Associate Regional Counsel
U.S. Environmental Protection Agency - Region 5
77 West Jackson Blvd. (C-14J)
Chicago, IL 60604-3590
Phone No.: (312) 886-0564
Fax No.: (312) 886-0747
E-mail address: kawakami.cynthia@epa.gov

¹Under the CROP, 40 C.F.R. § 22.30(a)(2), Appellee's/Complainant's response brief is presently due on November 20, 2008. If the EAB grants the instant motion for a 60-day extension of time, Appellee/Complainant calculates the revised due date for its response briefs at January 19, 2009. Because January 19, 2009 is Martin Luther King, Jr.'s birthday, a federal holiday, the last day that the response briefs could be filed would be January 20, 2009.

**In Re: Rocky Well Service, Inc. &
E. J. Klockenkemper
SDWA Appeal Nos. 08-02& 08-03**

CERTIFICATE OF SERVICE

I certify that, on the date below, I caused to be filed by facsimile, *Appellee's Unopposed Motion for an Extension to File Its Responses to Appellants'/Respondents' Appeal Briefs*, along with this Certificate of Service, with the U.S. Environmental Protection Agency, Clerk of the Board, Environmental Appeals Board at fax number: (202) 233-0121. I further certify that, on the date below, I caused to be delivered by depositing into the U.S. Mail, First Class, postage prepaid, the original and five copies of *Appellee's Unopposed Motion for an Extension to File Its Responses to Appellants'/Respondents' Appeal Briefs*, along with this Certificate of Service, to the person as follows:

U.S. Environmental Protection Agency
Clerk of the Board
Environmental Appeals Board (1103B)
Colorado Building
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

I further certify that, on the date below, I hand-delivered a copy of *Appellee's Unopposed Motion for an Extension to File Its Responses to Appellants'/Respondents' Appeal Briefs*, along with this Certificate of Service, to the persons as follows:

Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 5
77 West Jackson Blvd. - 13th Floor
Chicago, IL 60604-3590

I further certify that, on the date below, I caused to be delivered by facsimile, and by depositing into the United States Mail, First Class, postage prepaid, a copy of *Appellee's Unopposed Motion*


**In Re: Rocky Well Service, Inc. &
E. J. Klockenkemper
SDWA Appeal Nos. 08-02& 08-03**

for an Extension to File Its Responses to Appellants'/Respondents' Appeal Briefs, along with this Certificate of Service, to each of the persons as follows:

Richard J. Day, P.C.
Attorney at Law
413 North Main Street
St. Elmo, Illinois 62458
Facsimile No.: (618) 829-3340

Felipe N. Gomez, Esq.
Law Offices of Felipe N. Gomez
P.O. Box 220550
Chicago, IL 60622
Facsimile No.: (773) 278-6226

Dated: November 4, 2008



Cynthia N. Kawakami
Associate Regional Counsel
U.S. Environmental Protection Agency - Region 5
77 West Jackson Blvd. (C-14J)
Chicago, IL 60604-3590
Phone No.: (312) 886-0564
Fax No.: (312) 886-0747
E-mail address: kawakami.cynthia@epa.gov