

# KAUFMAN & CANOLES

— | A Professional Corporation | —  
Attorneys and Counselors at Law

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Norfolk, VA 23514

150 West Main Street  
Suite 2100  
Norfolk, VA 23510

September 29, 2008

## Via Federal Express

Ms. Lydia Guy, Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region III  
1650 Arch Street (3RC00)  
Philadelphia, PA 19103

KC No. 0058659  
RECEIVED  
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OCT 2 11  
2008  
ENVIR. APPEALS BOARD

Re: ***In the Matter of VICO Construction Corporation and Amelia Venture Properties, LLC***  
**CWA Appeal No.: 05-01; Docket No.: CWA-03-2001-0021**

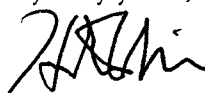
Dear Ms. Guy:

Enclosed are an original and one copy of the following which I ask you to file on behalf of the Respondents in the captioned case:

- a. Notice of Appearance;
- b. Notice of Appeal; and
- c. Uncontested Motion for Extension of Time to File Respondents' Appeal Brief and Accompanying Request by the EPA for Extension to File its Brief.

Please call me if you have any questions. Otherwise, thank you for your assistance in this regard.

Very truly yours,



Hunter W. Sims, Jr.

HWS/lsw  
Enclosures

cc: Clerk of the Board, Environmental Appeals Board (*via* Federal Express w/encs.)  
Honorable William B. Moran (*via* Federal Express w/encs.)  
Stefania D. Shamet, Esquire (*via* Federal Express w/encs.)

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Chesapeake

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**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

Region III  
1650 Arch Street  
Philadelphia, PA 19103

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ENVIR. APPEALS BOARD

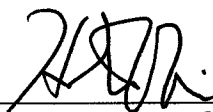
In the Matter of	)	
	)	Docket No.: CWA-03-2001-0021
VICO Construction Corporation and	)	
Amelia Venture Properties, LLC,	)	
	)	
Respondents.	)	

**NOTICE OF APPEARANCE**

PLEASE TAKE NOTICE that Mary Jane Hall, an attorney with Kaufman & Canoles, P.C., will appear as one of the attorneys for Respondents, Amelia Venture Properties, LLC and VICO Construction Corporation (the "Respondents") and furthermore, that Beth V. McMahon, who has appeared in this matter on behalf of the Respondents, has retired from Kaufman & Canoles, P.C. and will no longer serve as co-counsel of record.

Respectfully submitted,

**VICO CONSTRUCTION CORPORATION and  
AMELIA VENTURE PROPERTIES, LLC**

By  \_\_\_\_\_  
Hunter W. Sims, Jr.

Hunter W. Sims, Jr., Esquire (VSB # 09218)  
Marina Liacouras Phillips, Esquire (VSB # 39944)  
Mary Jane Hall, Esquire (VSB # 26509)  
Kaufman & Canoles, P.C.  
150 West Main Street, Suite 2100  
Norfolk, Virginia 23510  
Phone: (757) 624-3000  
Fax: (757) 624-3169

**CERTIFICATE OF SERVICE**

I hereby certify that on this 29<sup>th</sup> day of September 2008, a true and correct copy of the foregoing *Notice of Appearance* was served:

Via Federal Express to:

Honorable William B. Moran  
U.S. Environmental Protection Agency  
Office of the Administrative Law Judges  
Franklin Court, Suite 350  
1099 14<sup>th</sup> Street, N.W.  
Washington, DC 20005

Via Federal Express to:

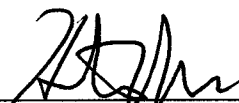
Stefania D. Shamet  
United States Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
Fax: (215) 814-2603

Original and One Copy via Federal Express to:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region III  
1650 Arch Street (3RC00)  
Philadelphia, PA 19103

One Courtesy Copy via Federal Express to:

U.S. Environmental Protection Agency  
Clerk of the Board, Environmental Appeals Board  
1341 G Street, NW, Sixth Floor  
Washington, DC 20005  
Fax: (202) 233-0121

  
\_\_\_\_\_  
Hunter W. Sims, Jr.

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U.S. E.P.A.

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

Region III  
1650 Arch Street  
Philadelphia, PA 19103

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ENVIR. APPEALS BOARD

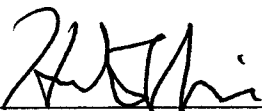
In the Matter of	)	
	)	Docket No.: CWA-03-2001-0021
VICO Construction Corporation and	)	
Amelia Venture Properties, LLC,	)	
	)	
Respondents.	)	

**NOTICE OF APPEAL**

Respondents, VICO Construction Corporation and Amelia Venture Properties, LLC ("Respondents"), through counsel, hereby appeal the Decision Upon Remand by the Honorable William B. Moran issued September 8, 2008.

Respectfully submitted,

**VICO CONSTRUCTION CORPORATION and  
AMELIA VENTURE PROPERTIES, LLC**

By  \_\_\_\_\_  
Hunter W. Sims, Jr.

Hunter W. Sims, Jr., Esquire (VSB # 09218)  
Marina Liacouras Phillips, Esquire (VSB # 39944)  
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Phone: (757) 624-3000  
Fax: (757) 624-3169

**CERTIFICATE OF SERVICE**


I hereby certify that on this 29<sup>th</sup> day of September 2008, a true and correct copy of the foregoing *Notice of Appeal* was served:

Via Federal Express to:  
Honorable William B. Moran  
U.S. Environmental Protection Agency  
Office of the Administrative Law Judges  
Franklin Court, Suite 350  
1099 14<sup>th</sup> Street, N.W.  
Washington, DC 20005

Via Federal Express (the original and five copies) to:  
U.S. Environmental Protection Agency  
Clerk of the Board, Environmental Appeals Board  
1341 G Street, N.W., Suite 600  
Washington, D.C. 20005

Via Federal Express to:  
Stefania D. Shamet, Esquire  
United States Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
Fax: (215) 814-2603

Via Federal Express to:  
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U.S. Environmental Protection Agency  
Region III  
1650 Arch Street (3RC00)  
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\_\_\_\_\_  
Hunter W. Sims, Jr.

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*Oct. 12*

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

Region III  
1650 Arch Street  
Philadelphia, PA 19103

2008 OCT 12 AM 10:12

ENVIR. APPEALS BOARD

In the Matter of	)	
	)	Docket No.: CWA-03-2001-0021
VICO Construction Corporation and	)	
Amelia Venture Properties, LLC,	)	
	)	
Respondents.	)	

**UNCONTESTED MOTION FOR EXTENSION OF TIME TO FILE  
RESPONDENTS' APPEAL BRIEF AND ACCOMPANYING REQUEST BY THE EPA  
FOR EXTENSION TO FILE ITS BRIEF**

NOW COMES Respondents, VICO Construction Corporation and Amelia Venture Properties, LLC ("Respondents") by counsel, and for their uncontested motion for extension of time to file Respondents' appeal and accompanying request by the EPA for extension of time to file its brief, states as follows:

1. Respondent moves for an extension of time from October 6, 2008 (the date Respondents' brief is currently due) to and including February 23, 2009 within which to file the Respondents' Appeal Brief.

2. The extension is requested because the factual background of the case is complex, technical and requires consideration of the records of two proceedings, and one of the Respondents' trial counsel, who was one of the two attorneys representing the Respondents at the evidentiary hearings before two Administrative Law Judges who heard this matter, and who was the principal attorney in charge of Respondents' appeal brief, has retired from Kaufman & Canoles, P.C. and another attorney, who was not previously involved in the matter, Mary Jane Hall of Kaufman & Canoles, P.C., will be the principal attorney to prepare Respondents' appeal

brief and requires additional time to become familiar with the voluminous record. In addition, the legal issues implicated revolve around the decision by the Supreme Court of the United States in *Rapanos v. United States*, 126 S.Ct. 2208 (2006), which remains a very unsettled area of the law. Respondents believe the additional time will permit full consideration of the issues and will also permit settlement discussions to continue.

3. Counsel for the EPA has no objection to the requested extension and furthermore has requested that that its brief be due on April 30, 2009.


4. Counsel for Respondent has no objection to the EPA's request for extension.

5. For good cause shown and by agreement of counsel, it is respectfully requested that this Court grant the mutual extensions of time.

WHEREFORE, Respondents, VICO Construction Corporation and Amelia Venture Properties, LLC respectfully request an extension of time within which to file their Appeal Brief to February 23, 2009. It is also respectfully requested that the Complainants' responsive brief be due on April 30, 2009.

Respectfully submitted,

**VICO CONSTRUCTION CORPORATION and  
AMELIA VENTURE PROPERTIES, LLC**

By  \_\_\_\_\_  
Hunter W. Sims, Jr.

Hunter W. Sims, Jr., Esquire (VSB # 09218)  
Marina Liacouras Phillips, Esquire (VSB # 39944)  
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150 West Main Street, Suite 2100  
Norfolk, Virginia 23510  
Phone: (757) 624-3000  
Fax: (757) 624-3169

**CERTIFICATE OF SERVICE**

I hereby certify that on this 29<sup>th</sup> day of September 2008, the foregoing *Uncontested Motion for Extension of Time to File Respondents' Appeal Brief and Accompanying Request by the EPA for Extension to File its Brief* was served:

Via Federal Express to:  
Honorable William B. Moran  
U.S. Environmental Protection Agency  
Office of the Administrative Law Judges  
Franklin Court, Suite 350  
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United States Environmental Protection Agency  
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