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June 9, 2005

VIA FEDERAL EXPRESS

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board
1341 G Street, NW Suite 600
Washington, DC 20005

Re: Smith Farm Enterprises, L.L.C.
Docket No.: CWA-3-2001-0022

Dear Madam:

Enclosed for filing on behalf of the Respondent in the referenced matter is a Motion Requesting Oral Argument and Consolidation of Oral Argument with Case No. CWA-3-2001-0021.

Please call me if you have questions.

Very truly yours,

Beth V. McMahon

BVM/mmt
Enclosure
cc: Lydia Guy (via Federal Express w/encl)
Stefania D. Shamet, Esq. (via Federal Express w/encl)
DOCSNB-K-#989692-v1-vico_smith_appeal_clerk_ltr_mmt.DOC

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

In the Matter of

Vico Construction Corporation,
Smith Farm Enterprises, LLC,

Proceeding to Assess Class II Administrative Penalty Under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g)

Docket No.: CWA-3-2001-0022

Regarding property known as the "Smith Farms" Site located north of Portsmouth Boulevard (Rt. 337) and east of Shoulders Hill Road, and south of Rt. 17 in Chesapeake and Suffolk, Virginia (the "Property")

MOTION REQUESTING ORAL ARGUMENT AND
CONSOLIDATION OF ORAL ARGUMENT WITH CASE NO. CWA-3-2001-0021

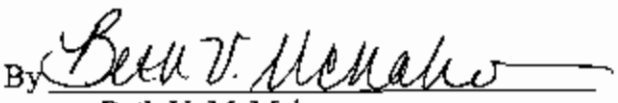
The Board recently granted oral argument In the Matter of VICO Construction Corporation and Amelia Venture Properties, LLC, Docket No.: CWA-3-2001-0021. Oral argument is scheduled for July 14, 2005. This case addresses the same legal issues. The assignments of error (with one exception) are identical. The factual records are also very similar. For example, the allegedly violative work was performed by the same contractor using the same procedures, the EPA's methods of inspection were the same, and Respondents' experts presented similar testimony in both cases. Further, Counsel for the EPA and for the Respondents/Appellants are the same in both cases.

An appeal in this case was noted on June 3, 2005. Respondent requests that the Board consider ordering oral argument in this case and scheduling the oral argument on July 14, 2005, the same date as the oral argument in the Amelia Venture. The briefing in this case will also be

complete by July 14, 2005, so consolidating the oral arguments would promote efficiency and reduce the litigants' expenses.

Respectfully submitted,

SMITH FARM ENTERPRISES, LLC

By 
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CERTIFICATE OF SERVICE

I hereby certify that on this 9 day of June 2005, a true and correct copy of the foregoing was sent via Federal Express to:

Ms. Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
Fax: (215) 814-2603

Stefania D. Shamet, Esquire
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Ben V. McNelis

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