

**BEFORE THE ENVIRONMENTAL APPEALS BOARD**  
United States Environmental Protection Agency  
Washington, D.C.

In the Matter of	)	
	)	
Smith Farm Enterprises, L.L.C.,	)	CWA Appeal No.: 08-02
Docket No.: CWA-03-2001-0022	)	
Respondent.	)	

**RESPONSE OF RESPONDENT TO EPA'S MOTION FOR  
EXTENSION OF TIME TO FILE RESPONSE**

On October 27, 2010, the EPA filed a Motion for an Extension of Time to Wednesday, November 3, 2010 to respond to two motions filed by Respondent on October 13, 2010. The Respondent does not object to the extension sought by the EPA. However, the Respondent does object to the following sentence contained in the EPA's motion: "The Motion for Leave to Correct recognizes that Judge Moran's Decision Upon Remand in fact incorporated Judge Charneski's Initial Decision."

As is clear from Respondent's Motion for Leave to Correct the October 13, 2010 motions (#67 and #67.01) filed on October 26, 2010, the Respondent recognized that Judge Moran's Decision Upon Remand incorporated Judge Charneski's Initial Decision with respect to Respondent's alleged violation of § 301(a) of the Clean Water Act with respect to the failure of Respondent to obtain a § 402 permit. However, the Motion for Leave to Correct did not state that Judge Moran's Decision Upon Remand incorporated by reference Judge Charneski's Initial Decision with respect to the Respondent's alleged violation of § 301(a) of the Clean Water Act regarding Respondent's failure to obtain a § 404 permit. Therefore, Respondent objects to, and has never agreed with, the EPA's statement quoted above, except as noted above and as explained in its October 26, 2010 motion and memorandum (#67 and #67.01).

**October 28, 2010**

**SMITH FARM ENTERPRISES, L.L.C.**

By           /s/ Hunter W. Sims, Jr.            
Of Counsel

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 28th day of October 2010, the foregoing ***Response of Respondent to EPA's Motion for Extension of Time to File Response*** was furnished:

**Via Electronic Filing:**

U.S. Environmental Protection Agency  
Clerk of the Board, Environmental Appeals Board  
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**Via Fax and Federal Express:**

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/s/ Hunter W. Sims, Jr.

Hunter W. Sims, Jr.