

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

ENVIR. APPEALS BOARD

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

**JOINT MOTION FOR EXTENSION OF TIME TO FILE
APPEAL AND REPLY BRIEFS**

The Parties hereby jointly move for a further extension of time to file their respective appeal briefs and reply briefs. The parties request until January 23, 2009 for Respondent/Appellant to file its appeal brief and until March 6, 2009 for Region III to file its reply brief. In support of this motion, the Parties state as follows:

1. The Initial Decision in this matter was served June 27, 2008.
2. Pursuant to a motion by the Parties, the Board ordered Appellant/Respondent Smith Farm Enterprises, L.L.C. to file its appeal brief by October 24, 2008 and Region III to file its reply brief in response to Appellant's brief by December 12, 2008. *See Order Granting Requests for Extension of Time to File Appeal and Reply Briefs, CWA Appeal No. 08-02 (July 24, 2008).*
3. During the past several months the Parties have engaged in the most serious and productive settlement discussions of the very long (since 1999) history of this matter. These settlement discussions are complex. The settlement discussions also require participation by senior Regional management, U.S. Environmental Protection

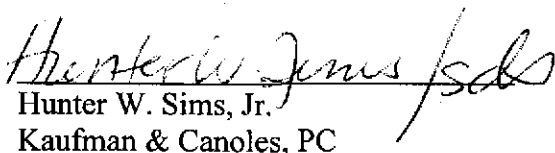
Agency headquarters staff and the U.S. Army Corps of Engineers Norfolk District.

While the Parties have negotiated in good faith, they have not yet reached an agreement in principle. The Parties expect that they will be able to determine within the next 60 days whether an agreement in principle can be achieved.

4. In addition, one of the attorneys who represented Respondent/Appellant in the hearing has since departed Respondent's/Appellant's law firm, and new counsel must review the record. In addition, counsel for Respondent/Appellant has two two-week trials scheduled for November 2008 and December 2009.

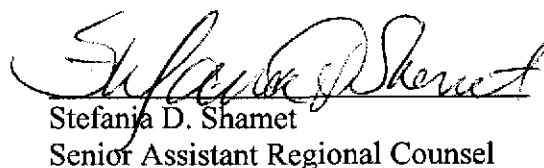
Accordingly, and for good cause shown, the Parties respectfully request an extension of time to January 23, 2009 for Respondent/Appellant's appeal brief and to March 6, 2009 for Region III's brief.

Respectfully submitted,


Hunter W. Sims, Jr.
Kaufman & Canoles, PC

Counsel for Respondent/Appellant

Date: 9/29/08


Stefania D. Shamet
Senior Assistant Regional Counsel

Counsel for Complainants

Date: 9/29/08

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused the foregoing Joint Motion for Extension of Time to File Appeal and Reply Briefs the Matter of Smith Farm Enterprises, LLC, CWA Appeal No. 08-02 to be served in the following manner:

BY Federal Express:

Hunter W. Sims
Kaufman & Canoles
150 West Main Street
Suite 2100
Norfolk, VA 23514

BY HAND DELIVERY:

Lydia Guy, Regional Hearing Clerk
EPA Region III (3RC00)
1650 Arch Street
Philadelphia, PA 19103

Original and Five Copies by Federal Express:

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

9/29/08
Date


Stefania D. Shamet