

# SPALDING & HILMES, PC

Attorneys At Law

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## VIA UPS OVERNIGHT COURIER

December 7, 2010

The Honorable Spencer T. Nissen  
U.S. Environmental Protection Agency  
Office of the Administrative Law Judge  
Washington, D.C. 20460

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REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

Re: Batesville Water & Gas Utility and Don Gunter Excavating, LLC,  
Docket No. CWA-05-2010-0013

Dear Judge Nissen:

Please find enclosed a copy of "Complainant's Motion to Extend Alternative Dispute Resolution Period" that was filed today in the above-captioned matter.

Very truly yours,



Kathryn A. Watson

Enclosure

cc: Larry Kane  
Jeffrey A. Cahn  
Greg Carlson, WW-16J

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

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IN THE MATTER OF: )

BATESVILLE WATER & GAS UTILITY )  
and )  
DON GUNTER EXCAVATING, LLC, )

Docket No. CWA-05-2010-0013

RESPONDENTS. )

Judge Nissen )

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**RESPONDENT DON GUNTER EXCAVATING, LLC'S MOTION TO EXTEND  
ALTERNATIVE DISPUTE RESOLUTION PERIOD**

Respondent Don Gunter Excavating, LLC ("Gunter") moves the Alternative Dispute Resolution (ADR) process neutral for a thirty (30) extension of the ADR period (or until January 7, 2011) pursuant to 40 C.F.R. § 22.16(a). In further support, Gunter states as follows:

1. Complainant filed its Complaint in this matter on June 10, 2010.
2. On or about June 6, 2010, Gunter transmitted its Motion For Enlargement Of Time To File An Answer for filing.
3. On July 12, 2010, the Court granted the motion of Gunter, allowing Respondent until August 13, 2010, to file its Answer.
4. On or about July 12, 2010, Respondent Batesville Water & Gas Utility ("Batesville") transmitted its Answer for filing.
5. On or about August 11, 2010, Gunter transmitted its Answer for filing.
6. On September 7, 2010, the Court issued an Order initiating the ADR process and appointing Judge Nissen as the ADR process neutral. The initial ADR process was set to expire on November 8, 2010, unless extended by the Chief Administrative Law Judge upon request of the ADR process neutral.

7. On November 4, 2010, the parties informed the ADR process neutral that they had reached a settlement in principle.

8. On November 8, 2010, Complainant filed a Motion to Extend the Alternative Dispute Resolution period with the consent of the Respondents.

9. On November 19, 2010, the Court granted Complainant's Motion, extending the ADR process to December 8, 2010, which time has not yet passed.

10. The parties will require additional time to memorialize the terms of their settlement. In order to conserve the resources of the parties, as well as the resources of the Court, Gunter moves for a thirty (30) day extension of the ADR process period (or until January 7, 2011) for the parties to complete and execute a settlement agreement. This extension will keep this matter from reverting to the expedited litigation track. Complainant does not object to this Motion.

11. Because this motion is timely, and because good cause to grant it exists, Gunter moves for an extension of the ADR period.

WHEREFORE, Gunter moves this Court for a thirty (30) day extension of the ADR process period (or until January 7, 2011).

Respectfully submitted,



Kathryn A. Watson  
Spalding & Hilmes, PC  
Attorney for Don Gunter Excavating, LLC

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U.S. ENVIRONMENTAL  
PROTECTION AGENCY

CERTIFICATE OF SERVICE

I, Kathryn A. Watson, hereby certify that I caused a copy of "Complainant's Motion to Extend Alternative Dispute Resolution Period" to be served by UPS Overnight Courier on this 7th day of December, 2010, upon the following:

Larry Kane  
Bingham McHale, LLP  
2700 Market Tower  
10 West Market Street  
Indianapolis, IN 46204

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Jeffrey A. Cahn  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
Mail Code C-14J  
77 West Jackson Blvd.  
Chicago, Illinois 60604

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U.S. ENVIRONMENTAL  
PROTECTION AGENCY

I further certify that I caused a copy of "Complainant's Motion to Extend Alternative Dispute Resolution Period" to be served via UPS Overnight Courier on this 7th day of December, 2010, upon the following:

The Honorable Spencer T. Nissen  
U.S. Environmental Protection Agency  
Office of the Administrative Law Judge  
Washington, D.C. 20460

I further certify that I caused the original of "Complainant's Motion to Extend Alternative Dispute Resolution Period" to be filed via UPS Overnight Courier with the Regional Hearing Clerk, U.S. EPA, Region V, 77 West Jackson Blvd., Chicago, Illinois 60604 on this 7th day of December, 2010.



Kathryn Watson  
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Indianapolis, IN 46219