

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

RECEIVED  
JAN - 7 2009

\_\_\_\_\_  
In the Matter of: )

Michael Aukerman, d/b/a as Michael )  
Aukerman Excavating )  
3180 County Road 203 )  
McComb, Ohio )

Respondent )  
\_\_\_\_\_)

Proceeding to Assess a REGIONAL HEARING CLERK  
Class II Civil Penalty U.S. ENVIRONMENTAL  
Pursuant to Section 309(g) PROTECTION AGENCY,  
of the Clean Water Act,  
33 U.S.C. § 1319(g)

No. CWA-05-2008-0004

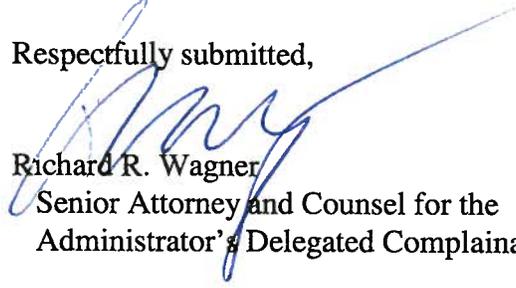
**MOTION FOR EXTENSION OF TIME**

The Administrator's Delegated Complainant, by undersigned counsel, hereby moves before the Presiding Officer that the date on which her Pre-Hearing Exchange is due to be filed, that being January 9, 2009, be extended by 14 days, to January 23, 2009. The reason Complainant requests this extension is that this action has been settled and the preparation of a pre-hearing exchange would be superfluous.

By cover letter of December 10, 2008, Respondent's counsel returned to Complainant two originals of the Consent Agreement and Final Order (CAFO) by which the parties have agreed to resolve this action. A copy of that cover letter is attached. The two original CAFOs, executed by Respondent, were placed into the Region 5 sign-off process shortly after receipt, but, due to holiday absences of Region 5 staff, it is possible that Region 5 sign-off may not be

completed and a fully executed CAFO filed with the Region 5 Hearing Clerk on or before January 9, 2009. It will certainly be fully executed and filed within the coming week.

Respectfully submitted,



Richard R. Wagner  
Senior Attorney and Counsel for the  
Administrator's Delegated Complainant

OXLEY, MALONE, HOLLISTER, O'MALLEY & WARREN, P.L.L.

Attorneys at Law  
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Of Counsel  
Julie A. Davenport

Michael J. Malone  
Robert B. Hollister  
Michael E. O'Malley  
Bradley S. Warren  
Bret A. Spaeth

Lisa M. Niese

December 10, 2008

Richard L. Wagner, Senior Attorney  
Office of Regional Counsel (C-29A)  
U.S. Environmental Protection Agency  
77 West Jackson Blvd  
Chicago, IL 60604-3590

Re: My Client: Michael Aukerman dba Michael Aukerman Excavating  
Case No: CWA-05-2008-0004

Dear Mr. Wagner:

I attach at this time the following:

1. Two original executed Consent Agreement and Final Orders

My client has executed the Consent Agreement and Final Order. Please return an original executed document to my attention. Upon receipt of the signed original and the billing code I will forward payment pursuant to this agreement .

I thank you for your cooperation in bringing this matter to a conclusion, and best wishes for a happy holiday season and a New Year.

Very truly yours,



Robert B. Hollister  
Attorney for Michael Aukerman

OFFICE OF REGIONAL  
COUNSEL  
DEC 15 2008  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

RBH/jkg  
Enclosure  
cc: Michael Aukerman

In Re Michael Aukerman, d/b/a Michael Aukerman Excavating,  
No.CWA-05-2008-0004

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**CERTIFICATE OF SERVICE**

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

I hereby certify that today I filed the original of the **Motion for Extension of Time** in the office of the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604-3590, with this Certificate of Service.

I further certify that I then caused true and correct copies of the filed documents to be served by certified mail to the following:

Robert B. Hollister  
Oxley, Malone, Hollister, O'Malley & Warren, P.L.L.  
301 East Main Cross Street  
P.O. Box 1086  
Findlay, Ohio 45839-1086

I further certify that I then caused true and correct copies of the filed documents to be mailed to the following:

Judge Barbara A. Gunning  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Mail Code 1900L  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460-2001

January 7, 2009



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Donald E. Ayres (C-14J)  
Paralegal Specialist  
77 W. Jackson Blvd.  
Chicago, IL 60604  
(312) 353-6719