



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

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U.S. EPA REGION 5  
CLERK

OCT 11 2011

C-14J

REPLY TO THE ATTENTION OF:

The Honorable Susan L. Biro, Chief Administrative Law Judge  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W., Mail Code 1900L  
Washington, DC 20460

Re: Misch Excavating, LLC, d/b/a Rooterman  
Docket No. CWA-05-2011-0003

Dear Chief Administrative Law Judge Biros:

Enclosed pleas find a Status Report and a Joint Motion for Extension of Time for the above-referenced matter.

Respectfully submitted,

Maria Gonzalez  
Associate Regional Counsel  
Joseph Williams  
Associate Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Blvd.  
Chicago, Illinois 60604  
(312) 886-6630

Enclosures

cc w/ enclosures: Thomas W. Daggett  
Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

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IN THE MATTER OF:

MISCH EXCAVATING, LLC  
d/b/a ROOTERMAN  
DOWNS, ILLINOIS 61736

RESPONDENT.

Docket No. CWA-05-2011-0003


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

STATUS REPORT

COMPLAINANT, the Director of the Water Division, through one of its attorneys, hereby submits a status report on the status of settlement:

1. The parties have reached an agreement in principle as to a settlement amount, subject to senior management approval, and are finalizing minor language of a Consent Agreement and Final Order (CAFO).
2. Complainant expects to have the language finalized by next week for review and signature.

Respectfully submitted,

  
Maria E. Gonzalez  
Associate Regional Counsel  
Joseph Williams  
Associate Regional Counsel  
U.S. Environmental Protection Agency  
77 West Jackson Blvd.  
Chicago, Illinois 60604  
(312) 886-6630

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

	)	
	)	<b>Docket No. CWA-05-2011-0003</b>
<b>IN THE MATTER OF:</b>	)	
	)	<b>Proceeding to Assess a</b>
<b>MISCH EXCAVATING, LLC</b>	)	<b>Class II Civil Penalty</b>
<b>d/b/a ROOTERMAN</b>	)	<b>Pursuant to Section</b>
<b>DOWNNS, ILLINOIS 61736</b>	)	<b>309(g) of the Clean</b>
	)	<b>Water Act, 33 U.S.C.</b>
<b>RESPONDENT.</b>	)	<b>§ 1319(g)</b>
	)	
	)	
	)	

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**JOINT MOTION FOR EXTENSION OF TIME**

COMPLAINANT, the Director of the Water Division, and RESPONDENT, through their attorneys, hereby requests that the Presiding Officer grant an extension of time until November 15, 2011, to file the Joint Stipulated Facts, Exhibits, and Testimony and pre-hearing briefs in the above-captioned matter. Under the Presiding Officer's June 13, 2011, Order Scheduling Hearing, the parties are required to file a Joint Set of Stipulated Facts, Exhibits, and Testimony on or before October 21, 2011, and prehearing briefs by October 28, 2011. As discussed in the attached status report, the parties have reached an agreement in principle as to settlement amount, but the parties need to finalize minor language and get the appropriate approvals and signatures. The parties seek the additional time so that they can resolve the above-captioned matter without further litigation. While the parties hope that this matter will be concluded by November 15, 2011, when the hearing is scheduled, and the parties are working diligently to finalize minor language in the agreement, Complainant does not think the CAFO will be signed by the Regional Administrator before the end of October. The parties believe the extension will allow them to finalize and issue the CAFO.

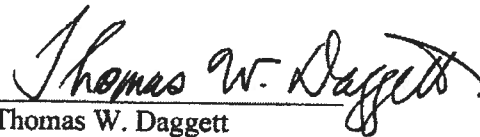
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For the reasons set forth above, the Parties respectfully request that their Joint Motion for Extension of Time be granted and that the Presiding Officer extend the deadline for filing the Joint Stipulated Facts, Exhibits, and Testimony and the pre-hearing briefs in the above-captioned matter to November 15, 2011.

Respectfully submitted,



Maria E. Gonzalez  
Associate Regional Counsel  
Joseph Williams  
Associate Regional Counsel  
U.S. Environmental Protection Agency  
77 West Jackson Blvd.  
Chicago, Illinois 60604  
(312) 886-6630



Thomas W. Daggett  
Daggett Law Firm  
161 N. Clark Street, Suite 4950  
Chicago, IL 60601  
(312) 960-1600  
Counsel for Respondent

*In the Matter of: Misch Excavating LLC,  
d/b/a Rooterman  
Docket No. CWA-05-2011-0003*

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**CERTIFICATE OF SERVICE**

I hereby certify that today I filed the original and one copy of a STATUS REPORT and JOINT MOTION FOR EXTENSION OF TIME in the office of the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604-3590


I also mailed today a true and accurate copy, by first class mail, to each of the following:

The Honorable Susan L. Biro, Chief Administrative Law Judge  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W., Mail Code 1900L  
Washington, D.C. 20460

Thomas W. Daggett  
Daggett Law Firm  
161 N. Clark Street, Suite 4950  
Chicago, IL 60601

I also sent a courtesy copy to oaljfilng@epa.gov

dated: October 11, 2011

  
\_\_\_\_\_  
Donald E. Ayres,  
Paralegal Specialist, MM2-4  
Office of Regional Counsel  
U.S. EPA Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604-3590  
(312) 353-6719