

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:)
)
Ethete Public Water System)
Northern Arapaho Utilities)
Ethete, Wyoming)
)
PWS#: 08569002)
Respondent.)
)
)
)
)

Proceeding under Section 1414(g)
of the Safe Drinking Water Act,
42 U.S.C. § 300g-3(g)

DOCKET NO.: SDWA-08-2008-0093

**ORDER ON STIPULATED MOTION FOR THIRD
EXTENSION OF TIME TO ANSWER COMPLAINT**

On December 8, 2008, the Regional Hearing Clerk filed Respondent's Stipulated Motion for Third Extension of Time to Answer ("Motion"). The Motion was dated November 24, 2008 and post marked December 4, 2008. It was officially received by mail on December 8, 2008. However, no rationale was given for needing a third extension. 40 C.F.R. § 22.7(b) of the Consolidated Rules states an extension of time may be granted upon timely motion of a party to the proceeding and for good cause shown. It appears that Respondent assumes this Court will grant such motions for extension of time without some sort of justification.

Furthermore, On October 28, 2008, this Court issued an Order Granting Second Extension of Time to File Answer. The extension of time was granted because, according to the parties, negotiations towards settlement were progressing. The Order specifically stated, "[e]ither an Answer or a Consent Agreement will be filed on or before December 1, 2008." The pending Motion neither explains nor justifies the reason why the October 28, 2008 Order was not complied with by the parties.

It is the understanding of this Court that Respondent's counsel contacted the Regional Hearing Clerk and had discussions on November 24th and November 28th 2008 regarding filing the Motion by facsimile. If attempts were made to try to file a timely motion, the Regional Hearing Clerk never received it.

This Presiding Officer is troubled that the October 28, 2008 Order was not properly addressed by the parties. While the Motion is only one week delayed, and normally one week is not grounds for denying an extension of time, there is nothing in the Motion that explains the delay or the need for additional time. Furthermore, this Court generally does not give more than three extensions for time without good cause, and at this juncture, there has been no good cause

shown. **This will be the last extension of time granted in this matter.** Due to the holidays, I will grant a 30-day extension from December 1, 2008. Therefore, an Answer or a Consent Agreement must be filed by Friday, January 2, 2009.

ORDER:

Third Extension of Time to Answer **GRANTED**. Answer or Consent Agreement shall be filed on or before Friday, January 2, 2009.

SO ORDERED THIS 11th day of December, 2008

A handwritten signature in black ink, appearing to read "Elyana R. Sutin", is written over a horizontal line.

Elyana R. Sutin
Regional Judicial Officer


CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **ORDER GRANTING THIRD EXTENSION OF TIME** in the matter of **ETHETE PUBLIC WATER SYSTEM, NORTHERN ARAPAHO UTILITIES; DOCKET NO.: SDWA-08-2008-0093** was filed with the Regional Hearing Clerk on December 11, 2008.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Amy Swanson, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on December 11, 2008, to:

Berthenia S. Crocker
Attorney for Respondent
Baldwin & Crocker, P. C.
P. O. Box 1229
Lander, WY 82520

December 11, 2008


Tina Artemis
Paralegal/Regional Hearing Clerk