



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

NOV 08 2010

REPLY TO THE ATTENTION OF:

C-14J

BY PERSONAL DELIVERY
VIA U.S. EPA POUCH MAIL

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

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,


Jeffrey A. Cahn
Associate Regional Counsel

Enclosure

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

Kathryn Watson
Spalding & Hilmes, PC
330 South Downey Avenue
Indianapolis, IN 46219

Greg Carlson, WW-16J

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

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IN THE MATTER OF:)
)
)
BATESVILLE WATER & GAS UTILITY)
and) Docket No. CWA-05-2010-0013
DON GUNTER EXCAVATING, LLC,)
)
)
RESPONDENTS.) Judge Nissen

**COMPLAINANT'S MOTION TO EXTEND
ALTERNATIVE DISPUTE RESOLUTION PERIOD**

Complainant moves the Alternative Dispute Resolution (ADR) process neutral for a thirty (30) extension of the ADR period (or until December 8, 2010) leave to amend its complaint through interdelineation, instant, pursuant to 40 C.F.R. § 22.16(a). In further support, Complainant states as follows:

1. Complainant filed its Complaint in this matter on June 10, 2010.
2. On, or about, June 6, 2010, Respondent Don Gunter Excavating, LLC, ("Gunter Excavating") transmitted its Motion For Enlargement Of Time To File An Answer for filing.
3. On July 12, 2010, the Court granted the motion of Don Gunter, LLC, 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 Excavating 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 is set to expire

on November 8, 2010, unless extended by the Chief Administrative Law Judge upon request of the ADR process neutral.

7. The November 8, 2010, ADR process termination date has not passed.

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

9. 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, Complainant moves for a thirty (30) day extension of the ADR process period (or until December 8, 2010) for the parties to draft and circulate a settlement agreement. This extension will keep this matter from reverting to the expedited litigation track.

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

WHEREFORE, Complainant moves this Court for a thirty (30) day extension of the ADR process period (or until December 8, 2010).

Respectfully submitted,



Jeffrey A. Cahn
Associate Regional Counsel
Attorney for Complainant

CERTIFICATE OF SERVICE

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I, Jeffrey A. Cahn, hereby certify that I caused a copy of "Complainant's Motion to Extend Alternative Dispute Resolution Period" to be served by United States Mail, Certified and Return Receipt Requested, on this 8 day of November, 2010, upon the following:


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

Kathryn Watson
Spalding & Hilmes, PC
330 South Downey Avenue
Indianapolis, IN 46219

I further certify that I caused a copy of "Complainant's Motion to Extend Alternative Dispute Resolution Period" to be personally served via U.S. EPA pouch mail on this 8 day of November, 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 with the Regional Hearing Clerk, U.S. EPA, Region V, 77 West Jackson Blvd., Chicago, Illinois 60604 on this 8 day of November, 2010.



Jeffrey A. Cahn
Office of Regional Counsel
U.S. Environmental Protection
Agency
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