

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2010 JUN -3 PM 1:42

IN THE MATTER OF:

UNOPPOSED MOTION FOR AN  
ADDITIONAL EXTENSION OF TIME  
TO ANSWER OR OTHERWISE  
RESPOND AND TO REQUEST A  
HEARING

Kiewit Building Group, Inc.  
7200 S. Alton Way, Suite A-300  
Englewood, CO 80112

Proceeding to Assess Class II  
Administrative Penalty Under  
Clean Water Act, Section 309(g)

Respondent.

Case No. CWA-08-2010-0008

Respondent Kiewit Building Group, Inc. ("Respondent"), by and through its attorneys, Sherman & Howard L.L.C., hereby submits its Unopposed Motion for An Additional Extension of Time to Answer or Otherwise Respond and to Request a Hearing. The Administrative Complaint and Notice of Opportunity for Hearing (the "Complaint") was served on February 25, 2010, and Respondent's answer was due on or before March 29. Respondent requested an extension of time to answer or otherwise respond and to request a hearing up to and including April 26, 2010. That request was granted. Respondent requested an additional extension of time up to and through June 10, 2010, to allow for completion of fact finding efforts by Respondent and EPA, exchange of information, and completion of on-going negotiations between the parties. That request was granted. Respondent now request an additional extension of time to conclude the exchange of information and associated on-going settlement discussions.

As grounds for its Motion, Respondent states:

1. Since receipt of the Complaint by Respondent, Respondent and EPA have conferred on several occasions (including, without limitation, an informal conference) to discussed the allegations in the Complaint and to exchange information regarding those allegations. Both sides have proceeded diligently and in good faith. Those discussions are on-going and nearing completion, with the parties optimistic that a settlement will be reached.
2. Most recently, at the end of May 2010, Respondent and EPA exchanged settlement offers with the hope of resolving this matter. In response to Respondent's offer, EPA requested additional information regarding the Respondent's response to the storm water inspection report issued by the Agency regarding this matter. Respondent prepared a formal response to the Agency's inspection report and that response was sent to the Agency on June 2, 2010.
3. The Agency is currently reviewing Respondent's response. Once that review is complete, counsel for the Agency and Respondent will confer as to the respective positions of their clients and whether a settlement can be reached. If a settlement can be reached by the parties, additional time will be required to draft and finalize a consent agreement. Conversely, if

a settlement cannot be reached, additional time will be required to prepare Respondent's Answer to the Complaint.

4. Respondent's request for an extension of time will preserve judicial resources and the administrative and fiscal resources of the parties by allowing the parties to fully pursue settlement discussions prior to Respondent being required to answer the Complaint.

5. Counsel for Respondent has conferred with counsel for EPA, who has authorized counsel for Respondent to represent that EPA does not oppose and joins in Respondent's request for an extension of time to answer or otherwise respond and to request a hearing.

WHEREFORE, Respondent requests an extension of time up to and including June 30, 2010, to answer or otherwise respond to the Complaint and to request a hearing

Respectfully submitted June 3, 2010.

SHERMAN & HOWARD L.L.C.

By: 

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Attorneys for Kiewit Building Group, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on the date noted below, the original and one copy of the foregoing Unopposed Motion for an Additional Extension of Time to Answer and to Request a Hearing was hand-delivered, addressed to the following:

Tina Artemis  
Regional Hearing Clerk  
U.S. Environmental Protection Agency (8RC)  
1595 Wynkoop Street  
Denver, Co 80202-1129

and a copy was also hand-delivered to:

Wendy Silver, Esq.  
Legal Enforcement Program  
U.S. Environmental Protection Agency, Region 8  
Office of Enforcement, Compliance and Environmental Justice  
1595 Wynkoop Street  
Denver, CO 80202-1129

Date: June 3, 2010

  
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Diane M. Collier