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CROWLEY | FLECK PL.L.P.  
ATTORNEYS

2011 OCT 31 AM 10:22 Michael C. Waller  
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FILED  
EPA REGION VIII  
HEARING CLERK

October 28, 2011

Regional Hearing Clerk (8RC)  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

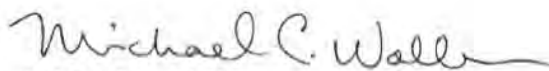
**RE: EPA v. Gowan Construction, Inc. and NDDOT**  
**Administrative Complaint and Notice of Opportunity for a Hearing**  
**Docket #: CWA-08-2011-0039**  
**Our File #: 70-453-008**

Dear Clerk:

Enclosed for filing is the Joint Motion for Extension of Time for Respondent to File Answer.

Please let me know if you have any questions or concerns. Thank you.

Sincerely,



Michael C. Waller

MCW/ss

Enc.

cc: Sheldon Muller (w/ enc.)  
DeWayne Johnston (w/ enc.)

BILLINGS BISMARCK BOZEMAN HELENA KALISPELL MISSOULA WILLISTON

C R O W L E Y F L E C K . C O M

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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HEARINGS CLERK

IN THE MATTER OF:	)	JOINT MOTION FOR EXTENSION
	)	OF TIME FOR RESPONDENT
Gowan Construction, Inc.	)	TO FILE ANSWER
P.O. Box 228	)	
Oslo, MN 56744	)	Proceedings to Assess a Civil Penalty
and	)	Under Section 309(g)
North Dakota Dept. of Transportation	)	of the Clean Water Act.
608 E. Boulevard Ave.	)	33 U.S.C. § 1319(g)
Bismarck, ND 58505	)	
Respondents.	)	Docket No. CWA-08-2011-0039

The Respondents, Gowan Construction, Inc. and North Dakota Department of Transportation, by and through their respective attorneys, jointly move the Presiding Officer to grant the Respondents an extension of time to the 30-day period provided by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. § 22.15(a), to file their answers. As grounds therefore, the movants assert the following:

**GROUNDS FOR MOTION**

1. This motion is made pursuant to 40 C.F.R. § 22.7(b) and 40 C.F.R. § 22.16 of the Consolidated Rules. Pursuant to 40 C.F.R. § 22.16, a motion must be in writing, state the grounds for the motion with particularity, set forth the relief sought, and be accompanied by any affidavit, certificate, other evidence or legal memorandum relied upon. Pursuant to 40 C.F.R. § 22.7(b), the Presiding Officer may grant an extension of time for filing any document upon timely motion of a party to the proceeding, for good cause shown, and after consideration of

prejudice to other parties, or upon its own initiative. Any motion for an extension of time must be filed sufficiently in advance of the due date so as to allow other parties reasonable opportunity to respond and to allow the Presiding Officer reasonable opportunity to issue an order. 40 C.F.R. § 22.7(b).

2. The complaint in this matter was filed on September 30, 2011, and was separately received by each Respondent on October 3, 2011. Pursuant to the Consolidated Rules, Respondents have until November 2, 2011, to file their answers.

3. Due to prior commitments and the press of other matters, Respondents have only recently been able to discuss the matters alleged in the Complaint and evaluate the reasonable likelihood of an amicable resolution prior to hearing.

4. Respondents have discussed the possibility of reaching an amicable settlement of the issues contained in the Complaint and believe a resolution will be achieved prior to hearing.

5. Respondents have consulted with counsel for Complainant and he has advised that Complainant does not object to the motion for a 30-day extension.

6. Respondents' request for an extension of time is made in good faith and not for the purpose of delay. The extension will afford the parties a reasonable opportunity to resolve the matter prior to hearing.

Accordingly, Respondents respectfully request that the deadline for Respondents to file their answers be extended to December 2, 2011.

GOWAN CONSTRUCTION, INC.

Respondent.

Date: October 28, 2011

By: 

DeWayne Johnston (ND ID# 05763)  
Attorneys for Gowan Construction, Inc.  
Johnston Law Office  
221 S. 4th Street  
Grand Forks, ND 58201  
Phone: (701) 775-0082

NORTH DAKOTA DEPARTMENT  
OF TRANSPORTATION

Respondent.

Date: October 28, 2011

By: Michael C. Waller

Michael C. Waller (ND ID# 04838)  
Attorneys for North Dakota Department of  
Transportation  
Crowley Fleck PLLP  
400 E. Broadway, Suite 600  
P.O. Box 2798  
Bismarck, ND 58502-2798  
Phone: (701) 223-6585

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was on the 28<sup>th</sup> day of October, 2011, mailed and emailed to the following:

Sheldon H. Muller  
Senior Enforcement Attorney  
U.S. EPA, Region 8  
1595 Wynkoop St.  
Denver, CO 80202-1129

DeWayne Johnston  
Johnston Law Office  
221 S. 4th Street  
Grand Forks, ND 58201

  
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MICHAEL C. WALLER