

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the ADR Matter of

Dependable Towing & Recovery, Inc. &
David A. Whitehill

Respondent

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Docket No. CWA-02-2011-3601

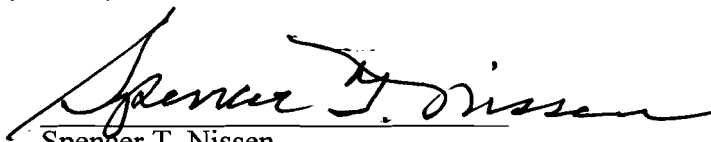
U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG-03
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REGIONAL HEARING
CLERK

ORDER GRANTING MOTION TO EXTEND ADR PERIOD

The complaint in this proceeding under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), seeks to assess a penalty of \$177,500 against respondents for the discharge of fill material into waters of the United States (wetlands) without a permit from the Secretary of the Army in accordance with Section 404 of the Act 33 U.S.C. § 1344. The filled wetlands were used to store automobiles, trucks, heavy equipment, trailers, discarded material, lumber and old steel. Respondents answered, essentially admitting the violations, but claiming to have acted in good faith. EPA ordered respondents to remove the fill. Respondents have raised an “ability to pay” issue claiming that clean up work to date has completely exhausted their resources and that it is impossible for respondents to complete the scope of work outlined by EPA and pay the proposed penalty. The ADR period in this matter expires by its terms on June 25, 2011. Under date of July 12, 2011, complainant submitted a motion for extension of ADR Proceedings, alleging, inter alia, that the additional time would allow for further meetings in an attempt to resolve this matter. An extension will allow time for respondent to gather and complainant to review, data submitted in support of respondents’ claim of inability to pay.

Good cause having been shown, the motion is granted and the ADR period is extended to and including August 24, 2011.

Dated this 13th day of July 2011.



Spencer T. Nissen
Administrative Law Judge

So Ordered.

In the ADR matter of *Dependable Towing & Recovery, Inc. & David A. Whitehill.*, Respondent.
Docket No. CWA-02-2011-36011

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Granting Motion to Extend ADR Period**, dated July 13, 2011, was sent this day in the following manner to the addressees listed below.



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Legal Staff Assistant

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