

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

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AUG 20 2010

In the Matter of:	)	
	)	
Batesville Water & Gas Utility, Batesville, Indiana,	)	Proceeding to Assess a Class II Civil Penalty Under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g)
	)	
and	)	
	)	
Don Gunter Excavating, LLC, Batesville, Indiana,	)	Docket No. CWA-05-2010-0013
	)	
	)	
Respondents.	)	Judge Toney
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REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**BATESVILLE WATER & GAS UTILITY'S MOTION FOR LEAVE TO AMEND  
ANSWER TO AMENDED COMPLAINT**

Batesville Water & Gas Utility ("Batesville"), moves the Presiding Officer for leave to amend its Answer, Defenses and Request for Hearing ("Answer") pursuant to 40 C.F.R. §§ 22.15(e) and 22.16(a). In support of this Motion, Batesville states as follows:

1. Complainant, United States Environmental Protection Agency ("U.S. EPA"), filed its Administrative Complaint ("Complaint") in this matter on June 10, 2010, which was served on Batesville on June 14, 2010.
2. Batesville filed its Answer in this matter on July 13, 2010.
3. U.S. EPA filed its Motion to Amend Complaint Through Interdelineation Instante ("Motion to Amend") on July 26, 2010 seeking an order from this Court amending its Complaint to include an exhibit ("Exhibit 1") inadvertently omitted from the Complaint.
4. This Court granted U.S.EPA's Motion to Amend on August 10, 2010.

5. Because Exhibit 1 was omitted from the Complaint, Batesville did not have an opportunity to review or appropriately respond to those allegations of the Complaint involving Exhibit 1.

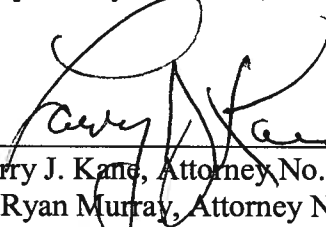
6. Batesville moves this Court for an order granting leave to amend its previously-filed Answer to respond to the amendment to the Complaint.

7. Granting this Motion should not prejudice U.S. EPA. Batesville seeks to amend its Answer in response to U.S. EPA's amendment of its Complaint. U.S. EPA stated in its Motion to Amend that U.S. EPA would have no objection if Batesville determined that it was necessary to file an Amended Answer.

8. A copy of Batesville's Amended Answer is attached hereto and an additional copy is tendered for filing upon approval of this Motion by the Court.

WHEREFORE, Batesville, by its attorneys, respectfully requests the Court grant Batesville leave to file the attached Amended Answer, direct the Clerk to file the Amended Answer, and for all other appropriate relief.

Respectfully submitted,



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*Attorneys for Defendant, Batesville Water &  
Gas Utility*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon the following by United States First Class Mail or Overnight Express, postage prepaid, or UPS Express, delivery charges prepaid, this 19<sup>th</sup> day of August, 2010:

The Honorable Marcy Toney  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
77 W. Jackson Blvd.  
Chicago, IL 60604-3590

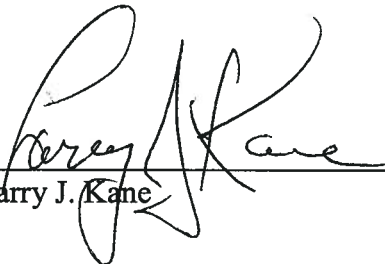
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