

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

IN THE MATTER OF:)
)
MR. C.W. SMITH, MR. GRADY SMITH,)
& SMITH'S LAKE CORPORATION,) **Docket No. CWA-04-2001-1501**
)
Respondents)

RESPONSE TO RESPONDENT'S MOTION FOR ENLARGEMENT OF TIME

By Motion dated August 13, 2004, Respondents request an enlargement of time to submit their Notice of Appeal in regard to the Initial Decision rendered by the undersigned on July 15, 2004. The Certificate of Service accompanying the Motion indicates that it was served upon the Regional Hearing Clerk for Region 4, the undersigned, and counsel for the Complainant. The filing does not reflect that it was served upon the Environmental Appeals Board (EAB).

As indicated in the applicable Rules, 40 C.F.R. § 22.30(a), Notices of Appeal are to be filed with the EAB and it is the EAB which has the authority to rule upon motions to extend the deadline with regard to filing such notices before it. The undersigned does not have such authority. Therefore, no ruling can be or will be entered on the Motion by the undersigned.

Susan L. Biro
Chief Administrative Law Judge

Dated: August 31, 2004
Washington, D.C.