

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
  
BEFORE THE ADMINISTRATOR

In the Matter of	)	
	)	
Avista Utilities, Inc.,	)	Docket No. CWA-08-2009-0035
	)	
	)	
	)	
Respondent	)	

**ORDER INITIATING ALTERNATIVE DISPUTE  
RESOLUTION PROCESS AND APPOINTING NEUTRAL**

Pursuant to the request of the parties, Judge Spencer T. Nissen, is hereby designated as a neutral to initiate and conduct such processes as may facilitate a settlement of this proceeding.

The following procedures shall apply:

1. The Alternative Dispute Resolution (ADR) process will be conducted in a confidential manner. The Judge who serves as the neutral will not disclose to anyone the contents of any of the parties' ADR communications.
2. For the ADR process to be effective, the persons communicating with the neutral must either have authority to commit his or her side to a settlement, or have ready access to someone with such authority.
3. Unless terminated earlier at the request of either party, the ADR process shall automatically terminate on **January 11, 2010**. An extension of up to 60 days may be granted by the undersigned upon request of the ADR neutral, but in no event shall ADR continue for longer than 4 months. At that time, if no settlement has been reached, the case will be remanded to the litigation Judge to proceed with the litigation process in an expedited manner.
4. A party requesting termination of this process shall so advise the assigned neutral Judge either orally or in writing. The neutral Judge shall forward the request to the Chief Administrative Law Judge. The dispute resolution process initiated by this Order shall terminate upon order of the Chief Administrative Law Judge.

5. At the termination of the ADR process, the parties will be sent a questionnaire to elicit their views and the experience with the process. The contents of individual questionnaires will be kept confidential and will be made available to the neutrals and others only in a composite format.



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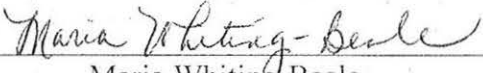
Susan L. Biro  
Chief Administrative Law Judge

Dated: November 10, 2009  
Washington, DC

In the Avista Utilities, Inc. Respondent  
Docket No. CWA-08-2009-0035

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Initiating Alternative Dispute Resolution Process And Appointing Neutral**, dated November 10, 2009, was sent this day in the following manner to the addressees listed below.

  
\_\_\_\_\_  
Maria Whiting-Beale  
Staff Assistant

Dated: November 10, 2009

Original And One Copy By Pouch Mail To:

Tina Artemis  
Regional Hearing Clerk  
U.S. EPA  
1595 Wynkoop Street  
Denver, CO 80202-1129

Copy By Pouch Mail To:

Amy Swanson, Esquire  
Enforcement Counsel (8ENF-L)  
U.S. EPA  
1595 Wynkoop Street  
Denver, CO 80202-1129

Copy By Regular Mail To:

Martin K. Banks, Esquire  
Stovel, Rives LLP  
201 S. Main Street, Suite 1100  
Salt Lake City, UT 84111

If no response is received in this Office by the deadline from you or another party on your behalf, it will be assumed that you **do not** wish to participate in ADR and the case will be assigned immediately to a Judge for litigation. **No extension of the deadline for deciding whether you wish to participate in ADR will be granted.** However, the ADR described above may be available later in the litigation process upon joint motion of all parties to initiate ADR, granted at the sole discretion of the presiding litigation Judge.

Very truly yours,

A handwritten signature in black ink, appearing to read 'S. Biro', written over a horizontal line.

Susan L. Biro  
Chief Administrative Law Judge

cc: James Carroll, Esquire  
Todd C. Fracassi, Esquire  
Lydia A. Guy, Regional Hearing Clerk