

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

JOHN EAKIN,
Plaintiff,

v.

UNITED STATES DEPARTMENT OF
DEFENSE; ROBERT M. GATES,
Secretary of Defense,
Defendants.

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NO. SA-10-CA-0784-FB-NN

**DEFENDANTS' UNOPPOSED MOTION FOR EXTENSION OF TIME TO RESPOND
TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes, the United States Attorney for the Western District of Texas and the undersigned Assistant United States Attorney, and respectfully moves this Court to grant Defendants until May 6, 2011 in which to respond to Plaintiff's Motion for Summary Judgment. In support hereof, the U.S. Attorney shows the Court as follows:

1. Plaintiff alleges a Freedom of Information Act ("FOIA") and Administrative Procedure Act ("APA") action seeking injunctive and other relief.
2. Plaintiff filed a Motion for Summary Judgment on March 28, 2011.
3. Defendants had previously requested an extension, which was granted, to respond to Plaintiff's Motion for Summary Judgment until April 29, 2011 due to the undersigned's leave.
4. On April 28, 2011, the undersigned and counsel for the Department of Defense and Department of the Army learned that information previously reported to us concerning the location and status of the documents (number, whether copied or digitized, etc.) requested by Plaintiff is now in dispute. Defendants cannot appropriately or correctly respond to Plaintiff's Motion for Summary

Judgment without knowledge of this information.

5. This request will not unduly delay these proceedings nor cause the Plaintiff any undue hardship.

6. The undersigned contacted Plaintiff on April 28, 2011, and Plaintiff does not oppose the motion to extend time to respond to the Motion for Summary Judgment, up to and including May 6, 2011.

WHEREFORE, premises considered, the undersigned assistant United States Attorney moves the Court to allow Defendants until **May 6, 2011** to respond to Plaintiff's Motion for Summary Judgment.

Respectfully submitted,

JOHN E. MURPHY
UNITED STATES ATTORNEY

By: /s/ Dimitri N. Rocha
DIMITRI N. ROCHA
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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by certified mail, return receipt requested on this 28th day of April, 2011 addressed as follows:

John Eakin, *Pro Se*
9865 Tower View Road
Helotes, Texas 78023

CMRRR 71791000164202092661

/s/ Dimitri N. Rocha
DIMITRI N. ROCHA
Assistant United States Attorney

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ORDER

On this day, came on for consideration Defendants' Unopposed Motion for Extension of Time to Respond to Plaintiff's Motion for Summary Judgment. The Court having reviewed said Motion finds that should be, and hereby is, **GRANTED**.

It is so **ORDERED** that Defendants shall have until **May 6, 2011** to respond to Plaintiff's Motion for Summary Judgment.

Signed this the _____ day of _____, 2011.

NANCY STEIN NOWAK
UNITED STATES MAGISTRATE JUDGE