

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I**

\_\_\_\_\_  
In the Matter of )

CITY OF PEABODY )

City Hall )

24 Lowell Street )

Peabody, Massachusetts 01960 )  
)  
)  
)  
)  
)  
)  
\_\_\_\_\_)

RECEIVED  
2010 JAN 14 A 11:50  
Docket No. 01-2009-0076

REC'D  
OFFICE OF  
RESPONDENT'S MOTION TO  
EXTEND TIME WITHIN  
WHICH TO ANSWER THE  
COMPLAINT PROCEEDING  
UNDER CLEAN WATERS ACT  
SECTION 309(g)(2)(B)

**I. NEED FOR EXTENSION**

On August 17, 2009, the City of Peabody was served an Administrative Complaint pursuant to 309(g)(2)(B) of the Clean Waters Act.

On September 10, 2009, the City of Peabody, through its City Solicitor, Public Services Director, City Engineer, and its Environmental Engineer met with Kathleen Woodward, Esquire and an EPA staff member to discuss settlement.

Substantial progress towards settlement was made at that meeting.

The parties met on September 26, 2009 to resolve any remaining issues necessary to settle this matter, and the parties reached settlement in principle as to the fine and steps needed to comply with the EPA order and need only to work through the details of the special environmental projects.

The Respondent has subsequently made a cash offer to the Petitioner to resolve the proposed penalty, which has been accepted. To mitigate the fine the EPA has allowed the respondent to submit conceptually Special Environmental Projects (SEPS) which are currently being reviewed by the EPA. The SEPS will benefit the environment and aid the

City of Peabody in reducing its financial liability. The proposed SEPS have been agreed to in principle, but the engineering details need fine tuning. There are currently no issues of law or fact in dispute and once the SEPS are fine tuned a consent decree need only be filed. The City of Peabody is currently reviewing a proposed consent decree from the EPA. The EPA has not completed its review of the SEPS and the City of Peabody is providing more information.

Respondent wishes to avoid the expense of litigation and wishes not to utilize judicial resources if settlement is likely. The parties are moving forward in good faith.

The Petitioner has assented to an extension of the time within which Respondent must answer the Complaint to February 26, 2010.

## II. AUTHORITY TO GRANT EXTENSION

Pursuant to 40 C.F.R. §§ 22, 7(b), the Presiding Officer may grant an extension time for filing any document including an answer to an administrative complaint for good cause shown and in consideration of prejudice to other parties. In this case the parties have made substantial progress toward settlement and the Petitioner has suffered no prejudice as evidenced by its assent to this motion.

## III. REQUEST FOR EXTENSION

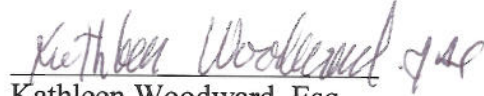
Because there is good cause for an extension and the Petitioner has suffered no prejudice, Respondent requests that the time within which to answer the Administrative Complaint be extended from January 14, 2010 to February 26, 2010.

Respectfully Submitted,



John A. Christopher  
City Solicitor  
199 Rosewood Dr., Suite 350  
Danvers, MA 01923  
978-777-5100 (Tel.)  
978-777-1596 (Fax)  
jchristopher@scalawyers.com  
BBO# 083320

Assented To:

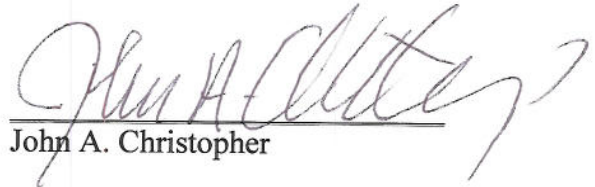


Kathleen Woodward, Esq.,  
Senior Enforcement Counsel  
Attorney for the Petitioner  
U.S. EPA Region I  
One Congress Street, Suite 1100 (RAA)  
Boston, MA 02114  
Woodward.Kathleen@epa.gov

Date: January 12, 2010

### **CERTIFICATE OF SERVICE**

I, John A. Christopher, do hereby certify that I have served a true copy of the within Respondent's Motion to Extend Time Within Which to Answer the Complaint Proceeding Under Clean Waters Act Section 309(g)(2)(B) by mailing same first-class postage prepaid to Kathleen Woodward of U.S. EPA Region 1, One Congress Street, Suite 1100 (RAA), Boston, Massachusetts this 12<sup>th</sup> day of January, 2010.

  
John A. Christopher



TELEPHONE (978) 777-5100  
FACSIMILE (978) 777-1596

**JOHN A. CHRISTOPHER**

CITY SOLICITOR  
CITY OF PEABODY  
199 ROSEWOOD DRIVE, SUITE 350  
DANVERS, MASSACHUSETTS 01923

RECEIVED

2010 JAN 14 A 11:50

RECEIVED  
OFFICE OF  
HEARING CLERK

January 12, 2010

Ms. Wanda Rivera  
Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region I  
1 Congress Street, Suite 1100, Mail Code RAA  
Boston, MA 02114

Re: In The Matter Of The City Of Peabody  
Docket No.: 01-2009-0076

Dear Ms. Rivera:

Enclosed herewith please find Respondent's Motion to Extend Time Within Which to Answer the Complaint Proceeding Under Clean Waters Act Section 309(g)(2)(B) filed on behalf of the City of Peabody regarding the above-referenced matter. I also enclose the appropriate Proposed Order pertaining to the motion.

Kindly file same in your usual manner.

Very truly yours,

John A. Christopher

JAC/ldn

Enclosures

cc: Kathleen E. Woodward, Esq.