

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

IN THE MATTER OF:

Michael B. Rapasadi
2106 Lake Road
Oneida, NY 13421

Thomas R. Rapasadi
2106 Lake Road
Oneida, NY 13421

Respondents.

Proceeding pursuant to § 309(g) of the
Clean Water Act, 33 U.S.C. § 1319(g)

**Proceeding to Assess Class I
Civil Penalty Pursuant to Section
309(g) of the Clean Water Act**

Docket No. CWA-02-2013-3601

**ORDER IN RESPONSE TO RESPONDENT'S
MOTION FOR ADJOURNMENT OF TIME**

By *Notice of Motion for Accelerated Decision on Liability and Memorandum of Law in Support of Complainant's Motion for Accelerated Decision on Liability*, filed on May 1, 2015, Complainant moved for an accelerated decision on liability pursuant to 40 C.F.R. §§ 22.50(a)(1) and 22.20(a).

Pursuant to 40 C.F.R. § 22.16(b), Respondents' response to said motion was due fifteen days from the date of service of the motion. The Motion was served on Respondents by certified mail on May 8, 2015, and the Respondents' response was therefore due on May 26, 2015.

However, Counsel for Respondents filed a *Motion for Adjournment of Time to Answer the Claimant's Motion for Accelerated Decision on Liability* on May 14, 2015, and upon review of Respondents' Motion, the Undersigned granted the Respondents a forty five day extension, through July 7, 2015, to file and serve its response.

On June 29, 2015, Respondents filed *Respondents Motion for Adjournment of 45 Days to Answer the Claimants' Motion for Accelerated Decision on Liability by Reason of Today's First Issue of Final decision by US Army Corp of Engineers on the Subjects*

Involved in the Claimant's Motion, Respondents' attorney requested a second adjournment in order that he, his clients and "experts" could review the final rule and assess its impact on Respondents' position. The Complainant did not respond to this second motion for extension of time.

On July 6th, Respondents filed an *Affidavit in Opposition of Motion for Accelerated Decision*, subject to their June 29th motion for extension of time for filing of Respondents' response to Complainant's May 1st motion.

Upon review of Respondents' motion, the Undersigned grants the Respondents an extension of time in which to file and serve any additional affidavits, briefs or other supplemental documentation as part of their response. Pursuant to the discretion granted the Undersigned in 40 C.F.R. § 22.16(b) to set a shorter or longer time for the filing of responses and replies, the Undersigned has adjusted the date by which Complainant's reply to the Respondents' response must be filed, as set forth below.

IT IS ORDERED:

The Respondents' full and complete response to Complainant's motion must be filed no later than August 31, 2015. Respondent is directed to file the original with the Regional Hearing Clerk and serve both Complainant's attorney and the Undersigned with a copy of this response. No further extensions will be granted to the Respondents to file their response to Complainant's motion.

In light of the two lengthy extensions of time granted to the Respondents, the Undersigned orders that the Complainant's reply must be filed within twenty days, rather than ten days, after service of the response.

Dated: July 16, 2015



Helen S. Ferrara
Presiding Officer

CERTIFICATE OF SERVICE

I hereby certify that the **Order In Response To Respondent's Motion For Adjournment Of Time** by Regional Judicial Officer Helen Ferrara in the matter of **Michael B. Rapasadi and Thomas Rapasadi, Docket No. CWA-02-2013-3601**, was served on the parties as indicated below:

First Class Mail - John Benjamin Carroll, P.C.
Carroll and Carroll Lawyers, P.C.
440 South Warren Street
Syracuse, New York 13202

Inter Office Mail - Lauren Fischer, Esq.
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Karen Maples
Regional Hearing Clerk
USEPA - Region II

Dated: July 16, 2015