

Proposed ORDER GRANTING EXTENSION OF TIME

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

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In the matter of:

_____)
Town of Plaistow)
145 Main Street)
Plaistow NH 03865)
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)
)
Respondent.)
_____)

Docket Numbers:

MOTION FOR EXTENSION OF
TIME IN WHICH TO ANSWER THE
ADMINISTRATIVE COMPLAINT

Proceedings Under Section 309(g)(2)(B)
Of the Clean Water Act and Section
3008(a) of the Resource Conservation and
Recovery Act

CWA-01-2009-0078

I. NEED FOR AN EXTENSION

On Thursday, August 14, 2009, Town of Plaistow received the Administrative Complaint and Notice of Opportunity for Hearing in the above-captioned matter. After contacting and discussing this request with the EPA case attorney, Kathleen Woodward on Tuesday December 15th 2009, and after scheduling a several meetings and telephone conferences to discuss the alleged violations with EPA representatives, the Town of Plaistow is now requesting a forty-five day (45) day extension of the deadline for filing an answer to the administrative complaint.

This extension is necessary in order to explore the possibility for settlement of this matter so that the Town of Plaistow can avoid incurring unnecessary litigation costs which would further challenge the financial stability of the business. The Town is working on a detailed proposal outlining Supplementary Environmental Projects (SEPs) that we will be presenting to the EPA by Tuesday, December 22nd, 2009. We believe that this will be one of the last steps as we continue to explore an agreeable settlement.

It would impose an unnecessary and wasteful financial burden on the Town of Plaistow to require preparation of an answer to the Administrative Complaint if, as appears possible, settlement of this matter and full compliance with the relevant regulations can be achieved without having to do so. The requested thirty day extension should provide sufficient time to determine if a settlement is likely.

Legal counsel for EPA Region I, Kathleen Woodward, has indicated that she has no objections to this extension of time in which to answer the Administrative Complaint, until February 15th, 2010.

II. AUTHORITY TO GRANT AN EXTENSION

The Presiding Officer may grant an extension of time for filing any document, including a written answer to an administrative complaint, upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties, under the Consolidated Rules of Practice, 40 C.F. R 22.7(b). This Motion is made on the due date of December 15th, 2009 to allow other parties

to respond and to allow the Presiding Officer to issue an Order, especially in light of the acquiescence of EPA counsel to issuance of the requested extension.

III. REQUEST FOR EXTENSION

Because there is no prejudice to any other party and there is good cause for an extension of time to which to file an Answer to the Administrative Complaint, the Town of Plaistow, respectfully requests that the time for filing an Answer to this Complaint be extended until February 15th, 2010.

Respectfully Submitted,


Sean Fitzgerald
Town Manager

Sean Fitzgerald
Town Manager
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DATED: December 15th 2009

In the Matter of: Town of Plaistow

Docket Nos:

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing MOTION FOR EXTENSION OF TIME IN WHICH TO ANSWER THE ADMINISTRATIVE COMPLAINT in the matter of Town of Plaistow, were sent to the following persons in the manner indicated:

Original and one copy by First Class Mail:

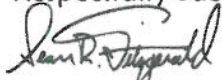
Ms. Wanda Rivera
Regional Hearing Clerk
U.S. Environmental Protection Agency – Region I
One Congress Street
Suite 1100, Mail Code RAA
Boston, Massachusetts 02114-2023

Copy by First Class Mail and email:

Kathleen E. Woodward, Senior Enforcement Counsel
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One Congress Street, Suite 1100 (RAA)
Boston, MA 02114-2023
Woodward.Kathleen@epa.gov

Date: December 15, 2009

Respectfully Submitted,



Sean R. Fitzgerald
Town Manager