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Office of Regional Hearing Clerk

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December 21, 2007

Hand delivery

Wanda Rivera
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
One Congress Street, Suite 1100
Boston MA 02114-2023

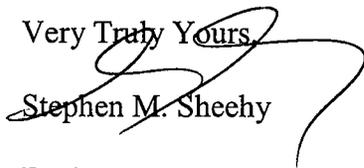
Re: McManus Excavating Company, Inc. Docket No. CWA-01-2008-0013

Dear Ms. Rivera:

Enclosed please find a Motion for Extension of Time to Respond to the Administrative Complaint Proposing to Assess A Civil Penalty under Section 309 (g) of the Clean Water Act. The Motion is filed on behalf of McManus Excavating Company, Inc. The Administrative Complaint was filed on December 3, 2007. I also enclose a proposed Order.

Please file this Motion in the usual manner. Please call me if you have any questions. Thank you.

Very Truly Yours,


Stephen M. Sheehy

Enclosures

cc: Katherleen E. Woodward, Senior Enforcement Counsel (By Hand)
McManus Excavating Company, Inc.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

EPA ORC
Office of Regional Hearing Clerk

_____)	
In the Matter of:)	
McManus Excavating Company, Inc.)	Docket No. CWA-01-2008-0013
361 West Main Street)	
Northborough MA 01532)	
)	
Respondent)	
_____)	

MOTION FOR EXTENSION OF TIME IN WHICH TO RESPOND TO THE ADMINISTRATIVE COMPLAINT PROPOSING TO ASSESS A CIVIL PENALTY UNDER SECTION 309 (G) OF THE CLEAN WATER ACT

I. NEED FOR AN EXTENSION

On December 4, 2007, McManus Excavating Company, Inc. ("McManus") received the Administrative Complaint and Notice of Opportunity for Hearing in the above-captioned matter. McManus contacted me to seek representation in this matter. Since that time I have met with Brain McManus, President of McManus and other employees of McManus, discussed the matter with the EPA case attorney, Kathleen Woodward, and gathered limited information at the McManus facility. Based on the results of this initial investigation, McManus requests a thirty (30) 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 McManus Excavating Company, Inc. can avoid incurring unnecessary litigation costs which would further challenge the financial stability of the business. We have scheduled an informal settlement conference with EPA Region I on either January 15 or 17, 2008 as the first step in exploring settlement. It would impose an unnecessary and wasteful financial burden on McManus 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. In addition, the undersigned counsel will be on vacation from December 21 until January 2, 2008 and it would be difficult to properly prepare a response to the Complaint.

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 4, 2008.

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 sufficiently in advance of the due date of January 4, 2008 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.

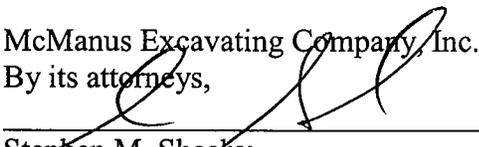
III. REQUEST FOR EXTENSION

Because there is no prejudice to any other party and there is good cause for an extension of time in which to file an Answer to the Administrative Complaint, McManus Excavating Company, Inc. respectfully requests that the time for filing an Answer to this Complaint be extended until February 4, 2008. A proposed Order is attached.

Respectfully Submitted,

DATED: December 21, 2007

McManus Excavating Company, Inc.
By its attorneys,



Stephen M. Sheehy
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

_____))
In the Matter of:))
McManus Excavating Company, Inc.) Docket No. CWA-01-2008-0013
361 West Main Street))
Northborough MA 01532))
Respondent))
_____)

**Order granting Extension of Time to File Response to Administrative Complaint
Proposing to Assess a Civil Penalty under Section 309 (g) of the Clean Water Act**

ORDER

In accordance with 40 C.F.R. §§22.07 (B) and 22.16(c), for good cause shown, the time for respondent to file a response to the complaint is extended to the close of business on February 4, 2008.

Dated: _____

Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

_____)
In the Matter of:)
McManus Excavating Company, Inc.) Docket No. CWA-01-2008-0013
361 West Main Street)
Northborough MA 01532)
Respondent)
_____)

CERTIFICATE OF SERVICE

I certify that on December 21, 2007, I served copies of the forgoing MOTION FOR EXTENSION OF TIME IN WHICH TO RESPOND TO THE ADMINISTRATIVE COMPLAINT PROPOSING TO ASSESS A CIVIL PENALTY UNDER SECTION 309 (G) OF THE CLEAN WATER ACT in this matter by sending

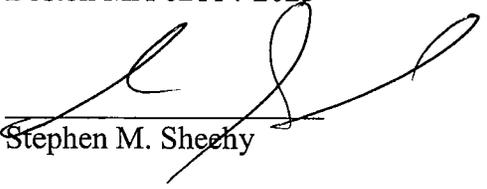
Original and one copy by hand delivery to:

Wanda Rivera
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
One Congress Street, Suite 1100
Boston MA 02114-2023

and

One copy by hand delivery to:

Kathleen E. Woodward, Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
One Congress Street, Suite 1100
Boston MA 02114-2023



Stephen M. Sheehy