

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I

RECEIVED

DOCKET NO. CWA 01-2009-0073

2009-08-10 A 9:46

In the Matter of  
  
TOWN OF EASTHAM  
  
Respondent.

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

EPA ORC  
OFFICE OF  
HEARING CLERK

**I. NEED FOR AN EXTENSION**

On or about Thursday, August 17, 2009, the Town of Eastham (the "Town") received the Administrative Complaint in the above-captioned matter. Upon receipt of the Complaint, the Town immediately began an investigation of the allegations set forth therein and began to formulate a strategy for demonstrating compliance with its MS4 NPDES Permit. The Town, through Town Counsel, contacted EPA Case Attorney, Kathleen Woodward, to set up an initial settlement meeting. The parties met on Friday, September 11, 2009, at EPA offices in Boston and engaged in extensive settlement discussions. A follow-up meeting was held on Tuesday, September 29, 2009. The settlement meetings were productive and settlement appears likely.

This extension is necessary in order to continue settlement discussions so that the parties can avoid incurring unnecessary litigation costs. We have conducted two settlement conferences and the Town has provided EPA with extensive documentation in support of its position. EPA counsel has indicated that she requires additional time to process this information and formulate a response. It would impose an unnecessary and wasteful financial burden on the Town and waste the limited administrative resources of the agency to require preparation of an answer to the Administrative Complaint if, as appears likely, settlement of this matter and full compliance with the relevant regulations can be demonstrated without having to do so. The requested forty-

five-day extension should provide sufficient time to determine if settlement is likely.

Legal counsel for EPA Region I, Kathleen Woodward, has indicated that she assents to this extension of time in which the answer the Administrative Complaint until January 21, 2010.

## II. AUTHORITY TO GRANT AN EXTENSION

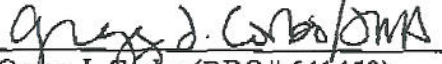
The Presiding Officer may grant an extension of time for filing any document, including a written answer to an administrative complaint, upon timely motion of a party to the proceedings, for good cause shown, and after consideration of prejudice to other parties, under the Consolidated Rules of Practice, 40 C.F.R. §22.7(b). This Motion is made with the assent 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, the Town respectfully requests that the time for filing an Answer to this Complaint be extended until January 21, 2010.

TOWN OF EASTHAM

By its attorneys,

  
Gregg J. Corbo (BBO# 641459)  
Jeffrey T. Blake (BBO# 655773)  
Kopelman and Paige, P.C.  
Town Counsel  
101 Arch Street, 12th Floor  
Boston, MA 02110-1109  
(617) 556-0007

Date: 12/8/09  
388734/EASH/0168


CERTIFICATE OF SERVICE

I, Janelle M. Austin, hereby certify that on the below date, I served a copy of the foregoing Third Assented-to Motion for Extension of Time in Which to Answer the Administrative Complaint, by first class mail, postage prepaid, to the following counsel of record:

Kathleen E. Woodward  
Senior Enforcement Counsel  
Office of Environmental Stewardship  
U.S. EPA, Region I  
One Congress Street, Suite 1100 (SEL)  
Boston, MA 02114-2023

Dated: \_\_\_\_\_

12/8/09

  
\_\_\_\_\_  
Janelle M. Austin

Boston

**Kopelman and Paige, P.C.**

Northampton

101 Arch Street

Boston, MA 02110

Worcester

(617) 556-0007 / (617) 654-1735 - Fax

Lenox

**THIS DOCUMENT IS CONFIDENTIAL**

**FACSIMILE TRANSMITTAL COVER SHEET**

Date: 12-8 .2009 Number of Pages Including Cover: 9

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This Fax was Sent By: Janell M. Austin, Esq. Operator Initials: JMA

**PLEASE DELIVER TO:**

Name:

Fax Number:

Wanda Santiago, Regional  
Hearing Clerk

617-918-0101

**COMMENTS OR INSTRUCTIONS:**

PLEASE CONTACT THE SENDER AT (617) 654-1754 IF YOU HAVE NOT RECEIVED THE NUMBER OF PAGES NOTED ABOVE OR IF THERE ARE ANY PROBLEMS WITH THIS TRANSMISSION. THANK YOU.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

\_\_\_\_\_  
IN THE MATTER OF: )  
 )  
Town of Eastham, Massachusetts )  
 )  
 )  
 )  
 )  
Respondent )  
\_\_\_\_\_

**Order Granting Extension of Time  
to File an Answer**

Docket No. CWA- 01-2009-0073

**ORDER**

In accordance with 40 C.F.R. §§22.7(b) and 22.16(c), for good cause shown, the time for Respondent to file an Answer is extended until the close of business on January 21, 2010. This extension is agreed to by EPA enforcement counsel.

Dated: December 10, 2009

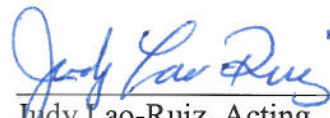
Jill T. Metcalf  
Jill T. Metcalf  
Acting Regional Judicial Officer

In the Matter of Town of Eastham  
Docket No. CWA-01-2009-0073

**CERTIFICATE OF SERVICE**

I certify that on this 10th day of December, 2009 the original foregoing Order was filed with the Regional Hearing Clerk, a copy was hand-delivered to Counsel for Complainant, and a copy was mailed by certified mail, return receipt requested, to Counsel for Respondent.

12/10/09  
Date



Judy Lao-Ruiz, Acting  
Regional Hearing Clerk  
U.S. EPA Region I  
One Congress Street  
Suite 1100 (RAA)  
Boston, Massachusetts 02114

**Counsel for Respondent:**

Gregg J. Corbo  
Kopelman & Paige, P.C.  
Town Counsel  
101 Arch Street, 12<sup>th</sup> Floor  
Boston, MA 02110-1109

**Counsel for Complainant:**

Kathleen E. Woodward  
Senior Enforcement Counsel  
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Boston, MA 02114-2023

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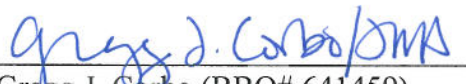
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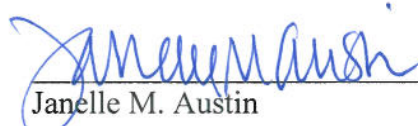


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\_\_\_\_\_  
Janelle M. Austin



**KOPELMAN AND PAIGE, P.C.**  
Attorneys at Law  
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101 Arch Street  
Boston, MA 02110  
T: 617.556.0007  
F: 617.654.1735  
www.k-plaw.com  
Gregg J. Corbo  
gcorbo@k-plaw.com

2009 DEC 10 A 9:46  
EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

December 8, 2009

BY FACSIMILE - (617) 918-0101  
AND FEDERAL EXPRESS

Ms. Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region I  
One Congress Street, Suite 1100 (RAA)  
Boston, Massachusetts 02114-2023

Re: In the Matter of Town of Eastham  
Docket No. CWA-01-2009-0073

Dear Ms. Santiago:

Enclosed for filing with respect to the above-referenced case, please find the Town of Eastham's Third Assented-to Motion for Extension of Time in Which to Answer the Administrative Complaint and a Certificate of Service.

Thank you for your attention to this matter.

Very truly yours,

*Gregg J. Corbo*  
Gregg J. Corbo

GJC/MA/jmt

Enc.

cc: Town Administrator (by first class mail)

Kathleen E. Woodward, Esq. (by first class mail)

388735/EAHM/0168



**KOPELMAN AND PAIGE, P.C.**  
*Attorneys at Law*

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F: 617.654.1735  
www.k-plaw.com

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**Gregg J. Corbo**  
gcorbo@k-plaw.com

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