

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

RECEIVED

In the Matter of:)
)
The City of Gardner)
)
)
)
_____)

2009 DEC -7 A 11: 25
Docket No. CWA-01-2009-0075

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

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

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

I. NEED FOR AN EXTENSION

On Monday, August 17, 2009, the City of Gardner ("Gardner") received the Administrative Complaint in the above-captioned matter. The City's deadline for filing an answer was initially extended to October 16, 2009. The City of Gardner has submitted a written plan for compliance with the EPA and attended a meeting to discuss settlement on September 8, 2009. The Parties have had a second settlement conference. The Parties have reached a settlement in principle and the EPA is currently conducting an assessment of the City's ability to pay an administrative penalty.

This extension is necessary in order to allow sufficient time for the EPA to conduct the ability to pay assessment and to allow sufficient time for the parties to finalize the terms of the settlement. In order to accomplish these tasks, the City is requesting a forty-five (45) day extension from November 30, 2009 to file its Answer. The requested forty-five 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 objection.

II. AUTHORITY TO GRANT AN EXTENSION

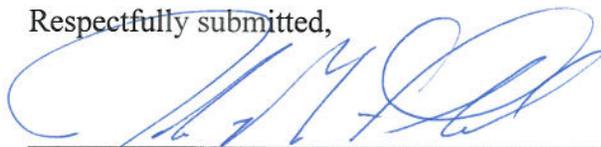
The Presiding Officer may grant an extension of time for filing any document, including a written answer to an administrative complaint, upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties, under the Consolidated Rules of Practice, 40 C.F.R. §22.7(b). This Motion is made in advance of the due date of September 16, 2009 to allow other parties to respond and to allow the Presiding Officer to issue an Order, especially in light of the assent by 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 City of Gardner respectfully requests that the time for filing an Answer to this Complaint be extended until January 14, 2010.

Dated this 1 day of December 2009.

Respectfully submitted,



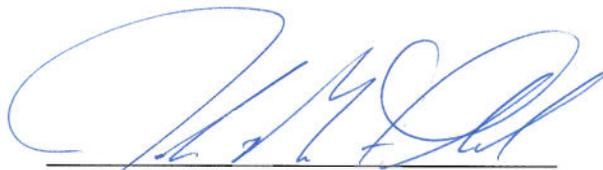
John M. Flick, Esq. (BBO# 652169)
Jill A. Romer, Esq. (BB O# 551007)
City of Gardner Law Department
144 Central Street, Suite 201
Gardner, MA 01440
(978) 632-7948

CERTIFICATE OF SERVICE

I hereby certify that this / day of December, 2009 I served a true and correct copy of the foregoing document, via first class mail, postage pre-paid, on the following persons:

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

Kathleen E. Woodward, Senior Enforcement Counsel
U.S. EPA Region I
One Congress Street, Suite 1100
Boston, MA 02114-2023



John M. Flick

CITY OF GARDNER
LAW DEPARTMENT

John M. Flick
City Solicitor

Jill A. Romer
Assistant City Solicitor



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Writer's Email:

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

December 1, 2009

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

Re: In the Matter of the City of Gardner, Massachusetts
Docket No.: CWA 01-2009-0075

Dear Sir or Madam:

Enclosed for filing please find the City's third request for an Extension of Time to File an Answer in the above-referenced matter. I apologize for the late filing, however, I have been unavailable due to illness.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "John M. Flick".

John M. Flick

Enclosure

Cc: Mayor Mark P. Hawke, City of Gardner
Kathleen E. Woodward, Senior Enforcement Counsel