

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

RECEIVED

MAR 25 2013

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Office of Regional Hearing Clerk

In the Matter of:

Docket No. CWA-01-2013-0007

J.H. Lynch & Sons, Inc.  
50 Lynch Place  
Cumberland, Rhode Island 02864

Proceeding to Assess a Civil Penalty Under  
Section 309(g) of the Clean Water Act

and

MASSACHUSETTS DEPARTMENT  
TRANSPORTATION  
10 Park Plaza, Suite 3510  
Boston, Massachusetts 02116,

Respondents.

**FOURTH JOINT ASSENTED-TO MOTION FOR EXTENSION OF TIME  
IN WHICH TO ANSWER THE ADMINISTRATIVE COMPLAINT**

**I. NEED FOR AN EXTENSION**

On December 11 and 12, 2012, the Massachusetts Department of Transportation ("MassDOT") and J.H. Lynch and Sons, Inc. ("Lynch"), respectively, received Administrative Complaints and Notices of Opportunity to Request a Hearing in the above-captioned matter ("Complaint"). On January 28, 2013, both parties met with EPA Senior Enforcement Counsel Kathleen Woodward at an informal conference at EPA's Post Office Square location and engaged in extensive, productive settlement discussions. At the conclusion of this conference, all parties agreed to participate in a follow-up meeting, which was held on February 13, 2013 at MassDOT's District 4 Office in Weston, Massachusetts, to continue to explore the possibility of settlement in the above-captioned matter. On March 1<sup>st</sup> a conference call was held between respective counsels in order to expedite settlement. As of the time of this filing, the parties have settled and now need time to enter into a consent agreement.

Accordingly, MassDOT and Lynch request a fourteen (14) day extension of the deadline for filing an answer to the Complaint so that a mutually agreeable consent agreement may be entered into by all parties.

Attorney Woodward has indicated that she has no objections to this request of an extension of time to answer the Complaint until April 5, 2013.

## II. AUTHORITY TO GRANT AN EXTENSION

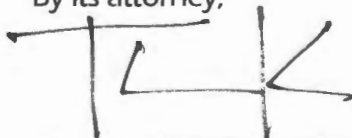
The Presiding Officer may grant an extension of time for filing any document, including a written answer to an administrative complaint, upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties, under the Consolidated Rules of Practice, 40 C.F.R. § 22.7(b). This motion is made in advance of the due date of March 25, 2013 in order to allow the Presiding Officer to issue an Order, especially in light of the acquiescence of Attorney Woodward to the 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 answers to the Complaint, MassDOT and Lynch respectfully request that the time for filing an answer to the Complaint be extended to April 5, 2013.

Respectfully submitted on behalf of both parties,

Massachusetts Department of  
Transportation  
By its attorney,

A handwritten signature in black ink, appearing to read 'TKK', is written over a horizontal line.

Tracy W. Klay, BBO # 639429  
MassDOT  
Ten Park Plaza, Suite 3510  
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(857) 368-8768  
[rachael.rollins@state.ma.us](mailto:rachael.rollins@state.ma.us)  
[tracy.klay@state.ma.us](mailto:tracy.klay@state.ma.us)

J.H. Lynch and Sons, Inc.  
By its attorney,

LARRY MCCARTHY (TK)

Lawrence P. McCarthy, III RI# 2860  
Higgins, Cavanagh & Cooney LLP  
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(401) 272-3500  
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Dated: March 22, 2013

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**ORDER**

In accordance with 40 C.F.R. §§ 22.7(b) and 22.16, for good cause shown, the time for an answer to be filed in the above-captioned matter is extended to the close of business on April 5, 2013.

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

\_\_\_\_\_  
LeAnn Jensen  
Acting Regional Judicial Officer

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing FOURTH JOINT ASSENTED-TO MOTION FOR EXTENSION OF TIME IN WHICH TO ANSWER THE ADMINISTRATIVE COMPLAINT in the above-captioned matter were sent to the following persons in the manner indicated on March 22, 2013:

Original and one copy by UPS Overnight:

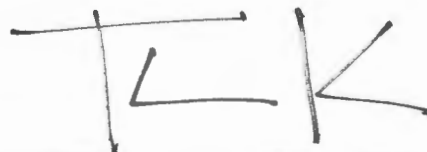
LeAnn Jensen, Acting Regional Judicial Officer  
U.S. EPA Region I  
5 Post Office Square, Suite 100  
Mail Code ORA18-1  
Boston, Massachusetts 02109-3912

Copy by First Class Mail and email:

Kathleen E. Woodward, Senior Enforcement Counsel  
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Copy by First Class Mail:

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Tracy W. Klay