

**HARRIS BEACH** PLLC  
ATTORNEYS AT LAW

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JOSEPH D. PICCIOTTI

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November 1, 2011

*By Federal Express*

Regional Hearing Clerk  
United States Environmental Protection Agency  
290 Broadway, 16th Floor  
New York, NY 10007-1866

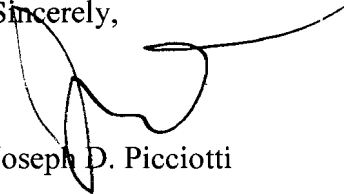
Re: In the Matter of Dolomite Products Co., Inc.  
Docket No. CWA-02-2010-3403

Dear Sir/Madam:

Enclosed please find the notice of motion and supporting affidavit on behalf of the Respondent in the referenced matter seeking to enlarge the time in which Respondent answers or otherwise responds to the administrative complaint in this matter. Please be advised that counsel for the Environmental Protection Agency, Lauren Fischer, has indicated she concurs with a request to enlarge the time for Respondent to answer or otherwise respond to the complaint.

Please return a copy of the enclosed in the enclosed prepaid envelope addressed to my office with a stamp indicating that it has been filed with the Clerk as required under the applicable rules.

Sincerely,

  
Joseph D. Picciotti

JDP:nac  
Enclosures  
cc: Lauren Fischer (w/enclosures)

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2011 NOV - 1 P 3 26  
REGIONAL HEARING  
CLERK

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

IN THE MATTER OF:

Docket No. CWA-02-2010-3403

Dolomite Products Co., Inc.  
Manitou Construction  
Manitou-Redman Mine, Concrete Plant and  
Maintenance Facility  
1150 Penfield Road, Rochester, New York  
SPDES General Permit NYR00B138.  
Docket No. CWA-02-2010-3403

NOTICE OF MOTION  
TO ENLARGE THE TIME  
FOR RESPONDENT TO  
ANSWER OR OTHERWISE  
RESPOND TO THE  
ADMINISTRATIVE  
COMPLAINT

Respondent.

Proceeding pursuant to Section 309(g) of the  
Clean Water Act, 33 U.S.C. § 1319(g)

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2011 NOV - 7 P 3 26  
REGIONAL HEARING  
CLERK

MOTION BY:

Respondent

DATE, TIME AND PLACE OF HEARING:

November 1, 2011, or as soon after  
as the Administrative Law Judge or  
other appropriate judicial officer may  
hear and make a determination on  
this motion; no request for oral  
argument or hearing on this motion  
is made, and Respondent requests  
that the motion be decided without  
any such argument or hearing.

SUPPORTING PAPERS

Attached affidavit of Joseph D.  
Picciotti, sworn to October 31, 2011  
as counsel for Respondent.

RELIEF REQUESTED:

An Order from the Administrative  
Law Judge or other appropriate  
judicial officer in accordance with  
Section 40 Code of Federal  
Regulations Part 22 et seq. granting  
the Respondent's request that its

time to answer or otherwise respond to the Administrative Complaint in this matter be extended up to and including December 31, 2011.

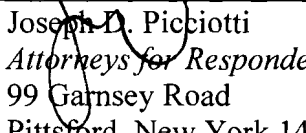
GROUNDS:

For the reasons set forth in the enclosed affidavit, including that the respondent and the Agency to resolve this matter in an amicable manner as expeditiously as possible.

Pittsford, New York  
November 1, 2011

HARRIS BEACH PLLC

By: \_\_\_\_\_

  
Joseph D. Picciotti  
*Attorneys for Respondent*  
99 Garnsey Road  
Pittsford, New York 14534  
(585) 419-8800

TO: LAUREN FISCHER, ESQ.  
Water & General Law Branch  
Office of Regional Counsel  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
290 Broadway – 16<sup>th</sup> Floor  
New York, New York 10007-1866  
(212) 637-3231

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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

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IN THE MATTER OF:

Docket No. CWA-02-2010-3403

Dolomite Products Co., Inc.  
Manitou Construction  
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1150 Penfield Road, Rochester, New York  
SPDES General Permit NYR00B138.  
Docket No. CWA-02-2010-3403

SUPPORTING AFFIDAVIT

Respondent.

Proceeding pursuant to Section 309(g) of the  
Clean Water Act, 33 U.S.C. § 1319(g)

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STATE OF NEW YORK )  
COUNTY OF MONROE ) ss.:

JOSEPH D. PICCIOTTI, being duly sworn, deposes and says:

1. I am counsel for Respondent in this matter and I submit this affidavit in support of the attached Notice of Motion submitted by Respondent seeking to enlarge the time of Respondent to answer or otherwise respond to the Administrative Complaint. The Administrative Complaint in this matter was received by a person of responsibility with the Respondent sometime within the first two weeks of September, 2010.

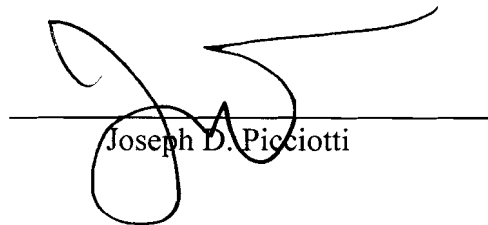
2. As indicated in the Notice of Motion, I have had communications with counsel for the Environmental Protection Agency in this matter (the "Agency"), Lauren Fischer, concerning the date by which the Respondent's answer or other response to the Administrative Complaint is due. Ms. Fischer has stated that the Agency has agreed to

enlarge the time for the Respondent to file its answer or otherwise respond to the Administrative Complaint. Based on the upcoming holidays, we propose the time to answer or otherwise respond be set to December 31, 2011.

3. Respondent requests that this motion be granted extending Respondent's time to answer or otherwise respond to the Administrative Complaint to and including December 31, 2011 in order to allow Respondent to complete its negotiations with the Agency to resolve this matter by mutual agreement of the parties in as expeditious a manner as possible.

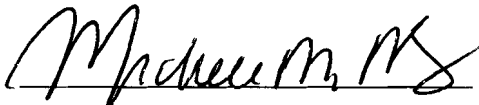
4. Respondent has continued to work with the Agency since the filing of the Administrative Complaint on a settlement of the claims in the Administrative Complaint and extensive progress has been made, including negotiations concerning a supplemental project and Respondent has undertaken significant efforts with third parties in order to come to terms on such project, but more time is needed to finally conclude this as an alternative to proceeding with litigation.

5. No further relief is requested by this application.



Joseph D. Picciotti

Sworn to before me this 1<sup>st</sup>  
day of November, 2011.



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**Michele M. McKay**  
**Notary Public, State of New York**  
**Qualified in Monroe County**  
**My Commission Expires April 16, 2014**