

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED

DOCKET NO. CWA-01-2009-0073

2009 SEP 15 P 2:24

In the Matter of
TOWN OF EASTHAM

Respondent.

EPAC003
ASSENTED-TO MOTION
FOR EXTENSION OF TIME
IN WHICH TO ANSWER THE
ADMINISTRATIVE COMPLAINT

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. The settlement meeting was productive and settlement appears likely. A follow-up meeting is scheduled for Tuesday, September 29, 2009.

This extension is necessary in order to continue settlement discussions so that the parties can avoid incurring unnecessary litigation costs. We have scheduled a second informal settlement conference with EPA Region I for September 29, 2009 as the next step in exploring settlement. 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 thirty-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 October 19, 2009.

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 sufficiently in advance of the due date of September 17, 2009, to allow other parties to respond and to allow the Presiding Officer to issue and 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, the Town respectfully requests that the time for filing an Answer to this Complaint be extended until October 19, 2009.

TOWN OF EASTHAM

By its attorneys,



Gregg J. Corbo (BBO# 641459)
Jeffrey T. Blake (BBO# 655773)
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Town Counsel
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Boston, MA 02110-1109
(617) 556-0007

Date: 9/14/09

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CERTIFICATE OF SERVICE

I, Gregg J. Corbo, hereby certify that on the below date, I served a copy of the foregoing 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: _____

9/14/09



Gregg J. Corbo