

Proposed ORDER GRANTING EXTENSION OF TIME

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I

RECEIVED

2009 SEP 29 P 1:42

In the matter of:

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Town of Plaistow )  
145 Main Street )  
Plaistow NH 03865 )  
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)  
)  
Respondent. )  
\_\_\_\_\_

Docket Numbers: CWA-01-2009-0078

EPA REGION I  
OFFICE OF  
REGIONAL HEARING CLERK

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

Proceedings 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 Thursday, August 14, 2009, Town of Plaistow received the Administrative Complaint and Notice of Opportunity for Hearing in the above-captioned matter. After contacting and discussing this request with the EPA case attorney, Kathleen Woodward, and after scheduling a meeting for Tuesday, September 22<sup>nd</sup> to discuss the alleged violations with EPA representatives, the Town of Plaistow is now requesting a thirty day (30) day extension of the deadline for filing an answer to the administrative complaint.

This extension is necessary in order to explore the possibility for settlement of this matter so that the Town of Plaistow can avoid incurring unnecessary litigation costs which would further challenge the financial stability of the business. We have scheduled another informal settlement conference with EPA Region I on October 8<sup>th</sup> as we continue to explore an agreeable settlement. It would impose an unnecessary and wasteful financial burden on the Town of Plaistow to require preparation of an answer to the Administrative Complaint if, as appears possible, settlement of this matter and full compliance with the relevant regulations can be achieved without having to do so. The requested thirty 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 objections to this extension of time in which to answer the Administrative Complaint, until October 30<sup>th</sup>, 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 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 30<sup>th</sup>, 2009 to allow other parties to respond and to allow the Presiding Officer to issue an 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 to which to file an Answer to the Administrative Complaint, the Town of Plaistow, respectfully requests that the time for filing an Answer to this Complaint be extended until October 30<sup>th</sup>, 2009.

Respectfully Submitted,

  
Sean Fitzgerald  
Town Manager

Sean Fitzgerald  
Town Manager  
145 Main Street  
Plaistow NH 03865  
(603) 382-5200 x13 (tel.)  
(603) 382-1783 fax  
[sfitzgerald@Plaistow.com](mailto:sfitzgerald@Plaistow.com)

DATED: September 28<sup>th</sup>, 2009

In the Matter of: Town of Plaistow

Docket Nos:

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing MOTION FOR EXTENSION OF TIME IN WHICH TO ANSWER THE ADMINISTRATIVE COMPLAINT in the matter of Town of Plaistow, were sent to the following persons in the manner indicated:

Original and one copy by First Class Mail:

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

Copy by First Class Mail and email:

Kathleen E. Woodward, Senior Enforcement Counsel  
U.S. EPA Region I  
One Congress Street, Suite 1100 (RAA)  
Boston, MA 02114-2023  
[Woodward.Kathleen@epa.gov](mailto:Woodward.Kathleen@epa.gov)

Date: September 28<sup>th</sup>, 2009

Respectfully Submitted,

  
Sean R. Fitzgerald  
Town Manager



**Town of Plaistow, New Hampshire**  
**OFFICE OF THE TOWN MANAGER**  
Sean R. Fitzgerald

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2009 SEP 29 P 1:41

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Web: [www.Plaistow.com](http://www.Plaistow.com)

EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

Plaistow Town Hall  
145 Main Street  
Plaistow, NH 03865

September 28, 2009

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

Re: In the Matter of: Town of Plaistow

Dear Ms. Rivera:

Enclosed herewith please find the MOTION FOR EXTENSION OF TIME IN WHICH TO ANSWER THE ADMINISTRATIVE COMPLAINT filed on behalf of Town of Plaistow, in response to the Administrative Complaint and Notice of Opportunity for Hearing filed by Kathleen E. Woodward on behalf of EPA Region I on August 14, 2009. I also enclose an appropriate proposed Order pertaining to the Motion.

Please file this MOTION FOR EXTENSION OF TIME IN WHICH TO ANSWER THE ADMINISTRATIVE COMPLAINT in your usual manner. Thank you for your attention to this matter. Should you have any questions, please contact me at (603)382-5200 ext 13.

Sincerely,

  
Sean Fitzgerald  
Town Manager

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

Continued