

ANDERSON & KREIGER LLP

REBEKAH LACEY
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November 2, 2009

By Hand

Ms. Judy Lao-Ruiz
Acting Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
One Congress Street
Suite 1100, Mail Code RAA
Boston, Massachusetts 02114-2023

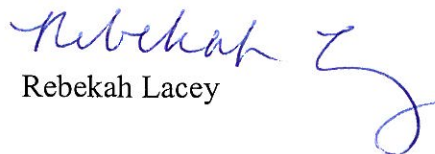
RE: *In the Matter of Town of Concord*
Docket No. CWA-01-2009-0071

Dear Ms. Lao-Ruiz:

Enclosed for filing in the above-referenced proceeding, please find the Respondent's Third Motion for Extension of Time To Answer the Administrative Complaint.

Thank you.

Sincerely,


Rebekah Lacey

Enc.

cc: Kathleen E. Woodward, EPA
Christopher Whelan, Town of Concord
Richard Reine, Town of Concord

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

RECEIVED

In the Matter of)
)
TOWN OF CONCORD)
Town House)
22 Monument Square)
Concord, Massachusetts 01742)
)
Respondent.)

7000 NOV 2 5 21
Docket No. CWA-01-2009-0071

521 NOV 11 2009
Proceeding Under Section 309(g)
of the Clean Water Act

**RESPONDENT'S THIRD MOTION FOR EXTENSION OF TIME
TO ANSWER THE ADMINISTRATIVE COMPLAINT**

The Respondent Town of Concord moves to extend the time to file an Answer to the Administrative Complaint by 31 days, to December 7, 2009. As grounds for this motion, the Town states as follows:

1. On August 13, 2009, the U.S. Environmental Protection Agency ("EPA") filed an Administrative Complaint alleging that the Town had failed to comply with its National Pollutant Discharge Elimination System General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems ("Permit").

2. The Complaint was served on the Town on August 24, 2009.

3. Under the Consolidated Rules of Practice, 40 C.F.R. §§ 22.1 - 22.52, the Answer was due within 30 days of receipt of the Complaint, *i.e.*, September 23, 2009.

4. On September 17, 2009, the Town moved for an extension of time to file the Answer to October 7, 2009. Kathleen Woodward, EPA enforcement counsel in this matter, assented to the motion. The Acting Regional Judicial Officer granted that extension on September 22, 2009.

5. The Town and EPA met to discuss the matter on September 21, 2009. On September 29, 2009, the Town submitted additional documents to EPA regarding activities conducted pursuant to the Permit.

6. On September 30, 2009, the Town filed another assented motion for an extension of time to file the Answer, to November 6, 2009. The Acting Regional Judicial Officer granted that extension on October 1, 2009.

7. The Town and EPA met again on October 15, 2009. At that meeting, the Town submitted additional documents responding to EPA's questions regarding activities conducted pursuant to the Permit. On October 19, 2009, the Town submitted a letter to EPA responding to questions raised by EPA at the October 15 meeting.

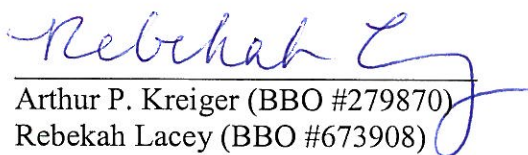
8. The Town has explained to EPA that it has been in compliance with the Permit since it received discharge authorization in March 2004. Except to raise questions that the Town has answered, EPA has not responded to that position.

9. The Town believes that both parties would benefit from time to continue to explore resolution of this matter via informal discussions, in order to prevent unnecessary costs associated with a formal proceeding. In particular, a formal proceeding should not be started before EPA responds to the information and arguments provided by the Town.

10. This extension would not prejudice EPA, and Ms. Woodward has stated that EPA has no objection to it.

For these reasons, the Town requests a 31-day extension of time to file its Answer, to December 7, 2009.

By its attorneys,



Arthur P. Kreiger (BBO #279870)

Rebekah Lacey (BBO #673908)

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Cambridge, MA 02141

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Dated: November 2, 2009

In the Matter of: Town of Concord

Docket No. CWA-01-2009-0071

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing RESPONDENT'S THIRD MOTION FOR EXTENSION OF TIME TO ANSWER THE ADMINISTRATIVE COMPLAINT in the matter of Town of Concord, CWA-01-2009-0071 were sent to the following persons in the manner indicated:

Original and one copy by hand:

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

Copy by hand 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

Date: November 2, 2009


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