

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

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

Respondent.

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

Docket No. CWA-02-2010-3403

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

U.S. ENVIRONMENTAL
PROTECTION AGENCY
2011 SEP 22 A 11:10
REGIONAL HEARING
OFFICE
ROCHESTER, NY

MOTION BY:

Respondent

DATE, TIME AND PLACE OF HEARING:

September 22, 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 September 21,
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 November 2, 2011.


GROUNDS:

For the reasons set forth in the enclosed affidavit, including that the Environmental Protection Agency through counsel, Lauren Fischer, concurs with the request to enlarge time for the Respondent to answer or otherwise respond to the Administrative Complaint to allow the Respondent and the Agency to resolve this matter in an amicable manner as expeditiously as possible.

Pittsford, New York
September 21, 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 – 16th Floor
New York, New York 10007-1866
(212) 637-3231

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SUPPORTING AFFIDAVIT

Respondent.

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

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.

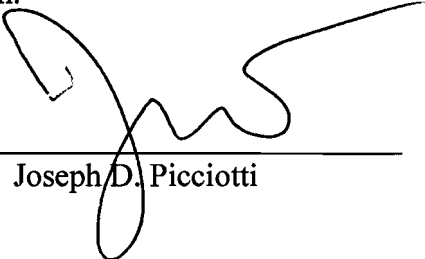
2. As indicated in the Notice of Motion, I have had communications with counsel for the Environmental Protection Agency in this matter (the "Agency"), Lauren Fischer, concerning the date by which the Respondent's answer or other response to the Administrative Complaint is due. Ms. Fischer has stated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

enlarge the time for the Respondent to file its answer or otherwise respond to the Administrative Complaint up to and including November 2, 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 November 2, 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.

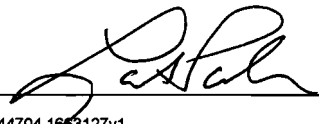
4. Respondent has continued to work with the Agency since the filing of the Administrative Complaint on a settlement of the claims in the Administrative Complaint and extensive progress has been made, including negotiations concerning a supplemental project and Respondent has undertaken significant efforts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

5. No further relief is requested by this application.



Joseph D. Picciotti

Sworn to before me this 21st
day of September, 2011.



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Lori A. Palmer
Notary Public, State of New York
Qualified in Monroe County
Commission Expires May 31, 2015