

United States Environmental Protection Agency
Region 1

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IN THE MATTER OF) DOCKET NO.: CWA 01-2010-0079
)
DANBURY, CONNECTICUT) EPA ORC
) OFFICE OF
) REGIONAL HEARING CLERK
155 DEER HILL AVENUE) RESPONDENT DANBURY,
DANBURY, CT 06810) CONNECTICUT'S MOTION FOR A FIFTH
) EXTENSION OF TIME TO REQUEST A
Respondent.) HEARING AND ANSWER COMPLAINT
)

RESPONDENT CITY OF DANBURY'S MOTION FOR A FIFTH EXTENSION OF
TIME TO REQUEST A HEARING AND ANSWER COMPLAINT

Pursuant to 40 C.F.R. § 22.7, the City of Danbury, Connecticut ("City" or "Respondent") hereby moves for an extension of time to file its answer to the complaint and request a hearing in this matter on the grounds that the Environmental Protection Agency ("EPA") and the City continue to be engaged in settlement discussions and it is in the interests of this proceeding and the parties to avoid engaging in costly and potentially unnecessary litigation while those discussions are ongoing. Further, the City requests additional time so that the parties can exchange and review information regarding the complex allegations in the complaint, which are drawn from two different Clean Water Act programs.

On July 11, 2011, the Acting Regional Judicial Officer granted the City a thirty day extension from July 11, 2011 to August 10, 2011. EPA has previously represented through counsel that it assents to these motions. Respondent City of Danbury, therefore, respectfully requests a thirty day extension to answer the complaint and to request a hearing, from August 10, 2011 to September 9, 2011.

DISCUSSION

An extension of time for filing “any document” may be granted if the motion is “timely” and “good cause” is shown, after considering any “prejudice to other parties.” 40 C.F.R. §22.7(b). In addition, a motion for extension of time must be filed “sufficiently in advance” of the due date. *Id.*

We believe that there is sufficient time to rule, in advance of the August 10, 2011 response deadline, on the City’s motion given the circumstances of this matter. Granting the City’s motion for an extension will not prejudice any other party to the proceeding. The only other party to this matter, EPA, has represented to the City through counsel, that it assents to and does not oppose motions to seek a thirty day extension of the time in which to request a hearing and file an answer. There is, therefore, no question of prejudice to EPA.

Finally, there is good cause for a thirty day extension of time in which to file a responsive pleading. The City and EPA are currently in the midst of settlement negotiations and Respondent is hopeful that the case will resolve without the need to engage in costly litigation. In fact, on August 2, 2011, the City received a counter-offer from EPA to the City’s written settlement offer. The City is optimistic that the final terms of the settlement can be negotiated in the upcoming thirty-day period. Rather than expend valuable time and resources on litigation, the City would prefer to focus on settlement negotiations with EPA and move forward toward a resolution of this case. Such settlement would benefit both the Presiding Officer and the parties by conserving scarce judicial resources and avoiding the distraction and expense of litigation while the parties review, analyze and negotiate a potential settlement. In addition, the parties

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can exchange information that will provide clarification regarding the complex complaint, which is drawn from two different Clean Water Act programs and regard compliance questions and efforts that date back several years. The additional time and information will allow the City to adequately and fully respond to the complaint.

CONCLUSION

As provided above, there is good cause to grant Respondent City of Danbury's motion for a fifth extension of time to file its answer and request a hearing. The City respectfully requests a thirty day extension of the deadline to file its answer and request for a hearing, from August 10, 2011 to September 9, 2011.

Dated: August 9, 2011



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Counsel for Respondent
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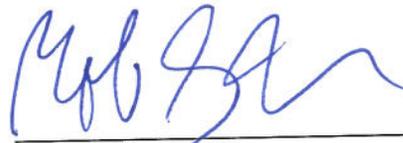
CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing Motion for a Fifth Extension of Time to Request a Hearing and Answer Complaint and Proposed Order was given to a commercial delivery service on August 9, 2011 for filing by delivery on August 10, 2011 with the Regional Hearing Clerk, Region 1, and that a copy was sent on August 9, 2011 by electronic and U.S.

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DANBURY, CT 06810)	CONNECTICUT'S MOTION FOR A FIFTH
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can exchange information that will provide clarification regarding the complex complaint, which is drawn from two different Clean Water Act programs and regard compliance questions and efforts that date back several years. The additional time and information will allow the City to adequately and fully respond to the complaint.

CONCLUSION

As provided above, there is good cause to grant Respondent City of Danbury's motion for a fifth extension of time to file its answer and request a hearing. The City respectfully requests a thirty day extension of the deadline to file its answer and request for a hearing, from August 10, 2011 to September 9, 2011.

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United States Environmental Protection Agency
Region 1

IN THE MATTER OF)	DOCKET NO.: CWA 01-2010-0079
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DANBURY, CONNECTICUT)	
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155 DEER HILL AVENUE)	[PROPOSED] ORDER
DANBURY, CT 06810)	
)	
Respondent.)	
)	

ORDER

Respondent Danbury, Connecticut's Motion for a Fifth Extension of Time to Request a Hearing and Answer Complaint was timely submitted and no opposition was received. Having considered the Motion, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

Respondent Danbury, Connecticut's Motion for a Fifth Extension of Time to Request a Hearing and Answer Complaint is hereby granted, and the date by which Respondent must file its answer and request for a hearing is September 9, 2011.

IT IS SO ORDERED.

Dated: August __, 2011

REGIONAL JUDICIAL OFFICER

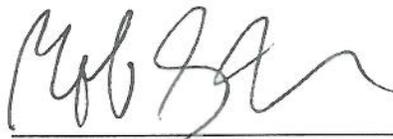
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