

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

DOCKET NO. CWA-01-2009-0073

RECEIVED
2009 OCT 16 P 2: 26

In the Matter of
TOWN OF EASTHAM

Respondent.

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

EPA ORC
GENERAL HEARING CLERK

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. A follow-up meeting was held on Tuesday, September 29, 2009. The settlement meetings were productive and settlement appears likely.

This extension is necessary in order to continue settlement discussions so that the parties can avoid incurring unnecessary litigation costs. We have conducted two settlement conferences and the Town has provided EPA with extensive documentation in support of its position. EPA counsel has indicated that she requires additional time to process this information and formulate a response. 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 forty-

five-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 December 5, 2009.

II. AUTHORITY TO GRANT AN EXTENSION

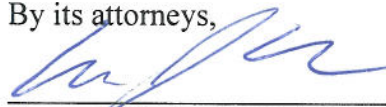
The Presiding Officer may grant an extension of time for filing any document, including a written answer to an administrative complaint, upon timely motion of a party to the proceedings, for good cause shown, and after consideration of prejudice to other parties, under the Consolidated Rules of Practice, 40 C.F.R. §22.7(b). This Motion is made sufficiently in advance of the due date of October 19, 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 December 5, 2009.

TOWN OF EASTHAM

By its attorneys,



Gregg J. Corbo (BBO# 641459)
Jeffrey T. Blake (BBO# 655773)
Kopelman and Paige, P.C.
Town Counsel
101 Arch Street, 12th Floor
Boston, MA 02110-1109
(617) 556-0007

Date: 10/15/09
382466/EASH/0168

CERTIFICATE OF SERVICE

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

12/15/09



Gregg J. Corbo



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October 15, 2009

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OFFICE OF
REGIONAL HEARING CLERK

Gregg J. Corbo
gcorbo@k-plaw.com

FEDERAL EXPRESS

Ms. Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
One Congress Street, Suite 1100 (RAA)
Boston, Massachusetts 02114-2023

Re: In the Matter of Town of Eastham
Docket No. CWA-01-2009-0073

Dear Ms. Santiago:

Enclosed for filing with respect to the above-captioned case, please find Second Assented-to Motion for Extension of Time in Which to Answer the Administrative Complaint and a Certificate of Service.

Thank you for your attention to this matter.

Very truly yours,

Gregg J. Corbo

GJC/lem

Enc.

cc: Town Administrator
Kathleen E. Woodward, Esq.

384944/EAHM/0168