



TELEPHONE (978) 777-5100
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JOHN A. CHRISTOPHER

CITY SOLICITOR
CITY OF PEABODY
199 ROSEWOOD DRIVE, SUITE 350
DANVERS, MASSACHUSETTS 01923

March 9, 2010

Via UPS Overnight Shipping
Tracking No.: 1Z 843 Y5Y 22 1001 7042

Ms. Wanda Santiago
Regional Hearing Clerk
Environmental Protection Agency - Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Re: In The Matter Of The City Of Peabody
Docket No.: 01-2009-0076

Dear Ms. Santiago:

Enclosed herewith please find Motion for Extension of Time in Which to Answer the Administrative Complaint filed on behalf of the City of Peabody 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 17, 2009. I also enclose the appropriate Proposed Order pertaining to the motion.

Please file this Motion for Extension of Time in Which to Answer the Administrative Complaint in the usual manner.

As you can see from the enclosed, this was originally sent to you on February 24, 2010, however, it was mailed to the EPA's prior address. The package was sent back to me via UPS and I received it this same day.

Very truly yours,



John A. Christopher

JAC/ldn
Enclosures

cc: Kathleen E. Woodward, Esq. (w/o encl.)



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JOHN A. CHRISTOPHER

CITY SOLICITOR
CITY OF PEABODY
199 ROSEWOOD DRIVE, SUITE 350
DANVERS, MASSACHUSETTS 01923

2010 MAR 10 P 12:04

February 24, 2010

Via UPS Overnight Shipping
Tracking No.: 1Z 843 Y5Y 22 1001 7104

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


Re: In The Matter Of The City Of Peabody
Docket No.: 01-2009-0076

Dear Ms. Rivera:

Enclosed herewith please find Motion for Extension of Time in Which to Answer the Administrative Complaint filed on behalf of the City of Peabody 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 17, 2009. I also enclose the appropriate Proposed Order pertaining to the motion.

Please file this Motion for Extension of Time in Which to Answer the Administrative Complaint in the usual manner.

Very truly yours,


John A. Christopher

JAC/ldn
Enclosures

cc: Kathleen E. Woodward, Esq. (via email and first-class mail)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

In the Matter of)
)
CITY OF PEABODY)
City Hall)
24 Lowell Street)
Peabody, Massachusetts 01960)
)
)
)
)
)
_____)

Docket No. 01-2009-0076

RESPONDENT'S MOTION TO
EXTEND TIME WITHIN
WHICH TO ANSWER THE
COMPLAINT PROCEEDING
UNDER CLEAN WATERS ACT
SECTION 309(g)(2)(B)

I. NEED FOR EXTENSION

On August 17, 2009, the City of Peabody was served an Administrative Complaint pursuant to 309(g)(2)(B) of the Clean Waters Act.

On September 10, 2009, the City of Peabody, through its City Solicitor, Public Services Director, City Engineer, and its Environmental Engineer met with Kathleen Woodward, Esquire and an EPA staff member to discuss settlement.

Substantial progress towards settlement was made at that meeting.

The parties met on September 26, 2009 to resolve any remaining issues necessary to settle this matter, and the parties reached settlement in principle as to the fine and steps needed to comply with the EPA order and need only to work through the details of the special environmental projects.

The Respondent has subsequently made a cash offer to the Petitioner to resolve the proposed penalty, which has been accepted. To mitigate the fine the EPA has allowed the respondent to submit conceptually Special Environmental Projects (SEPS) which are currently being reviewed by the EPA. The SEPS will benefit the environment and aid the

City of Peabody in reducing its financial liability. The proposed SEPS have been agreed to in principle, but the engineering details need fine tuning. There are currently no issues of law or fact in dispute and once the SEPS are fine tuned a consent decree need only be filed. The City of Peabody is currently reviewing a proposed consent decree from the EPA. The EPA has not completed its review of the SEPS and the City of Peabody is providing more information.

The City of Peabody is still providing the EPA with additional requested information concerning the location and environmental benefit of the SEP and more review and analysis of those details are necessary.

Respondent wishes to avoid the expense of litigation and wishes not to utilize judicial resources if settlement is likely. The parties are moving forward in good faith.

The Petitioner has assented to an extension of the time within which Respondent must answer the Complaint to April 12, 2010.

II. AUTHORITY TO GRANT EXTENSION

Pursuant to 40 C.F.R. §§ 22, 7(b), the Presiding Officer may grant an extension time for filing any document including an answer to an administrative complaint for good cause shown and in consideration of prejudice to other parties. In this case the parties have made substantial progress toward settlement and the Petitioner has suffered no prejudice as evidenced by its assent to this motion.

III. REQUEST FOR EXTENSION

Because there is good cause for an extension and the Petitioner has suffered no prejudice, Respondent requests that the time within which to answer the Administrative Complaint be extended from February 26, 2010 to April 12, 2010.

Respectfully Submitted,



John A. Christopher
City Solicitor

199 Rosewood Dr., Suite 350

Danvers, MA 01923

978-777-5100 (Tel.)

978-777-1596 (Fax)

jchristopher@scalawyers.com

BBO# 083320

Assented To: *Kathleen Woodward (etc)*

Kathleen Woodward, Esq.,

Senior Enforcement Counsel

Attorney for the Petitioner

U.S. EPA Region I

One Congress Street, Suite 1100 (RAA)


Boston, MA 02114

Woodward.Kathleen@epa.gov

Date: February 24, 2010

CERTIFICATE OF SERVICE

I, John A. Christopher, do hereby certify that I have served a true copy of the within Respondent's Motion to Extend Time Within Which to Answer the Complaint Proceeding Under Clean Waters Act Section 309(g)(2)(B) by mailing same first-class postage prepaid to Kathleen Woodward of U.S. EPA Region 1, One Congress Street, Suite 1100 (RAA), Boston, Massachusetts this 24th day of February, 2010.



John A. Christopher

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

In the Matter of)
)
CITY OF PEABODY)
City Hall)
24 Lowell Street)
Peabody, Massachusetts 01960)
)
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)
)
)
)
_____)

Docket No. 01-2009-0076

ORDER GRANTING
EXTENSION OF TIME TO FILE
ANSWER TO
ADMINISTRATIVE
COMPLAINT PROCEEDING
UNDER SECTION 309(g)(2)(B)
OF THE CLEAN WATERS ACT

ORDER

In accordance with 40 C.F.R. §§ 22.07(B) and 22.16(C) for good cause shown,
the time to file an answer to the administrative complaint is extended to the close of
business on April 12, 2010.

Dated: _____

Regional Judicial Officer

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MA 01923

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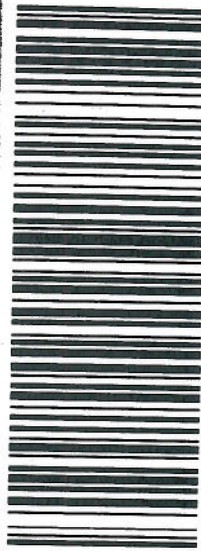
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