



TELEPHONE (978) 777-5100  
FACSIMILE (978) 777-1596

## JOHN A. CHRISTOPHER

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

MAY 27 11:48

May 27, 2010

Via UPS Overnight Shipping

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.

Very truly yours,

  
John A. Christopher

JAC/ldn  
Enclosures  
cc: Kathleen E. Woodward, Esq.

**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.

On May 24, 2010, the parties met via conference call and the EPA gave their approval of Respondent's SEP. The EPA is calculating the value of the SEP as a credit against the fine. All that remains is to file final settlement documents.

Respondent wishes to avoid the expense of litigation and wishes not to utilize judicial resources since settlement has been achieved. The parties will file said documents within thirty (30) days.

The Petitioner has assented to an extension of the time within which Respondent must answer the Complaint to June 26, 2010.

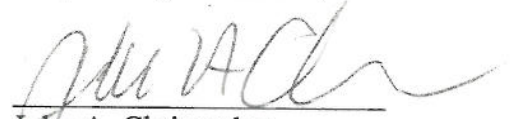
## II. AUTHORITY TO GRANT EXTENSION

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 May 27, 2010 to June 26, 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:

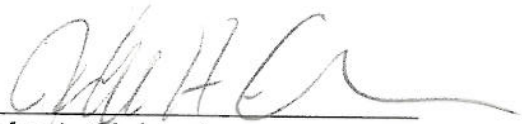


Kathleen Woodward, Esq.,  
Senior Enforcement Counsel  
Attorney for the Petitioner  
U.S. EPA Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109  
[Woodward.Kathleen@epa.gov](mailto:Woodward.Kathleen@epa.gov)

Date: May 27, 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, 5 Post Office Square, Suite 100, Boston, Massachusetts this 27<sup>th</sup> day of May, 2010.



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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 )  
\_\_\_\_\_)

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 June 26, 2010.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Regional Judicial Officer