

SAMELS ASSOCIATES

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May 13, 2009

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CLERK

VIA HAND DELIVERY

Ms. Wanda Rivera
Regional Hearing Clerk
U.S., Environmental Protection Agency, Region 1
One Congress St., Suite 1100 (RAA)
Boston, MA 02114-2023

Re: In the Matter of Atlantic Union College
Docket Nos. CWA-01-2009-0020; EPCRA-01-2009-0021

Dear Ms. Rivera:

Pursuant to my voicemail today, enclosed for filing please find an original and a copy of the following for filing in the above referenced matter:

1. *Joint Emergency Motion For Extension Of Time For Respondent To File A Written Request For Hearing And To Answer The Complaint.*

Please note the deadline for filing the Answer is May 18, 2009 and the parties have agreed to an extension to finalize settlement terms. Kindly, bring the Joint Motion for Extension of Time to the attention of LeAnn Jensen, the Acting Regional Judicial Officer. If there are any questions do not hesitate to contact my office.

Your attention to this matter is appreciated.

Sincerely,



Lanta V. Spencer

Enclosures

cc: LeAnn Jensen, Acting Regional Judicial Officer, U.S. EPA
Tonia Bandrowicz, Esq., Senior Enforcement Counsel, U.S. EPA
Albe Simenas, MADEP – BWSC
CDR Wayne Clayborne, First Coast Guard District

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED
MAY 13 2009

EPA ORC
Office of Regional Hearing Clerk

IN THE MATTER OF:)

ATLANTIC UNION COLLEGE)
338 Main Street)
South Lancaster, MA)

Respondent.)
_____)

**JOINT EMERGENCY MOTION FOR
EXTENSION OF TIME FOR
RESPONDENT TO FILE A WRITTEN
REQUEST FOR HEARING AND TO
ANSWER THE COMPLAINT**

Proceeding to Assess Class II Civil Penalty
Under Sections 308 and 311 of the Clean
Water Act and a Civil Penalty under
Section 312 of the Emergency Planning
and Community Right-to-Know Act

Docket Nos. CWA-01-2009-0020
EPCRA-01-2009-0021

The parties hereby request pursuant to 40 CFR § 22.7(b) *Extensions of time* that the Presiding Officer extend the time for the respondent to request a hearing and file an Answer to the Complaint by 30-days.

AUTHORITY

Pursuant to 40 CFR § 22.7(b) *Extensions of Time*:

“[T]he Presiding Officer may grant an extension of time for filing **any document**: upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties; or upon its own initiative.”

(Emphasis added)

ARGUMENT

The Presiding Officer should grant the parties’ motion, as there is good cause to extend the time for the respondent to request a hearing and file an Answer to the Complaint. Atlantic Union College (“the College”), a non-profit religious higher education institution, and Complainant have made extensive progress on the settlement discussions and are making final arrangements for settlements, which cannot be

concluded by May 18, 2009, the current deadline for filing an answer. See 40 CFR § 22.7(b);

The Complainant has made an offer of settlement and is currently reviewing several Supplemental Enforcement Programs (SEP) that the College is planning on working with the Town of Lancaster and the Nashua River Watershed Association to implement. Some of these plans will be implemented over time and the parties need time to work with the constituents to develop a concrete implementation schedule once the Complainant approves an SEP.

The College is ensuring compliance with the alleged claims in the Complaint as required by Complainant's settlement offer and has provided the Complainant with its Spill Prevention, Control, and Countermeasure Plan (SPCC Plan). The College is finalizing its responses to the Information Request and the parties are working together to ensure proper filing of the Tier II Inventory Forms. Finally, the Complainant has determined based on on-site inspections that the oil spill of August 4, 2008 requires no further remediation.

As of the date of this motion the parties are making progress toward settlement and granting this motion will enable the parties to finalize the terms of settlement. Finally, by granting this motion the Presiding Officer will encourage settlement by reducing litigation costs to the parties.

There, is no prejudice to either party as the parties have agreed to the Joint Motion for Extension of Time.

WHEREFORE, the parties respectfully, request that the Presiding Officer grant their Emergency Joint Motion For Extension Of Time For Respondent To File A Written Request For Hearing And To Answer The Complaint and extend the deadline for Respondent to request a hearing and Answer the Complaint by 30-days.

CERTIFICATE OF SERVICE

I certify that the foregoing EMERGENCY JOINT MOTION FOR EXTENSION OF TIME FOR RESPONDENT TO FILE A WRITTEN REQUEST FOR HEARING AND TO ANSWER THE COMPLAINT and was sent to the following persons, in the manner specified, on the date below:

Original and one copy via hand delivery: Wanda Rivera
Regional Hearing Clerk (RAA)
U.S. EPA, Region 1
One Congress Street, Suite 1100
Boston, MA 02114-2023


Copy via hand delivery: LeAnn Jensen,
Acting Regional Judicial Officer
U.S. Environmental Protection Agency,
Region 1
One Congress Street, Suite 1100
Boston, MA 02114-2023

Copy via electronic mail and overnight
mail: Tonia Bandrowicz, Esq.
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency,
Region 1
One Congress Street, Suite 1100 (SEL)
Boston, MA 02114-2023
Bandrowicz.tonia@epa.gov

Copy via regular mail: Albe Simenas
MAEP - BWSC
One Winter Street
Boston, MA 02108

CDR Wayne Clayborne
First Coast Guard District
Captain John Foster Williams Building
408 Atlantic Avenue
Boston, MA 02210-2209

Dated: May 13, 2009



Lanta V. Spencer, Esq.
Samels Associates, Attorneys at Law
302 Newbury Street, Suite 205
Framingham, MA 01701