

September 22, 2009.

assented to the motion. The Acting Regional Judicial Officer granted that extension on Answer to October 7, 2009. Kathleen Woodward, EPA enforcement counsel in this matter,

4. On September 17, 2009, the Town moved for an extension of time to file the

was due within 30 days of receipt of the Complaint, *i.e.*, September 23, 2009.

3. Under the Consolidated Rules of Practice, 40 C.F.R. §§ 22.1 - 22.52, the Answer

2. The Complaint was served on the Town on August 24, 2009.

Municipal Separate Storm Sewer Systems ("Permit").

Pollutant Discharge Elimination System General Permit for Storm Water Discharges from Small

Administrative Complaint alleging that the Town had failed to comply with its National

1. On August 13, 2009, the U.S. Environmental Protection Agency ("EPA") filed an

Town states as follows:

Administrative Complaint by 44 days, to February 19, 2010. As grounds for this motion, the

The Respondent Town of Concord moves to extend the time to file an Answer to the

**RESPONDENT'S FIFTH MOTION FOR EXTENSION OF TIME
TO ANSWER THE ADMINISTRATIVE COMPLAINT**

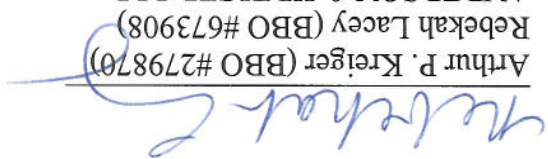
In the Matter of
TOWN OF CONCORD
Town House
22 Monument Square
Concord, Massachusetts 01742
Respondent.
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RECEIVED
Docket No. CWA-01-2009-0071
2009 DEC 29 P 4:22
Proceeding Under Section 309(g)
of the Clean Water Act
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OFFICE OF RECORDS AND CLERK

5. The Town and EPA met to discuss the matter on September 21, 2009. On September 29, 2009, the Town submitted additional documents to EPA regarding activities conducted pursuant to the Permit.
6. On September 30, 2009, the Town filed another assented-to motion for an extension of time to file the Answer, to November 6, 2009. The Acting Regional Judicial Officer granted that extension on October 1, 2009.
7. The Town and EPA met again on October 15, 2009. At that meeting, the Town submitted additional documents responding to EPA's questions regarding activities conducted pursuant to the Permit. On October 19, 2009, the Town submitted a letter to EPA responding to questions raised by EPA at the October 15 meeting.
8. On November 2, 2009, the Town filed another assented-to motion for an extension of time to file the Answer, to December 7, 2009. The Acting Regional Judicial Officer granted that extension on November 3, 2009.
9. On November 25, 2009, the Town filed another assented-to motion for an extension of time to file the Answer, to January 6, 2009. The Acting Regional Judicial Officer granted that extension on December 1, 2009.
10. The Town has explained to EPA that it has been in compliance with the Permit since it received discharge authorization in March 2004. Except to raise questions that the Town has answered, EPA has not responded to that position.
11. In a telephone conversation with Rebekah Lacey on December 17, 2009, Ms. Woodward stated that she expects to provide the Town with a response by the second week of January. Based on that time frame, she agreed to assent to a 45-day extension.

Dated: December 21, 2009

Arthur P. Kreiger (BBO #279870)
Rebekah Lacey (BBO #673908)
ANDERSON & KREIGER LLP
One Canal Park, Suite 200
Cambridge, MA 02141
617-621-6500



By its attorneys,

February 19, 2010.

12. The Town believes that both parties would benefit from time to continue to explore resolution of this matter via informal discussions, in order to prevent unnecessary costs associated with a formal proceeding. In particular, a formal proceeding should not be started before EPA responds to the information and arguments provided by the Town.
13. This extension would not prejudice EPA, and Ms. Woodward has assented to it. For these reasons, the Town requests a 44-day extension of time to file its Answer, to

In the Matter of: Town of Concord

Docket No. CWA-01-2009-0071

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing RESPONDENT'S FIFTH MOTION FOR EXTENSION OF TIME TO ANSWER THE ADMINISTRATIVE COMPLAINT in the matter of Town of Concord, CWA-01-2009-0071 were sent to the following persons in the manner indicated:

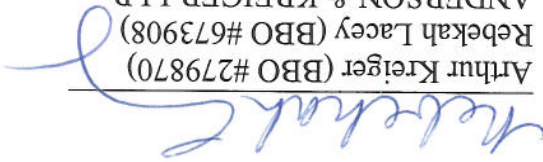
Original and one copy by First Class Mail:

Ms. Judy Lao-Ruiz
Regional Hearing Clerk
U.S. Environmental Protection Agency – Region I
5 Post Office Square
Suite 100, Mail Code RAA
Boston, Massachusetts 02109-3912

Copy by First Class Mail and email:

Kathleen E. Woodward, Senior Enforcement Counsel
U.S. Environmental Protection Agency – Region I
5 Post Office Square
Suite 100, Mail Code RAA
Boston, Massachusetts 02109-3912
Woodward.Kathleen@epa.gov

Date: December 21, 2009


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