

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

In the Matter of)	Docket No. CWA-01-2009-0071
)	
TOWN OF CONCORD)	Proceeding Under Section 309(g)
Town House)	of the Clean Water Act
22 Monument Square)	
Concord, Massachusetts 01742)	
)	
Respondent.)	

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

The Respondent Town of Concord moves to extend the time to file an Answer to the Administrative Complaint by 45 days, to May 20, 2010. As grounds for this motion, the Town states as follows:

1. On August 13, 2009, the U.S. Environmental Protection Agency ("EPA") filed an Administrative Complaint alleging that the Town had failed to comply with its National Pollutant Discharge Elimination System General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems ("Permit").
2. The Complaint was served on the Town on August 24, 2009.
3. Under the Consolidated Rules of Practice, 40 C.F.R. §§ 22.1 - 22.52, the Answer was due within 30 days of receipt of the Complaint, *i.e.*, September 23, 2009.
4. On September 17, 2009, the Town moved for an extension of time to file the Answer to October 7, 2009. Kathleen Woodward, EPA enforcement counsel in this matter, assented to the motion. The Acting Regional Judicial Officer granted that extension on September 22, 2009.

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. The Town has explained to EPA that it has been in compliance with the Permit since it received discharge authorization in March 2004; thus, the Complaint is baseless. Except to raise questions that the Town has answered, EPA has not responded to that position.

9. 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.

10. 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.

11. In a telephone conversation with Rebekah Lacey on December 17, 2009, Ms. Woodward stated that she expected to provide the Town with a response by the second week of January to its argument that the Complaint has no factual basis. Based on that time frame, she agreed to assent to a 45-day extension. On December 21, 2009, the Town filed another assented-

days. Therefore, Ms. Woodward agreed to assent to a 45-day extension to allow time to achieve and finalize a settlement.

19. This extension would not prejudice EPA, whereas forcing the Town to file an Answer in order to preserve its rights during settlement negotiations due to delay by EPA would be unfair to the Town. Moreover, Ms. Woodward has assented to the extension.

For these reasons, the Town requests a 45-day extension of time to file its Answer, to May 20, 2010.

By its attorneys,


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

Dated: March 26, 2010

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 SEVENTH 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 hand:

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

Copy by hand and e-mail:

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

Date: March 26, 2010


Arthur Kreiger (BBO #279870)
Rebekah Lacey (BBO #673908)
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March 26, 2010

By Hand

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

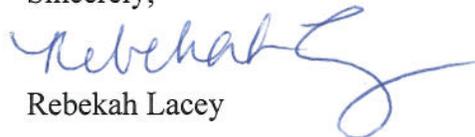
RE: *In the Matter of Town of Concord*
Docket No. CWA-01-2009-0071

Dear Ms. Santiago:

Enclosed for filing in the above-referenced proceeding, please find the original and one copy of the Respondent's Seventh Motion for Extension of Time To Answer the Administrative Complaint.

Thank you.

Sincerely,


Rebekah Lacey

Enc.

cc: Kathleen E. Woodward, EPA
Christopher Whelan, Town of Concord
Richard Reine, Town of Concord