

SAMELS ASSOCIATES

ATTORNEYS AT LAW

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2009 JUN 15 P 4: 03

June 15, 2009

OFFICE OF
REGIONAL HEARING 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:

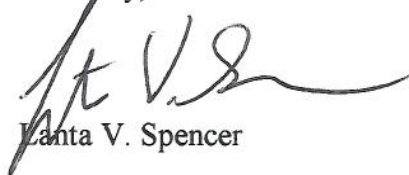
Enclosed for filing please find an original and a copy of the following for filing in the above reference matter:

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

Kindly, bring the Second Emergency 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 immediately.

Your attention to this matter is appreciated.

Sincerely,



Wanda 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

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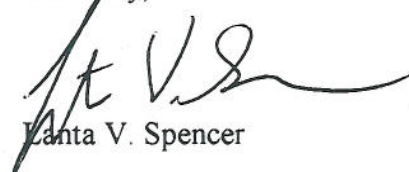
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED
JUN 15 2009
EPA ORC
Office of Regional Hearing Clerk

_____)	
IN THE MATTER OF:	)	SECOND JOINT EMERGENCY
	)	MOTION FOR EXTENSION OF TIME
	)	FOR RESPONDENT TO FILE A
ATLANTIC UNION COLLEGE	)	WRITTEN REQUEST FOR HEARING
338 Main Street	)	AND TO ANSWER THE COMPLAINT
South Lancaster, MA)	
)	
	)	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
Respondent.	)	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 or seek a Final Agreement and Consent Order by 14-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 or seek a Final Agreement and Consent Order. Atlantic Union College (“the College”), a non-profit religious higher education institution, and Complainant have made extensive progress on the settlement discussions and have entered into a settlement

agreement in principle with the EPA. AUC is currently making final arrangements for a Supplemental Enforcement Program with the Town of Lancaster and the Nashua River Watershed Association. This SEP includes a detailed timeline and budget for water sampling in the Nashua River Watershed and community outreach that must be approved by EPA's counsel prior to entering into a Final Agreement and Consent Order. It is unlikely that the EPA will have adequate time to finish the review of the SEP by June 17, 2009 the current deadline to Answer the complaint. See 40 CFR § 22.7(b).

As the parties have come to a settlement agreement in principle and are only finalizing the SEP there is good cause to extend the deadline to Answer the Complaint so that the settlement can be finalized and the parties may seek a Final Agreement and Consent Order.

There is no prejudice to either either party by allowing this motion as the Complainant has determined based on on-site inspections that the oil spill of August 4, 2008 requires no further remediation. Further, it will enable AUC along with the NRWA an environmental protection non-profit to obtain the consent and advice from the EPA to begin implementation of the SEP this summer.

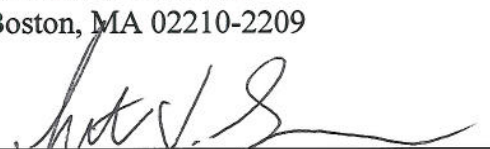
Finally, by granting this motion the Presiding Officer will encourage settlement by reducing litigation costs to the parties.

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 Second 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 14-days.

CERTIFICATE OF SERVICE

I certify that the foregoing SECOND 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 MADEP - 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: June 15, 2009	 _____ Lanta V. Spencer, Esq. Samels Associates, Attorneys at Law 302 Newbury Street, Suite 205 Framingham, MA 01701