



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

JOHN A. CHRISTOPHER

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

RECEIVED

2010 JUL 27 P 2:21

CLERK OF COURT
CITY OF PEABODY
RECORDS & CLERK

W 7/28

July 26, 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**

RECEIVED

2010 JUL 27 P 2:21

_____)
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's counsel's vacation schedule prevented completion of the 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 August 23, 2010.

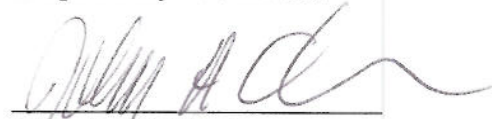
II. AUTHORITY TO GRANT EXTENSION

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 July 26, 2010 to August 23, 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

Date: July 26, 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 26th day of July, 2010.



John A. Christopher

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

In the Matter of)	Docket No. 01-2009-0076
)	
CITY OF PEABODY)	ORDER GRANTING
City Hall)	EXTENSION OF TIME TO FILE
24 Lowell Street)	ANSWER TO
Peabody, Massachusetts 01960)	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 August 23, 2010.

Dated: _____

Regional Judicial Officer