UNITED STATES ENVIRONMENTAL PROTECTION AGENCY 08 001 30 AM II: 22

BEFORE THE ADMINISTRATOR

ENVIRON AN AND AND TECTION AGENCY-REGION VII REGIONAL HEANING CLERK

IN THE MATTER OF:)
Lowell Vos)) Docket No. CWA-07-2007-0078
d/b/a Lowell Vos Feedlot))
Woodbury County, Iowa)
R	espondent.)

ORDER GRANTING COMPLAINANT'S MOTION FOR EXTENSION OF TIME TO FILE POST-HEARING BRIEFS

On October 24, 2008, The United States Environmental Protection Agency ("Complainant" or "EPA") filed a motion requesting that the Court issue an order for an extension of time for the parties to file their post-hearing briefs. Complainant simultaneously filed a separate motion to withdraw Count I of the Complaint, which Count alleges an unpermitted discharge of pollutants to Waters of the United States. Although these motions are linked, the latter motion will be addressed in a separate Order at the appropriate time.

The hearing in this matter was held September 15-22, 2008 in Des Moines, Iowa. At its conclusion, with the concurrence of the parties, the Court set a due date of November 10, 2008, for the filing of the initial post-hearing briefs and January 5, 2009, for filing the reply briefs. As background, and demonstrating the linkage between the motions, Complainant asserts that it delayed in filing its Motion to Withdraw Count I until after it had the opportunity to fully assess the admitted exhibits and the hearing transcript, a process which it completed on October 17, 2008. Complainant contends that withdrawal of the Count I will clarify some issues and that it will also "have a significant impact on how the parties will argue their cases." Motion at 2. Given the Motion to Withdraw, EPA asserts that it would be "appropriate to extend the posthearing-brief deadlines to allow the parties more time to evaluate and brief their arguments." *Id.*

EPA advises that the parties are in agreement as to its requested Motion for an extension. As to the Motion to Withdraw Count I, and although EPA relates that "Respondent informed EPA Counsel that it did not anticipate opposing the Motion to Withdraw, Respondent did not elect to stipulate to the withdrawal of that count.

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Upon consideration, the Court GRANTS EPA's unopposed Motion, which describes that it is the parties' joint request to extend the time to file post-hearing briefs. Per the Motion, the Initial Post-hearing Briefs will now be due on January 5, 2009 and the Reply Briefs will be due on February 19, 2009.

As to the Motion to Withdraw Count I, the Court will withhold its ruling until after the expiration of the 15 day time period provided for the Respondent to respond to the motion, pursuant to 40 C.F.R. § 22.14(b), and the consideration of any response which may be filed.

So Ordered.

William B. Moran United States Administrative Law Judge

Dated: October 27, 2008 Washington, D.C. In the Matter of <u>Lowell Vos d/b/a Lowell Vos Feedlot</u>, Respondent. Docket No. CWA-07-2007-0078

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Granting Complainant's Motion for Extension of Time to File Post-Hearing Briefs**, dated October 27, 2008, was sent in the following manner to the addressees listed below.

Knolyn R. Jones Legal Staff Assistant

Dated: October 27, 2008

Original and One Copy by Pouch Mail to:

Kathy Robinson Regional Hearing Clerk U.S. EPA 901 North 5th Street Kansas City, KS 66101

Copy by Facsimile and Pouch Mail to:

J. Daniel Breedlove, Esq. Assistant Regional Counsel U.S. EPA 901 North 5th Street Kansas City, KS 66101

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