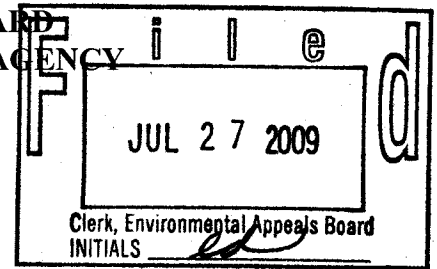


**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**



In re:)
)
)

Circle T Feedlot, Inc.,)
Morgan Feedlot LLC,)
Sebade Feedyard, &)
Stanek Brothers)

NPDES Permit Nos. NE0134481, NE0134767,)
NE0135712, & NE0134775)

NPDES Appeal Nos.
09-02 & 09-03

ORDER GRANTING MOTION TO FILE SURREPLY

On June 17, 2009, the Environmental Appeals Board ("Board") granted Petitioners' joint request to file an addendum discussing the applicability of a recent Supreme Court case, *Hawaii v. Office of Hawaiian Affairs*, 129 S. Ct. 1436 (2009), to their National Pollutant Discharge Elimination System ("NPDES") permit appeals. *See* Order Granting Motion Requesting Leave to File Addendum at 2. Petitioners filed their joint addendum to their appeals on July 23, 2009. *See* Joel Lamplot's and Teri Lamplot's Addendum to Appeals.

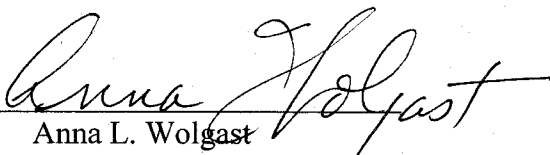
Later that day, the Region submitted a motion requesting leave to file a surreply to Petitioners' brief. Motion to File Surreply to Petitioners' Addendum. In its Motion, the Region states that it "wishes to respond to Petitioners' assertions that the 2009 Supreme Court decision * * * applies to Petitioners' request for review of the four NPDES permits in the present case." *Id.* at 1. The Region requests it be granted 30 days in which to file its surreply. *Id.* The Board

notes that the Regional attorney does not indicate whether Petitioners concur or object to the Region's motion. *See id.*

Although the Region has not provided a detailed rationale for its request, due to the length and breadth of Petitioners' addendum, the Board GRANTS the Region's motion. Thus, the Region has 30 days from today's date to file its surreply. Accordingly, the Region's surreply is due on or before August 26, 2009.

So ordered.

ENVIRONMENTAL APPEALS BOARD



Anna L. Wolgast
Environmental Appeals Judge

Date: July 27, 2009

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Granting Motion to File Surreply in the matter of Circle T Feedlot, Inc., et al., NPDES Appeal Nos. 09-02 & 09-03 were sent to the following persons in the manner indicated:

By First Class Mail and Facsimile:

Joel Lamplot
President
Thurston County Farm Bureau
582 21st Road
Thurston, NE 68062
Fax: (402) 385-2452

Teri Lamplot
582 21st Road
Thurston, NE 68062
Fax: (402) 385-2452

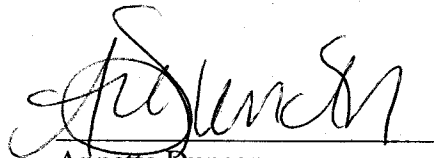
By Pouch Mail:

Chris Muehlberger
Assistant Regional Counsel
EPA Region 7
901 North Fifth Street
Kansas City, KS 66101
Fax: (913) 551-7925

By Inter-Office Mail:

Tod Siegal
Office of General Counsel
Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, DC 20460
(202) 564-0781

Dated: JUL 27 2009


Annette Duncan
Secretary