

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

08 NOV 13 AM 8:00  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

<p>IN THE MATTER OF POVERTY KNOB FARM, INC.  Respondent.</p>	<p>Docket No. CWA-07-2008-0030  <b>RESPONDENT'S SUPPLEMENTAL PREHEARING EXCHANGE</b></p>
--	--

COMES NOW the Respondent, Poverty Knob Farm, Inc., by and through his attorney, Eldon L. McAfee, and for its Supplemental Prehearing Exchange states:

1. a. Respondent supplements its list of witnesses Respondent intends to call in Respondent's Initial Prehearing Exchange as follows:

(1) Gretchen L. Cooney, CPA, Holstein, Iowa. Ms. Cooney will testify that Respondent is unable to pay the proposed penalty and/or that the proposed penalty will have an adverse impact on the Respondent's ability to continue in business. See attached vitae.

(2) Gerald T. Hentges, P.G., Senior Hydrologist, Terracon Companies, Inc. Mr. Hentges may testify in reply to the report and/or testimony of Complainant's witness or witnesses regarding whether any discharge from the Vos feedlot during the applicable time period to a water of the United States in violation of the Clean Water Act has occurred. See attached vitae.

(3) Respondent reserves the right to call any witnesses listed by Complainant or any witness necessary to respond to expert witness reports provided in Complainant's Supplemental Prehearing Exchange or testimony to be presented by witnesses listed by Complainant.

b. Documents and exhibits Respondent intends to introduce into evidence:

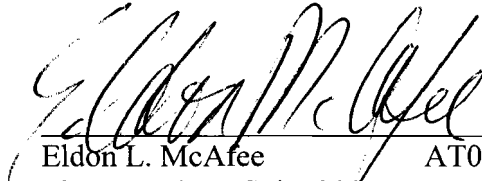
(1) Respondent's Business Organization Ability to Pay Claim with attached documentation.

(2) Respondent's 2007 U.S. Corporation Income Tax Return.

(3) Respondent reserves the right to introduce into evidence any documents or exhibits Complainant lists as intending to be introduced into evidence or any document or exhibit necessary to respond to any document or exhibit Complainant lists as intending to be introduced into evidence.

Dated this 10th day of November, 2008.

BEVING, SWANSON & FORREST, P.C.



Eldon L. McAfee AT0004987

321 E. Walnut, Suite 200

Des Moines, IA 50309

Telephone: (515) 237-1188

Facsimile: (515) 288-9409

[emcafee@bevinglaw.com](mailto:emcafee@bevinglaw.com)

ATTORNEYS FOR RESPONDENT

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing instrument was served upon each of the attorneys of record of all parties to the above-entitled cause herein at their respective addresses disclosed on the pleadings of record on the 10<sup>th</sup> day of November, 2008.

By:  U.S. Mail       FAX  
 Hand Delivered       Overnight Courier  
 Federal Express       Other: \_\_\_\_\_

901 North 5<sup>th</sup> Street  
Kansas City, KS 66101

A copy by regular U.S. Mail to:

Judge William B. Moran  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
1200 Pennsylvania Ave., N.W.  
**Mail Code 1900L**  
Washington, D.C. 20005

A copy by regular U.S. mail to:

J. Daniel Breedlove  
Asst. Regional Counsel  
U.S. EPA  
Region VII  
901 North 5<sup>th</sup> Street  
Kansas City, KS 66101

081110