

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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In the matter of)

docket no. cwa 10-2010-013

HEARINGS CLERK
EPA -- REGION 10

David D'Amato)

Respondent)

vs.)

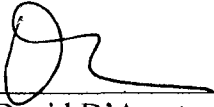
EPA)

MOTION TO ACCEPT LATE FILING

Comes now respondent David D'Amato and requests that the court accept the late filing of Respondent initial prehearing exchange for the following reasons.

1. Respondents initial preheating exchange was finished and mailed certified mail return receipt (article # 7007 0710 001 8252 0374) requested on time, and was sent to the address listed on all the EPA correspondence.
2. The EPA received this document, this was confirmed by USPS (USPS investigation # CA104545003) and EPA staff.
3. The EPA lost the document.
4. When respondent was informed that the document was lost he undertook to determine its whereabouts using EPA and USPS methods, this effort was unsuccessful.
5. Due to computer error Respondent had to regenerate (do over - not reprint) the document.
6. The lateness of this filing will not in any way prejudice the EPA but will substantially impair the Respondents ability to refute allegations by EPA.

By:

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a horizontal line that extends to the right.

David D'Amato