

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2008 APR 24 PM 3:14

IN THE MATTER OF:)
)
Nancy Haugan d/b/a Mountain Vista)
Veterinary Services)
)
)
Respondent.)
)
)
_____)

Proceeding under Section 1423(c)
of the Safe Drinking Water Act,
U.S.C. § 300h-2(c)
Docket No. SDWA-08-2007-0094

**ORDER ON JOINT MOTION TO SUBSTITUTE RESPONDENT'S
NAME AND TO EXTEND TIME FOR PREHEARING EXCHANGE**

On April 22, 2008, the parties filed a Joint Motion to Substitute Respondent's Name and to Extend Time for Prehearing Exchange. The first request asks this Court to substitute the Respondent named in this action, Nancy Haugan d/b/a Mountain Vista Veterinary Services, to another party, Valley Enterprises, Inc. The second request asks the Court to extend the time for Complainant to file its Prehearing Exchange from May 1, 2008 to May 16, 2008.

With respect to the request to substitute respondents, the Complaint must be amended to add, delete or clarify the name of a respondent. The Presiding Officer notes that 40 C.F.R. § 22.5(c)(2) of the Consolidated Rules requires that the first page of every filed document shall contain a caption identifying the respondent and the docket number. It is not clear to the Presiding Officer what the parties intend by requesting a "substitution." If the Respondent named in the Complaint, specifically the caption and Paragraph 7, is not correct, then amending the Complaint to reflect the correct respondent is the appropriate action. Pursuant to 40 C.F.R. § 22.14(c) of the Consolidated Rules, Complainant may amend the Complaint once as a matter of right at any time before the Answer is filed. Respondent has filed an Answer. Therefore, the Complaint may be amended only upon motion granted by the Presiding Officer. Respondent shall have 20 additional days from the date of service of the Amended Complaint to file its Answer. The motion to substitute Respondents, in its current form, is **DENIED**.

As to the request for an extension of time of 15 days for Complainant to file its Prehearing Exchange, the motion is **GRANTED**. The Prehearing Exchange Schedule is now as follows:

Complainant's Prehearing Exchange is due on or before May 16, 2008.

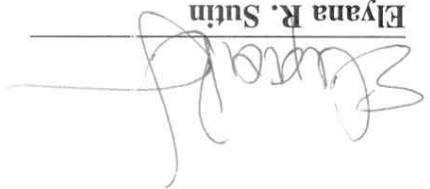
Respondent's Prehearing Exchange is due on or before May 30, 2008.

Complainant's Rebuttal Prehearing Exchange is due on or before June 13, 2008.

ORDER

1. If the Respondent named in the Complaint is incorrect, Complainant shall file an Amended Complaint attached to a motion pursuant to 40 C.F.R. § 22.14(c) and 40 C.F.R. § 22.16(c).
2. Prehearing exchanges are due **May 16, 2008, May 30, 2008 and June 13, 2008, respectively;**
3. Second Prehearing Conference will be held on or before **June 27, 2008**. The place and time is yet to be determined.

SO ORDERED This 27th Day of April, 2008.


Elyana R. Sutin
Presiding Officer

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **ORDER ON JOINT MOTION TO SUBSTITUTE RESPONDENT'S NAME AND TO EXTEND TIME FOR PREHEARING EXCHANGE** in the matter of **NANCY HAUGAN d/b/a MOUNTAIN VISTA VETERINARY SERVICES; DOCKET NO.: SDWA-08-2007-0094** was filed with the Regional Hearing Clerk on April 24, 2008.

Further, the undersigned certifies that a true and correct copy of the document was delivered via e-mail to Jim Eppers, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested and e-mailed on April 24, 2008, to:

Elizabeth A. O'Halloran
Milodragovich, Dale, Steinbrenner & Nygren, P.C.
P. O. Box 4947
Missoula, MT 59806-4947

Hand delivered to:

Honorable Elyana R. Sutin
Regional Judicial Officer
U. S. Environmental Protection Agency – Region 8
1595 Wynkoop Street (8RC)
Denver, CO 80202-1129

April 24, 2008


Tina Artemis
Paralegal/Regional Hearing Clerk