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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

In the matter of:	)	
	)	
Mike Vierstra	)	Docket No. CWA-10-2010-0018
d/b/a Vierstra Dairy,	)	
	)	RESPONDENT'S PRE-HEARING
Twin Falls, Idaho	)	INFORMATION EXCHANGE
	)	
Respondent.	)	
_____	)	

Comes now the respondent Mike Vierstra, doing business as Vierstra Dairy, through his attorney of record, and submits the following information pursuant to the requirement for pre-hearing exchanges in 40 C.F.R. §22.19.

**March, 2009, incident:** (Complaint, para. 2.8):

Witnesses:

(1) Lynn Godfrey (Idaho Department of Agriculture): Mr. Godfrey will testify that the discharged affluent was brown, not green, indicating that the source of the discharge was rainwater, having traveled through a compost pile on land adjacent to Respondent's dairy.

(2) Mike Vierstra (Respondent): Mr. Vierstra will testify that the source of the discharge was

ORIGINAL

rainwater which traveled through a compost pile owned by Jack McCall, a farmer who owned land adjacent to the Vierstra Dairy. The discharge was brown in color. If the source of the discharge was the Respondent's lagoon, the color would have been green.

(3) Jack McCall (adjacent farmer): Mr. McCall will corroborate the existence of a compost pile (cow manure) on his property.

(4) Brian Olmstead (Twin Falls Canal Company): Mr. Olmstead will testify as to Respondent's removal of the discharge from the Twin Falls Canal.

Documents: Daily precipitation report for Twin Falls, March 2009.

**May, 2009, incident** (Complaint, para. 2.9):

Witnesses:

(1) Mike Vierstra: Mr. Vierstra will testify that at the time of the discharge he was filling his wastewater lagoon with water and, using a pump, was irrigating his fields with associated piping and risers. Unbeknownst to Respondent, an unknown person had removed a cleanout plug at one end of the piping, allowing water and affluent to be carried into the Low Line Canal.

Mr. Vierstra will also testify as to his clean up efforts after the discharge.

(2) Brian Olmstead: Mr. Olmstead will testify as to Respondent's clean up efforts after the discharge.

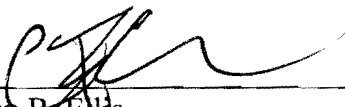
Documents: none

**Preferred venue:** Twin Falls, Idaho.

**Availability for hearing:** July and September, 2010.

**Duration of proof:** one hour

DATED this <sup>12</sup> 12<sup>th</sup> day of March, 2010.

  
\_\_\_\_\_  
Allen B. Ellis  
Attorney for respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Answer in the matter of Mike Vierstra d/b/a/  
Vierstra Dairy, Docket No. CWA-10-2010-0018, was sent to the following persons, in the manner  
specified, on the <sup>12</sup> 12<sup>th</sup> day of March, 2010:


Original and one copy, mailed:

Carol Kennedy, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Suite 900, Mail Stop ORC-158  
Seattle, Washington 98101

A true and correct copy was sent by U.S. mail to:

Mark A. Ryan  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 10  
1435 N. Orchard St.  
Boise, Idaho 83706

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

  
\_\_\_\_\_  
Allen B. Ellis



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Use the BACK button of your browser to return to the previous page.

T = Trace

N = Not Reported by the Government

TmaxF - High Temperature (degrees Fahrenheit)

TminF - Low Temperature (degrees Fahrenheit)

TmeanF - Mean Temperature (degrees Fahrenheit)

PrcpIn - Precipitation (inches)

SnowIn - Snow (inches)

CDD - Cooling Degree Days

HDD - Heating Degree Days

GDD - Growing Degree Days

A Note about Recent Not Reported Precipitation: For more recent data (generally one to three months from the current date), a number of stations do not immediately report zero precipitation thus the report will show N for not reported. 99% of the time, the data will later be merged by the government into the station report to show a zero.

### Twin Falls Sun Valley Regional Airport, Twin Falls, ID 83303

Date	TmaxF	TminF	TmeanF	PrcpIn	SnowIn	CDD	HDD	GDD
3/1/2009	46	29	37.5	0.00	N	0.0	27.5	0.0
3/2/2009	61	45	53.0	0.00	N	0.0	12.0	3.0
3/3/2009	61	35	48.0	0.07	N	0.0	17.0	0.0
3/4/2009	43	32	37.5	T	N	0.0	27.5	0.0
3/5/2009	44	30	37.0	0.00	N	0.0	28.0	0.0
3/6/2009	38	24	31.0	T	N	0.0	34.0	0.0
3/7/2009	41	20	30.5	0.00	N	0.0	34.5	0.0
3/8/2009	38	27	32.5	T	N	0.0	32.5	0.0
3/9/2009	35	23	29.0	T	N	0.0	36.0	0.0
3/10/2009	32	19	25.5	T	N	0.0	39.5	0.0
3/11/2009	42	16	29.0	0.00	N	0.0	36.0	0.0
3/12/2009	42	20	31.0	0.00	N	0.0	34.0	0.0
3/13/2009	51	22	36.5	0.00	N	0.0	28.5	0.0
3/14/2009	61	22	41.5	0.00	N	0.0	23.5	0.0
3/15/2009	55	35	45.0	0.02	N	0.0	20.0	0.0
3/16/2009	64	39	51.5	T	N	0.0	13.5	1.5
3/17/2009	54	34	44.0	0.00	N	0.0	21.0	0.0
3/18/2009	59	30	44.5	0.00	N	0.0	20.5	0.0
3/19/2009	65	27	46.0	0.00	N	0.0	19.0	0.0
3/20/2009	71	30	50.5	0.00	N	0.0	14.5	0.5
3/21/2009	66	40	53.0	0.09	N	0.0	12.0	3.0
3/22/2009	47	34	40.5	0.47	N	0.0	24.5	0.0
3/23/2009	46	30	38.0	0.00	N	0.0	27.0	0.0
3/24/2009	49	30	39.5	0.00	N	0.0	25.5	0.0
3/25/2009	44	32	38.0	0.18	N	0.0	27.0	0.0
3/26/2009	43	26	34.5	0.00	N	0.0	30.5	0.0
3/27/2009	50	27	38.5	0.00	N	0.0	26.5	0.0
3/28/2009	61	36	48.5	T	N	0.0	16.5	0.0
3/29/2009	48	29	38.5	0.08	N	0.0	26.5	0.0
3/30/2009	47	26	36.5	0.00	N	0.0	28.5	0.0
3/31/2009	50	29	39.5	0.11	N	0.0	25.5	0.0