

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR



IN THE MATTER OF)
)
MR. ALLEN BARRY,)
MR. TIM BARRY)
d/b/a ALLEN BARRY LIVESTOCK,)
)
RESPONDENTS^{1/})

DOCKET NO. CWA-05-2010-0008

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PROTECTION AGENCY

ORDER TO SHOW CAUSE

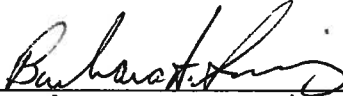
By Order dated November 30, 2010, Respondents were required to file a statement, on or before December 23, 2010, clarifying their position as to whether a hearing before an Administrative Law Judge is requested. The file before me reflects that Respondents have failed to comply with this requirement or file a motion for an extension of the filing deadline.

The Order of November 30, 2010 also directed that the parties hold a settlement conference on or before January 21, 2011, and that Complainant file a status report, on or before January 26, 2011, regarding this conference and the status of settlement in this matter. Complainant timely filed a Status Report on January 25, 2011, in which Complainant relates that counsel for Respondents has failed to respond to telephone calls and correspondence from

^{1/} The United States Environmental Protection Agency, Region 5 ("Complainant"), initiated this proceeding on March 17, 2010, by filing an Administrative Complaint ("Complaint") against Mr. Allen Barry, Mr. Tim Barry d/b/a Allen Barry Livestock. The Complaint alleges that "Allen Barry and Tim Barry (herein 'Respondent') is doing business as Allan Barry Livestock." In an Order Seeking Clarification Statement and Directing Settlement Conference issued on November 30, 2010, the undersigned noted that the Complaint was confusing as to the named respondents and stated that "Complainant should specify who the respondent(s) are and not refer to them collectively as Respondent." Complainant subsequently filed a Statement of Clarification, in which Complainant stated that "[t]he term 'Respondent' should mean Respondents throughout the Complaint."

Complainant's counsel and, as a result, a settlement conference between the parties has not occurred as directed.

Under Section 22.17(a) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. § 22.17(a), a party may be found to be in default upon failure to comply with an order of the Administrative Law Judge. Therefore, Respondents are ordered to show cause, if any, on or before **February 18, 2011**, why they failed to file a clarification statement and engage in a settlement conference with Complainant, as directed by the Order of November 30, 2011, and why a default order should not be entered against them.



Barbara A. Gunning
Administrative Law Judge

Dated: January 31, 2011
Washington, DC

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**In the Matter of Mr. Allen Barry, Mr. Tim Barry d/b/a Allen Barry Livestock, Respondents.
Docket No. CWA-05-2010-0008**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order to Show Cause**, dated January 31, 2011, was sent this day in the following manner to the addressees listed below.



Mary Angeles
Legal Staff Assistant

Original and One Copy by Facsimile and Pouch Mail to:

La Dawn Whitehead
Regional Hearing Clerk
U.S. EPA, Region V
77 West Jackson Boulevard, E-19J
Chicago, IL 60604-3590
Fx: 312.692.2405

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Copy by Facsimile and Pouch Mail to:

Luis Oviedo. Esq.
Associate Regional Counsel
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Copy by Facsimile and Regular Mail to:

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Dated: February 1, 2011
Washington, DC