

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY

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BEFORE THE ADMINISTRATOR ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

In the Matter of )  
)  
U.S. Department of Agriculture, )  
Grain Inspection, Packers & Stockyards )  
Administrative, Federal Grain Inspection )  
Service )  
)  
)  
)  
Respondent )

Docket No. RCRA-07-2006-0276

**PREHEARING ORDER**

As you have been previously notified, I have been designated to preside in the above captioned matter. This proceeding arises under the authority of Section 3008(a) and (g) of the Solid Waste Disposal Act ("SWDA"), as amended by the Resource Conservation and Recovery Act of 1976 ("RCRA"), and the Hazardous and Solid Waste Amendment of 1984 ("HSWA"), 42 U.S.C. § 6928(a) and (g), and in accordance with the United States Environmental Protection Agency's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits ("Consolidated Rules of Practice"), of The Environmental Protection Agency ("Agency" or "EPA") Rules of Practice ("Rules"), applicable in this administrative enforcement proceeding, are found in 40 C.F.R. Part 22.

As provided in the Rules, §22.18(a), it is the Agency's policy to encourage settlement of proceedings without the necessity of a formal hearing. However, the continuation of settlement negotiations will not provide good cause for not meeting the following schedule set in this Prehearing Order.

The schedule can now be set for the filing of prehearing exchanges under 40 C.F.R. §22.19 in accord with the following procedure:

1. Each party shall submit a list of all expert and other witnesses it intends to call with a brief narrative summary of their expected testimony; and copies of all documents and exhibits it intends to introduce into evidence. The exhibits should include a resume for each proposed expert witness.
2. The Complainant shall submit a statement explaining in detail how the proposed penalty amount was determined, including a description of how the specific provisions of any EPA penalty or enforcement policies or guidelines were applied in calculating the penalty.

3. If the Respondent intends to take the position that it is unable to pay the proposed penalty, or that payment will have an adverse effect on Respondent's ability to continue in business, Respondent shall furnish supporting documentation such as financial statements or tax returns.

4. The Complainant shall submit a statement on the applicability of the Paperwork Reduction Act ("PRA"), 44 U.S.C. § 3501 *et seq.*, to this proceeding, including whether there is a current Office of Management and Budget control number involved and whether the provisions of Section 3512 of the PRA may apply to this case.

5. Each party shall submit its views on the place for the hearing pursuant to §§22.21(d) and 22.19(d) of the Rules. Each party should also indicate when they would be available for the hearing, and give an estimate of the time needed to present its direct case.

The Parties must simultaneously make their initial prehearing exchanges by **Monday, June 4, 2007**. If Respondent does not intend to present a direct case, but does wish to cross-examine Complainant's witnesses, it must submit a statement to that effect instead of a prehearing exchange. After the initial exchanges, the parties may file supplements to their prehearing exchanges (including any reply or rebuttal material), without motion, until 30 days before the date scheduled for the hearing.

I will schedule the hearing after I receive the parties' initial exchanges.

**Upon completion of the prehearing exchanges, the parties are directed to confer with one another in order to determine those issues which remain genuinely in dispute, so that the hearing may be focused on such matters. The parties shall then submit a statement to me identifying those issues.**

**The original and one copy of all filings, with attachments, shall be sent to the Regional Hearing Clerk, and copies sent to the opposing party and the Administrative Law Judge.**

*William B. Moran*

William B. Moran  
United States Administrative Law Judge

Dated: April 6, 2007  
Washington, DC

If sending by:  
**Fed Ex, UPS or any type of Courier service**

Judge William B. Moran  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Franklin Court Building  
1099 14<sup>th</sup> Street N.W. Suite 350  
Washington, DC 20460

If sending by:  
**Regular U.S. mail**

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Office of Administrative Law Judges  
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Washington, DC 20005

In the Matter of U.S. Department of Agriculture, Grain Inspection, Packers & Stockyards  
Administrative, Federal Grain Inspection Service  
Docket No. RCRA-07-2006-0276

**CERTIFICATE OF SERVICE**

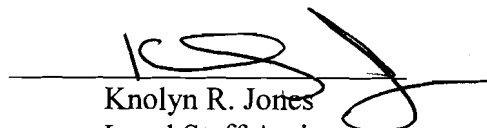
I certify that the foregoing **Prehearing Order**, dated April 6, 2007, was sent this day in the following manner to the addressees listed below:

Original by Regular Mail to: Kathy Robinson  
Regional Hearing Clerk  
U.S. EPA - Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, KS 66101

Copy by Regular Mail and facsimile to:

Attorney for Complainant:  
Alex Chen, Esq.  
Office of Regional Counsel  
U.S. EPA - Region 7  
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Kansas City, KS 66101

Attorney for Respondent:  
Gary Fremerman, Esq.  
U.S. Dept. of Agriculture  
Office of General Counsel, Room 3531 South Building  
1400 Independence Ave., SW  
Washington, DC 20250

  
Knolyn R. Jontes  
Legal Staff Assistant

Dated: April 6, 2007