

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

RECEIVED  
REGIONAL HEARING CLERK  
U.S. EPA REGION 5  
2011 JUN 24 AM 10:34

IN THE MATTER OF:

Mr. Allen Barry, Mr. Tim Barry  
d/b/a Allen Barry Livestock,  
1448 Route 72 East  
Leaf River, IL 61010

)  
) Docket No. CWA 05-210-008  
)  
)  
)  
)  
)  
)

Respondents.

NOTICE OF FILING

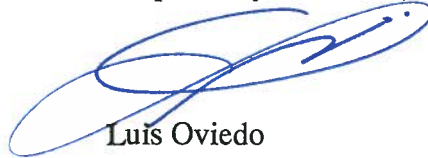
To: Honorable Barbara A. Gunning  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Mail Code 1900L/Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

James E. Meason  
Counsel for Respondent  
113 W. Main Street  
Rockton, IL 61072

**PLEASE TAKE NOTICE** that the Complainant has today filed with the Regional Hearing Clerk a Rebuttal Prehearing Exchange, a copy of which is attached and hereby served upon you.

Dated: June 24, 2011

Respectfully submitted,



Luis Oviedo  
Associate Regional Counsel  
U.S. EPA Region 5 (C-14J)  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590  
Ph: (312) 353-9538  
FAX: (312) 886-00747

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

REGIONAL HEARING CLERK  
2011 JUN 24 AM 10:34

IN THE MATTER OF: )  
 ) Docket No. CWA-05-2010-008  
Mr. Allen Barry, Mr. Tim Barry )  
d/b/a Allen Barry Livestock, )  
 )  
Respondents. )  
 )

**COMPLAINANT'S REBUTTAL PREHEARING EXCHANGE**

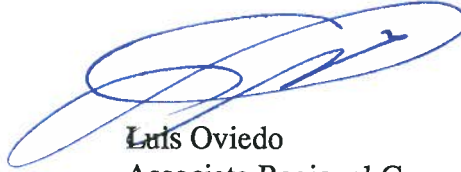
The United States Environmental Protection Agency, Region 5 (U.S. EPA or Complainant), through its undersigned attorney, respectfully submits this rebuttal prehearing exchange in accordance with the Presiding Officer's March 30, 2011, Prehearing Order and 40 C.F.R. § 22.19(a).

**I. Respondents Failed to Submit a Prehearing Exchange or any Direct or Rebuttal Evidence.**

Respondents' failure to submit a prehearing exchange or any rebuttal evidence is consistent with their pattern and practice throughout the history of this case, showing no interest in presenting any defense, or participating in any hearing concerning their violations of their NPDES Permit and the Clean Water Act or good-faith settlement discussions. On November 30, 2010, this court ordered the Parties to confer before January 21, 2011. Accordingly, Complainant's counsel repeatedly contacted Respondents' counsel, James E. Meason, to elicit any information, documents or other evidence that they intend to present in their defense of the violations of their NPDES Permit and the Clean Water Act. In addition, on December 1, 2010, Complainant wrote to Respondent's counsel asking him whether his client intends to submit any documentation supporting any inability to pay. Respondents and their counsel did not reply to

REGIONAL HEARING CLERK  
U.S. EPA REGION 5

2011 JUN 24 AM 10:34  
Respectfully submitted,



Luis Oviedo  
Associate Regional Counsel  
U.S. EPA Region 5

REGIONAL HEARING CLERK  
U.S. EPA REGION 5

2011 JUN 24 AM 10:34

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

**CERTIFICATE OF SERVICE**

I, Michelle Radcliffe, certify that I filed the original and one copy of Complainant's NOTICE OF FILING and COMPLAINANT'S REBUTTAL PREHEARING EXCHANGE with U.S. EPA Region 5's Regional Hearing Clerk. In addition, I delivered, by pouch mail, a true and accurate copy to:

Honorable Barbara A. Gunning  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Mail Code 1900L/Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

I also mailed a true and accurate copy, by certified mail, return receipt requested to:

James Meason, Esq.  
113 W. Main Street  
Rockton, IL 61071-2416

Date: June 24, 2011

  
Michelle Radcliffe, APA