

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF)

) Docket No. SDWA-04-2005-1016

Gene A. Wilson)

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)
)
Respondent)

HEARING CLERK

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**COMPLAINANT'S REPLY TO SECOND SUPPLEMENT
TO RESPONDENT'S PREHEARING EXCHANGE**

COMES NOW, Counsel for Complainant and files this Reply to Second Supplement to Respondent's Prehearing Exchange.

First, Respondent complains that he has not been provided copies of certain provisions in the Code of Federal Regulations. Respondent can access the Code of Federal Regulations at <http://www.gpoaccess.gov/cfr/index.html>.

Second, Respondent seeks to have documents that have been withheld pursuant to the Freedom of Information Act (FOIA) made a part of his Prehearing Exchange. Complainant responds that the FOIA process is independent of this hearing and EPA should not be compelled to make documents withheld pursuant to FOIA a part of this hearing. Status as a Respondent in an administrative enforcement action does not override applicable privileges and FOIA exemptions.

Third, the issue of files that Respondent wishes added to his Prehearing Exchange was addressed in "Complainant's Motion and Reply to Make Additions to Documents in Prehearing Exchange List" which was filed with the instant document. As noted in that pleading, Respondent is obligated under 40 C.F.R. §§ 22.19 and 22.22 to include in his prehearing exchange any documents he wishes to introduce at hearing. In addition, Complainant reserves the right to oppose introduction of any documents included in the prehearing exchange if such documents lack relevance to the issues in the case.

Respectfully submitted,



Zylpha Pryor
Paul Schwartz
Counsel for Complainant
U.S. EPA - OEA
61 Forsyth Street
Atlanta, GA 30303

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the date indicated below, the original and one copy of "Complainant's Reply to Respondent's Prehearing Exchange Witnesses List and Motion to Strike Witnesses," "Complainant's Reply to Second Supplement to Respondent's Prehearing Exchange," and "Complainant's Motion and Reply to Respondent's 'Motion to Make Addition to Documents in Prehearing Exchange List'" were delivered by interoffice mail to the Regional Hearing Clerk and copies were sent to the following persons in the manner noted.

Susan B. Schub, Esq.
Regional Judicial Officer
U.S. EPA
61 Forsyth Street
Atlanta, GA 30303

Interoffice Mail

Gene A. Wilson
101 Madison Street
P.O. Box 702
Louisa, KY 41230

Overnight Mail

Nicholas N. Owens
National Ombudsman
U.S. Small Business Administration
409 3rd Street, SW, MC 2120
Washington, DC 20416-0005

First Class Mail

August 17, 2007



Sharon Thompson, Secretary
OLS - OEA
U.S. EPA
61 Forsyth Street
Atlanta, GA 30303